

The Los Angeles County
Sheriff's Department

31st Semiannual Report

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And Police Assessment Resource Center (PARC)
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Contents

Introduction	1
<i>Acknowledgements.....</i>	<i>3</i>
1. Custody	4
I. Cameras.....	6
II. Flashlights.....	7
III. Custody Rotation	8
IV. Two Track Careers	11
V. Commander Management Task Force (CMTF)	13
VI. Retaliation	14
VII. Use of Force.....	15
2. Overview of Public Complaints	19
I. Background.....	21
A. Commendations	21
B. Complaints.....	22
C. Complaint Investigation Process.....	23
D. Entry Into the Personnel Performance Index (PPI).....	26
II. Overview of Complaints Received by Patrol Units in 2010.....	27
III. Timeliness of Submission	31
A. Timeliness by Unit.....	35
a. Timeliness by Field Operations Unit.....	37
b. Tracking Systems	38
3. Review of Public Complaints.....	41
I. Classification of Complaints	41
A. “Employee’s Conduct Was Reasonable”	44

B. Complaints Involving Traffic Citations.....	47
II. Assessment of Personnel Complaint Service Reviews	48
A. Complaint Type.....	50
B. Complaint Investigation	54
a. Analysis of Improper Detention, Search and Arrest Complaints.....	58
C. Disposition	59
D. Conflict Resolution.....	65

Introduction

This is the 31st Semiannual Report of Special Counsel to the Board of Supervisors, the Sheriff, and the public. The last several months has been dominated by unwelcome news about the Los Angeles County jails and Men's Central Jail in particular. The jail has not been run in a manner consistent with Sheriff Baca's core values, and the result has been cascading newspaper articles, lawsuits, blogs, investigations, the appointment of a blue ribbon commission, and turmoil inside and outside of the LASD over startling allegations, as yet not proven by trial, of excessive force and brutality. Special Counsel made recommendations about the jails in the Kolts Report of 1992 and in the semiannual reports thereafter. This Semiannual Report commences with a chapter about the jails.

The Semiannual Report also discusses the quality of investigation of complaints by the public against LASD personnel. We have reviewed several hundred cases and comment upon them in chapters two and three of this Report, in which we examine the public complaint process at the LASD. Using the Watch Commander Service Comment Report (SCR) system, the Department is required to accept, document, investigate, and dispose of any complaint made by a member of the public, whether it be about a particular employee or employees, a practice or policy of the LASD, or even an unrelated issue. For these chapters, we looked at SCRs received by major LASD stations in 2010, the latest year for which there are complete records, including the number and type of complaints and basic information about the involved parties. We evaluated the timeliness of complaint investigation and completion. We also examined a sample of complaints, as described in chapter three, to assess whether they were properly documented, classified, investigated, and adjudicated.

This Report also marks a milestone in that it is the last in which Camelia Naguib will have played a central role. She and Matthew Barge, who will graduate from NYU Law School in a few weeks, formed a brilliant and incisive team as principal staff for Special Counsel for several

years. They each brought intellectual rigor and a facility for data analysis which has added immeasurably to the work performed for the County of Los Angeles. It is gratifying to report that so many members of our team have gone on to distinguished careers in law enforcement oversight. Julie Ruhlin is at OIR. Django Sibley and Brian Buchner are in the Inspector General's (IG) office at the LA Police Commission. Julio Thompson is the Assistant Attorney General for the state of Vermont with responsibility for law enforcement oversight there. Camelia Naguib has joined Django and Brian at the IG's office. Camelia, who seems to misplace material things frequently, never lost track of a good idea or of a decisive data point or a brilliant insight. Although she did not convert any of us to veganism, she won our enduring affection and respect.

Our newest staff members are Nicholas Armstrong and Christopher Moulton. Both of these individuals have impressive experience and skills in data analysis. Each is already making a significant contribution to this Report.

Nicholas Armstrong holds a Master's in Public Administration from the University of Washington's Evans School of Public Affairs and a B.A. in Political Science from UCLA. Previously, Nick worked in the Chancellor's Office for the Oregon University System as a Policy Analyst examining various policies and regulations related to education programs. Nick also has advocated and worked on several campaigns for civil rights, economic justice, and the environment in California and Washington State.

Christopher Moulton holds a Master's in Public Policy from UCLA's Luskin School of Public Affairs, and a B.A. from UC Berkeley in Political Science and Philosophy. Before joining us, Chris worked for the Legal Aid Association of California as a Program Associate and as an Office Manager with the Legal Community Against Violence. Chris has also worked for Housing and Urban Development of LA on residential and commercial development surrounding MTA train stations and with the Data Center concerning low-income workers in various food-related industries in the United States.

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We are very grateful for the assistance and feedback of the following LASD personnel:

Undersheriff Paul Tanaka, Assistant Sheriff Cecil Rhambo, Chief Michael Grossman, Commander Joseph Fennell, Commander Christy Guyovich, Commander James Hellmold, Commander Karyn Mannis, Commander Eric Parra, Commander David Waters, Captain Kelley Fraser, Captain Merrill Ladenheim, Captain Patrick Maxwell, Captain James Thornton, Lieutenant Vince Callier, Lieutenant Judy Gerhardt, Lieutenant Andrew Meyer, Information Systems Specialist II Donna Pincetich, Administrative Services Manager II Lori Douglass, Operations Assistant III Valerie Shivers-White, and Operations Assistant II Marisa Delvaille.

1. Custody

During the last six months, the custody operations of the LASD have experienced an avalanche of troubles: an FBI sting operation in which a deputy was assertedly paid to sneak a cell phone into the jail for an inmate; another sting, this time by the LASD itself, in which a deputy apparently snuck in a heroin-laced burrito for an inmate; newspaper, media, and blog exposés; lawsuits by the ACLU; an investigation by the United States Department of Justice; internal turmoil and accusations; retirement and transfer of personnel; persistent criticism of the Sheriff himself and key members of his staff; and a motion by Supervisor Molina, passed unanimously by the Board of Supervisors on October 18, 2011, recommending implementation of recommendations made in the past by Special Counsel and the Office of Independent Review.

Without doubt, this has been the most trying period of Lee Baca's long tenure of 13 years as Sheriff. Two things seem clear: the Sheriff was not well served by major executives and managers who both actively and passively permitted the jails to operate at variance with the Sheriff's core values, seemingly believing that the abusive culture there was intractable, at best, or not really a problem, at worst. Senior executives did not keep Sheriff Baca well-informed or else sheltered him from persons in his management seeking to alert him to the serious problems in the jails.

The Sheriff has taken some steps to chastise some of the individuals who let him down. There are signs that there has been a change of attitude on the part of some, which is welcome and bodes well for the Department. Nonetheless, it will take a sustained period of genuine progress to convince knowledgeable observers that those same major executives who presided over the apparent collapse of accountability in the jails are capable of presiding over jail reform.

The Sheriff needs to tighten up on the reins and reassert authority over appointments and promotions, according to observers who fear that the Sheriff may have ceded too much authority in that area. That perception is strongly rejected by the LASD:

"It is factually incorrect to believe the Sheriff's authority has been minimized or marginalized as it relates to appointments/promotions... [A]s an example, before he agrees to any recommended names for promotion to captain, he painstakingly pores through the entire roster of lieutenants. He considers their work history, number of years on the Department, time in grade, and education among other factors. He solicits recommendations from the outgoing commanding officer and the concerned division chief. He gives strong consideration to those serving within the chain of command in which the promotion occurs.... He alone makes the decision on every appointment at the rank of captain and above."

Whether the Sheriff has or has not over delegated in this area is not for us to decide. It is important, however, that the Sheriff act, or continue to act, with independence and input from many different sources, particularly in regard to captains and the ranks senior to them. There has been concern expressed about a possible lack of support and respect for the Internal Affairs at the senior executive level. The importance of the Leadership and Training Division has eclipsed in recent years and needs now once again to be front and center. The Chief of that division, which contains IAB, reports directly to the Sheriff, a recent change that we endorse. ICIB—the criminal investigations arm of the LASD—currently is a direct report to the Sheriff, according to the Undersheriff. The secrecy of ICIB investigations apparently has been compromised in the past, so there is a value in keeping layers of reporting to a minimum. In our review, as a matter of policy and best practice, both IAB and ICIB should report directly to the Sheriff. The power to initiate and terminate investigations and hence to make or break careers is one that requires oversight at the highest level. Direct reporting allows the chief executive to personally keep his finger on the pulse of the organization.

The Sheriff's national, international, and local political involvement, including tending relations with the Board of Supervisors and contract cities, understandably may have shifted his focus away from deeper involvement in the internal LASD management. To some extent, any LASD Sheriff is the public face of the Department and has to concentrate efforts on its external

relations. The Sheriff perforce must delegate to trusted lieutenants. But it should be a delegation of authority, not an abdication of it. And the Sheriff must be certain that those who act in his name do so in a manner consistent with the Sheriff's own core values and devotion to running a constitutional jail. He has a warm and capacious heart. We have no doubt of the Sheriff's best intentions and fidelity to constitutional standards. He must make sure that those who act for him to do the same.

In a positive move, the Sheriff established a team of recently promoted Commanders to confront and begin to resolve problems in Custody. We are in general satisfied with the progress that is being made. We have had the opportunity to work closely with the team of Commanders, and we are impressed by their openness, cordiality, flexibility, and ability to think critically. Their work thus far has been consistent with the core values of the Sheriff, to whom they directly report. The Board of Supervisors in a similarly positive move appointed a commission of well-regarded civic leaders, under the leadership of retired United States District Judge Lourdes Baird, to study Custody operations in detail and report back with recommendations.

This Chapter will first discuss the current status of selected recommendations that were the subject of Supervisor Molina's October 18, 2011 motion. We will then examine use of force trends in the jails, focusing on Men's Central Jail.

I) Cameras

We have long advocated the placement of cameras throughout the custody facilities with particular emphasis on Men's Central Jail (MCJ), Twin Towers, and the Inmate Reception Center. The LASD has put up 705 cameras at MCJ. At the time of this writing, 301 of those cameras are recording. The balance of 404 cameras should be recording by the end of May. The LASD's goal is to preserve the recordings for a minimum of 25 months without meaningful degradation of quality. In order to accomplish this, it is likely that additional servers will have to be funded and installed. After MCJ, LASD will then complete the installation of cameras at Twin

Towers and the Inmate Reception Center (IRC). Recently, we attended a Custody Force Review meeting. The scenes captured by the camera were clear and informative and helps to resolve factual disputes. We anticipate that the cameras will quickly justify their cost and that of related servers in saved litigation expense.

The rules for operation of the video cameras and storage of the video footage were originally contained in a Custody Directive. Supervisor Molina recommended that the Directive should be relabeled as "policy," which has been done, and it will be included as such in the LASD's Custody Manual at the end of May 2012. We would also suggest that all custody personnel at the three facilities acknowledge in writing their receipt of the policy and they be provided with training in its provisions. Assistant Sheriff Rhambo assures us this will be done.

II) Flashlights

Recently, the LASD abandoned the use of heavy metal flashlights as impact weapons in the jail, a long-standing recommendation of Special Counsel. As the Sheriff has recently ruled, there will no longer be metal flashlights in the jail that can be used as impact weapons. To be sure, deputies will be able to carry a smaller, lighter flashlight made of composite materials and nylon, but its use as an impact weapon for head strikes will be restricted only to those instances where the use of deadly force is justified. Deputies will also be able to choose a metal flashlight no longer than 6 inches, too small to be used as an impact weapon. Although strong arguments can be made that no impact weapons are needed in the jail, as is the case at New York City's Rikers Island and at Chicago's Cook County Jail, we are content that the new flashlights in the Los Angeles County Jails present less risk of death or serious bodily injury to inmates. We will carefully track inmate injuries caused by flashlights to see if our assessment of lower risk holds true. We commend Commanders Hellmold and Parra and Sheriff Baca, as well as ALADS President Floyd Hayhurst, on their statesmanship in this resolution of the flashlight issue.

The LASD has drafted a new use of force policy that is currently under review by County Counsel and others. The current iteration has much to recommend it, and if certain serious

reservations we have can be resolved, we favor its adoption. Among other things, the current reformulation attempts to subject a wider variety of head injuries to an immediate rollout by Internal Affairs. It should serve to discourage deputies from causing an inmate to strike his head against any hard object, be it the concrete floor or the bars in the jail. Should a deputy deliberately do any of those things, it may be a crime and should be dealt with as such. We believe it also should include instances where it might not have been done deliberately but was done recklessly, as when the deputy knows the high probability of what he is doing will cause a head strike, yet goes ahead anyway. Reckless conduct may also be criminal, and it is certainly against Department policy and should result in discipline, as should negligent conduct in some instances. We therefore urge the LASD to make clear that the use of force policy covers more than deliberate and intentional conduct.

III) Custody Rotation

It has long been the case that newly graduated deputies spend the first several years of their careers working as guards in the jails. During times when the LASD is stagnant in terms of hiring, promotions, and retirements, the length of time a deputy may spend in the jail is five years or more—substantially more than is beneficial and long enough to ingrain habits and attitudes that may be counterproductive when working patrol. If there is any argument to be made for the custody rotation, no one advocates that the custody rotation be longer than 12 to 18 months, including the LASD, as noted by Assistant Sheriff Rhambo: "The LASD would love to push folks out faster, but there are a number of factors that we don't control that hinder this. In addition to budget cuts, there is the rate of attrition from the stations, attrition from retirements, promotions, and transfers to specialized bureaus. Budget, most often is the engine that drives movement. "

Within the jails themselves, movement among assignments is infrequent, and deputies wind up working in the same jail on the same assignment year after year, further isolating the deputies and leading to a fertile medium for an ingrown culture and the seeming presence of deputy cliques or gangs, as appears to be the case in allegations regarding the 3000 Boys at

MCJ. It is further disheartening that the youngest and most inexperienced deputies were the ones assigned to the 3000 floor, which houses the most dangerous and violent inmates. (There are other assignments in the jails that call for experience and expertise but are staffed by the least senior deputies, including Booking Front at the Inmate Reception Center. We commend the LASD for noticing and improving the Booking Front problem.)

Over the years, we have made suggestions to ameliorate the custody problems. Some of the suggestions involve the physical plant itself: MCJ has outlived its usefulness. There are no jails in any city or county in the nation that house in one building the equivalent number of inmates as does MCJ. As we have said before, it is nightmarish to manage. The jail is antiquated, difficult to adequately secure, and requires staffing levels that far exceed the current staff-to-inmate ratios. To do it right, there should be a ratio of no more than four, or, at worst, five or six inmates to one member of the staff. The ratio at MCJ has been as large as one deputy or custody assistant to ten inmates. Because of the jail's architecture, with long rows of cells that cannot be observed from a single vantage point, MCJ should have an adequate number of deputies and supervisors to constantly walk the cell rows in a module day and night. There has been recent increase in the number of sergeants at MCJ. For two of the three shifts, excluding the overnight shift, there are two sergeants on duty on designated floors. Some areas are still covered by only one sergeant.

The Sheriff recently announced intentions to close the "old" side of MCJ and transfer the inmates elsewhere, a move we strongly encourage. That transfer has begun, and Chief Yim is preparing a timetable for this. To take more far-reaching steps, the District Attorney and the Superior Court will have to come together and agree with the Sheriff to permit certain unsentenced low-level nonviolent detainees who cannot post bail to be placed on electronic or GPS monitoring while awaiting trial. Bail reduction is another tool, but it cannot be accomplished without cooperation from the Superior Court and the DA, who both play a significant role in setting bails. Reports by the Vera Institute of Justice (our former parent organization) and James Austin ably discuss how safely to reduce the daily average inmate

population. Vera argues that the problems in the jails are the culmination of many factors, not all of which are in the Sheriff's control. The District Attorney, Superior Court, and the Probation Department must coordinate their efforts if there is to be a meaningful reduction in the jail population after it peaks, in 2015, at approximately 21,000 inmates. (The projected increase from about 17,000 inmates today to 21,000 in 2015 reflects state prisoners' transfers to local jails under realignment.)

Although the ultimate solution is to shut down MCJ entirely, economic realities are such that the County may not be able to do so for a substantial period of time. A recent proposal to spend more than \$1 billion to build a new jail that would only represent a net gain of about 100 beds did not pass the Board Supervisors. Accordingly, MCJ may be around for a while, so it is better if the facility is used sparingly.

Unquestionably, many of the shortcomings in the jails are due in part to severe and chronic understaffing. For whatever reason, the jails have been short in resources. To be sure, the problems at the jails would be eased by more money intelligently and strategically allocated. But money alone is not a panacea. Money can be spent wisely or imprudently. Money can be spent on short term fixes or, better, on long-term, long-lasting reform that instills a new culture of accountability. Perhaps believing that jail culture is intractable, senior executives at the LASD have, in the view of some observers, squelched efforts to instill accountability and assertively acted against a captain who had been trying to sound an alarm and a commander who states he tried on several occasions to inform the Sheriff and his top executives about excessive force and deputy gangs in the jail. It is good to report that the captain is back in a prestigious and important command.

Stagnant assignments within the jail create opportunities for cliques to form and subcultures to develop. Over the years, we have suggested various ways to expose deputies working in the jail to different environments and assignments. Accordingly, it is good to report that there has been some improvement in the rotation of deputies within MCJ, where deputies have been

rotating to different floors since January 2011. Recently, the LASD issued a Directive requiring rotation at the other custody facilities each six months. For many years, we have recommended that deputies rotate between different custody facilities as well. Although logistical problems and union opposition may preclude doing so on a County wide basis, there seems to be no real impediment to such rotation among the custody facilities in the downtown Los Angeles area—MCJ, Twin Towers, IRC, and CRDF. We continue to urge such rotation.

IV) Two Track Careers

At present, and as has been the case for many years, the first assignment for a deputy after completing training at the Sheriff's Academy is to the jails. That assignment may last for several years depending upon overall movement within the LASD. Given that most recruits join the LASD in order to become patrol officers, the forced jail assignment undercuts morale and may also breed abusive behavior on the part of deputies unable or unwilling to exercise reasonable restraint and self-control. It also has meant in the past that deputies who wanted to remain working in custody could not do so. More recently, the strictures have been relaxed and deputies are finding it easier to extend the custody rotation, a move we endorse.

It is also has been the practice in the LASD that upon each promotion, the new lieutenants and many sergeants must leave patrol to complete a jail rotation, thereby assuring that individuals with the least expertise are often in charge of the jail. This can lead to a situation where deputies, having worked for the years in the jail, consider themselves more experienced and better able to assess a situation than a newly appointed sergeant who has not been in a jail assignment for many years. Knowing that the custody assignment is temporary also means that the deputies, sergeants, and lieutenants may not be invested in gaining skill and expertise in corrections work but rather are only waiting out the time to get their "ticket punched."

A solution to this dilemma adopted by some counties is to create two different careers—one for deputies who will work the streets and the other for those who work in the jails. In each career track, an individual can promote and stay in a patrol or custody assignment. Over time,

those opting to make a career in custody will have an incentive to further themselves professionally and invest in gaining correctional expertise.

The Sheriff has proposed a gradual shift to a two career track that could commence in 2013. If the LASD continues its current hiring practices, the Department should be able to shorten to less than two years the length of time a deputy wanting a patrol career would have to first work in the jails. To accomplish this goal over seven years, enough deputies would have to opt for a custody career. The Sheriff has directed the Commander Management Task Force (CMTF) to conduct surveys to assess custody deputies' interest in remaining in custody. Thus far, an estimated 1/4 of the custody deputies have said they would remain in a custody assignment for at least the next three years. Those numbers would have to rise if the seven year goal is to be met. Commander Joe Fennell thinks that is possible: "We believe this number will substantially increase as we educate our deputy personnel about the enhanced flexibility and career opportunities they will be afforded under this proposal." The Sheriff's proposal further contemplates that one could promote to sergeant or lieutenant without having to leave the Custody Division. The merits of this proposal will likely be considered by the Jail Commission.

Assuming but not deciding that the two track careers is the optimal solution—an issue the jail commission might want to address—there might be ways to speed that up. Currently, there is a labor contract in force requiring that 65 percent of the personnel in the jails must be deputies and only 35 percent can be custody assistants. It is obvious that it is in the interest of the union and its members to reserve a high percentage of custody jobs for deputies in that it means more deputies have to be hired overall. (It may not, however, be in the interest of a particular deputy because it lengthens the time of the custody assignment. Fewer deputies in custody would mean a faster transfer to patrol.) And it is not in the interest of the County to pay for an artificially high number of deputies rather than lower-paid custody assistants. Custody Assistants have different duties. Of course, the closer those duties get to what a deputy does, the greater likelihood their union will push for pay parity. We cannot say what the proper mix of deputies to custody assistants is. We do know from our experts that the ratio of staff to

inmates should be at most one staff member to at most five or six inmates. The national average is one guard to 4.3 inmates. When last we checked, the LASD ratio at MCJ was one staff member to ten inmates. We do not take a position on whether it is necessary in the first place to have sworn personnel functioning as jail guards. This too, is an issue the jail commission might explore.

V) Commander Management Task Force (CMTF)

As noted earlier, the Sheriff created and directly supervises a group of five commanders, eight lieutenants, and eight sergeants who comprise CMTF. In the words of the Department:

"The CMTF Mission is to assess and transform the culture of the custody facilities in order to provide a safe, secure learning environment for our Department personnel and the inmates placed in the Department's care. The CMTF's purpose is to empower Department personnel to provide a level of professionalism and serve the needs of inmates consistent with the Department's Core Values.

The CMTF's responsibilities and goals include promoting community trust, reducing jail violence by changing the deputy culture of the custody environment, encouraging respect based communications with inmates, reviewing and implementing new training for staff assigned to the jails, preparing and revising all directives/policies necessary to implement Special Counsel Merrick Bobb/Office of Independent Review recommendations, analyzing force incidents and developing and implementing a custodial career path." Letter from Sheriff Baca to Board of Supervisors, March 13, 2012, p. 9

This mission statement succinctly states what is needed to be done. It is a tall order but not an unreachable goal. As we noted earlier, this group is doing a good job so far. It is a positive step that they are reporting directly to the Sheriff. As noted earlier, the Sheriff has not replaced the major executives. We should not be read as advocating that he should do so or not. It is nonetheless prudent that the Commanders report directly to the Sheriff. Some LASD insiders argue that this setup is only cosmetic: The commanders assertedly owe their promotions and loyalty principally to the Undersheriff, who mentored them. While understanding the cynicism, we do not buy into it. Any criticism we have of the commanders is one that is really a critique of LASD executives as a whole: They are too willing to cede management prerogatives and are overly deferential to deputies and their representatives on issues of accountability.

At this stage, it is important that any doubts be resolved in the commanders' favor. To do otherwise is to concede that the LASD is incapable of reforming itself, a proposition which at this juncture we do not embrace. Nonetheless it is true that no matter how many blue ribbon commissions, members of the Board of Supervisors, Special Counsel, or OIR attorneys there are, none of the foregoing can issue direct orders to the Sheriff. The Jail Commission will undoubtedly struggle with these issues. The Jail Commission might want to consider recommending that the Sheriff appoint an already budgeted third assistant sheriff position, reporting directly to the Sheriff, with a civilian widely experienced in running complex but constitutional jails or prisons.

Eight sergeants and one lieutenant from the CMTF have formed a jail force "rollout" team (CFRT), which responds to all significant force cases that do not rise to the level of an Internal Affairs rollout. The CFRT has conducted substantial and thorough reviews of use of force incidents which we have followed and is off to a very good start. Principles of risk management and corrective action are being actively employed in force analysis, for which the Custody Division should properly take credit. We recently attended Custody Force Review before a panel of three commanders, all of whom did an excellent job and were meticulously well-prepared. It is hard for unit commanders appearing before the panel to cease acting as defense counsel for their employees and to assume a leadership role and reason with the panel on the pros and cons of force employed. The three commanders were able to keep their eyes on the ball and move forward to reasonable rulings on the force cases. It was also heartening to see that the strategic, tactical and policy matters raised by each use of force was well considered above and beyond the decision whether the force merited formal investigation.

VI) Retaliation

The LASD revised its policies concerning the treatment of inmates in August 2011 to make clear that retaliation against inmates by staff is against Department policy. The Department then did formal briefings on the revised policy in August and again in October 2011. The Department has also required quarterly rebriefings on the subject. The CMTF has published a new policy to mandate

that all complaints of retaliation be thoroughly investigated by Internal Affairs and reviewed by the Commanders in the CMTF.

Although inmate complaints may occasionally be frivolous or vindictive, the overwhelming number of inmate complaints we have reviewed appeared to be bona fide efforts to correct an actual problem. Accordingly, inmate complaints must be taken seriously and be thoroughly investigated. Although there may not be a law mandating tracking of inmate complaints as there is for public complaints, there is certainly not a law prohibiting it.

We have long advocated that inmate complaints should be a defined module in the Personnel Performance Index (PPI) and searchable by the name of the deputy, custody assistant, or other employee involved. In other words, inmate complaints should be treated with the same level of detail as any other personnel complaint from the public or made internally. Inmate complaints of retaliation or retribution must be treated as among the most serious. We concur with the CMTF that all such complaints be investigated by Internal Affairs and reviewed by the CMTF Commanders.

VII) Use of Force

In the immediate aftermath of the ACLU lawsuit and widespread media exposure of asserted excessive force in the jails in the fall of 2011, the numbers of use of force dropped significantly throughout the custody division and in particular at MCJ and IRC, which perennially have the highest number of force incidents of all the LA County jails. The numbers continued to trend downward until February 2012, when they once again begin to rise. The data from March demonstrate that the use of force has overall not decreased significantly from February, although incidents at MCJ dropped to nine from 20. On the other hand, force at Twin Towers has risen from three incidents in January to eight in February to 12 in March. Incidents at IRC have also shown a steady increase over the past two months.

A senior LASD official notes a pattern that implies a correlation between inmate tension and increased population. The population in the jail in the fall of 2011 was 14,500. By February 2012, it

had risen to just under 17,000. It is predicted to rise to about 21,000 by 20 15 due to realignment. Greater inmate tension results in more force being used to break up inmate fights or assaults. It is possible that the rising force in recent months may be correlated to the rise in average daily inmate population. If so, it is even more vital to adopt the Vera and Austin recommendations to reduce population. The tables below set forth the statistics for 2011 and 2012:

Los Angeles County Sheriff's Department
Force Used by Month (Significant vs. Less Significant)

2011									
	January			February			March		
CUSTODY DIVISION	Sig Force	Less Sig Force	Total	Sig Force	Less Sig Force	Total	Sig Force	Less Sig Force	Total
CRDF	6	2	8	8	5	13	4	4	8
CST	0	0	0	0	0	0	0	0	0
East Facility	2	3	5	4	0	4	0	0	0
IRC	9	3	12	9	1	10	12	1	13
Men's Central Jail	16	1	17	19	1	20	11	1	12
Mira Loma Facility	0	0	0	0	2	2	1	0	1
NCCF	6	6	12	1	3	4	5	2	7
North Facility	0	0	0	0	0	0	0	0	0
South Facility	0	1	1	0	0	0	2	0	2
Twin Towers	5	2	7	8	1	9	3	2	5
	44	18	62	49	13	62	38	10	48
2011									
	April			May			June		
CUSTODY DIVISION	Sig Force	Less Sig Force	Total	Sig Force	Less Sig Force	Total	Sig Force	Less Sig Force	Total
CRDF	2	2	4	5	2	7	10	1	11
CST	0	0	0	0	0	0	0	0	0
East Facility	0	0	0	0	1	1	0	1	1
IRC	10	0	10	7	6	13	8	2	10
Men's Central Jail	9	2	11	16	5	21	10	3	13
Mira Loma Facility	0	0	0	0	0	0	0	0	0
NCCF	2	1	3	2	3	5	7	4	11
North Facility	0	0	0	0	0	0	0	0	0
South Facility	1	0	1	2	0	2	0	0	0
Twin Towers	7	1	8	10	0	10	6	1	7
	31	6	37	42	17	59	41	12	53
2011									
	July			August			September		

CUSTODY DIVISION	Sig Force	Less Sig Force	Total	Sig Force	Less Sig Force	Total	Sig Force	Less Sig Force	Total
CRDF	7	2	9	6	2	8	6	1	7
CST	0	0	0	0	0	0	0	0	0
East Facility	0	1	1	1	0	1	3	2	5
IRC	6	2	8	4	1	5	12	4	16
Men's Central Jail	17	3	20	17	0	17	11	2	13
Mira Loma Facility	0	0	0	0	0	0	0	0	0
NCCF	5	3	8	5	1	6	2	3	5
North Facility	0	0	0	0	0	0	0	0	0
South Facility	2	0	2	0	0	0	2	0	2
Twin Towers	7	1	8	5	1	6	4	4	8
	44	12	56	38	5	43	40	16	56
2011									
	October			November			December		
CUSTODY DIVISION	Sig Force	Less Sig Force	Total	Sig Force	Less Sig Force	Total	Sig Force	Less Sig Force	Total
CRDF	3	1	4	4	4	8	2	4	6
CST	0	0	0	0	0	0	2	0	2
East Facility	0	0	0	0	3	3	1	0	1
IRC	0	4	4	2	2	4	2	0	2
Men's Central Jail	4	5	9	6	6	12	3	4	7
Mira Loma Facility	0	0	0	0	0	0	0	0	0
NCCF	4	1	5	3	3	6	2	4	6
North Facility	0	0	0	0	0	0	0	0	0
South Facility	1	0	1	2	1	3	0	0	0
Twin Towers	7	4	11	3	5	8	4	3	7
	19	15	34	20	24	44	16	15	31
2012									
	January			February			March		
CUSTODY DIVISION	Sig Force	Less Sig Force	Total	Sig Force	Less Sig Force	Total	Sig Force	Less Sig Force	Total
CRDF	2	6	8	1	3	4	1	2	3
CST	0	0	0	3	0	3	1	1	2
East Facility	1	2	3	1	0	1	0	3	3
IRC	1	3	4	2	4	6	0	9	9
Men's Central Jail	7	3	10	13	7	20	5	4	9
Mira Loma Facility	0	0	0	0	0	0	0	0	0
NCCF	1	4	5	2	2	4	6	1	7
North Facility	0	0	0	0	0	0	0	0	0
South Facility	1	0	1	0	2	2	2	0	2
Twin Towers	2	1	3	2	6	8	7	5	12
	15	19	34	24	24	48	22	25	47

We have studied internal reports for each notable use of force incident in the jail for February, with particular emphasis on MCJ, IRC, and Twin Towers. We were pleased with the reports, particularly the trend spotting for patterns and individuals. Nonetheless, we saw cases where force was arguably avoidable or disproportionate. Control of excessive force in the jails remains a work in process. It will not be solved without a change of culture. To accomplish the latter will take the coordination of many different changes in policies and procedures, including those to be recommended by the Jail Commission appointed by the Board of Supervisors.

2. Overview of Public Complaints

In this chapter and the next, we examine the public complaint process at the LASD. Using the Watch Commander Service Comment Report (SCR) system, the Department is required to accept, document, investigate, and dispose of any complaint made by a member of the public, whether it be about a particular employee or employees, a practice or policy of the LASD, or even an unrelated issue. For this chapter, we looked at SCRs received by major LASD stations in 2010, the latest year for which there are complete records, including the number and type of complaints and basic information about the involved parties. We evaluated the timeliness of complaint investigation and completion. We also examined a sample of complaints, as described in the following chapter, to assess whether they were properly documented, classified, investigated, and adjudicated.

This review is a follow-up to a similar study conducted as part of our **23rd Semiannual Report**, during which we reviewed all complaints received by six of the busiest patrol stations in 2005. In that Report, we found that, while the complaints in our sample were generally properly documented and investigated, approximately 42 percent of service complaints (seven percent of all complaints) were misclassified. We also found that the quality of 18 percent of investigations in our sample should have been better, nine percent of dispositions should have been different, and 10 percent of complaints were missing complaint types. In looking at our latest study, it should be noted that many of the results should not be compared directly. In 2005, we looked at all complaints at six stations; in 2010, we looked at all service complaints at patrol units and a random sample of up to 10 percent of personnel complaints at each patrol unit.

The results of our follow-up review, which looked at a broader sample of complaints, were mixed. With a few exceptions, we found that investigations conducted by LASD supervisors were full, thorough, and well documented, even when the initial complaint lacked important

information or the complainant was uncooperative or unavailable. In particular contrast to our last review, we found that SCRs classified as service complaints—which are designed to capture general complaints about internal or external policies, practices, or laws—were almost always fully investigated to see whether there was a personnel or other issue that needed to be addressed. We also found little, if any, evidence of overt bias in the review memos or in the analysis of the evidence and statements. Finally, we found that the majority of conclusions were supported by coherent analysis and an explanation of the reasoning behind the recommended finding. We commend the Department on its performance in these areas and urge all unit commanders to ensure that every service review reaches the high standard set by these cases.

We also found areas needing improvement. In particular, the completion and submission of findings in complaint investigations was not timely, with a majority of cases missing—often by a wide margin—the timelines set by Department policy. Some units showed particularly poor results in terms of timeliness. We found that low staffing and the Department’s practice of assigning administrative and supervisory personnel to fill in for line positions may have contributed to the delays, as did a perception by at least some unit commanders that those deadlines were not a priority. While the staffing issues continue, it appears that a renewed emphasis on timeliness and greater oversight by management has resulted in significant improvements in the performance of some of the lowest-ranked units since 2010. We hope that, with closer attention to this matter, these improvements will continue over time.

Another area needing improvement, as described in the following chapter, was that of documentation of complaints, both in terms of classification—personnel or service—and of the types of allegations made in the complaint. Although we found progress in the area of classification since our last review, we determined that a notable proportion of service complaints—about 22 percent—would better have been classified and treated as a personnel complaint. We also found that about 22 percent of personnel complaints mentioned at least one allegation type that was not included on the SCR form. These issues did not always impact

the investigation of the complaint, although there were some cases where a missed complaint type led to a particular allegation not being fully addressed. The proper documentation of complaint types is crucial to the LASD's risk management processes. Better oversight and review of complaints—as well as better training of supervisors as to what constitutes a service complaint—should address these issues.

I) Background

Watch Commander Service Comment Reports (SCRs) document public complaints and commendations about the Los Angeles Sheriff's Department (LASD). The Department is required to take and document any comment made by an individual, whether by mail, in person, by telephone, via a special LASD 800 line, by email, or by fax. SCRs are classified into one of three categories: commendations, personnel complaints, and service complaints. In this report, we only focus on personnel and service complaints. Both personnel and service complaints can range from third-party to anonymous complaints.

The Watch Commander—generally the on-duty lieutenant—at the receiving unit records the data provided by the complainant on a numbered form. This form has four sheets: the white original for the Discovery Unit, the canary copy for the station, the pink copy for division headquarters, and the green copy for the complainant. When the SCR describes practices or conduct of employees at a unit different from the one the SCR was submitted to, the file is transferred to the applicable unit, known as the “investigating unit.” The 800 line is staffed by personnel at the Internal Affairs Bureau, which determines the appropriate unit and transfers the case accordingly.

A) Commendations

Commendations, or “external commendations,” express gratitude for or support of exemplary service provided by the Department or individual members of the Department. Public commendations come from individual members of the public while professional

commendations come from government entities. All public commendations are recorded on an SCR form and entered into the Personnel Performance Index (PPI).

B) Complaints

Complaints are classified as “personnel” or “service complaints.” LASD defines these two types of complaints as follows:¹

1. **Personnel Complaint:** An external allegation of misconduct, either a violation of law or Department policy, against any member of the Department. Personnel complaints are classified into the following categories:
 - a. criminal conduct
 - b. discourtesy
 - c. dishonesty
 - d. unreasonable force
 - e. improper tactics
 - f. improper detention, search, or arrest
 - g. neglect of duty
 - h. operation of vehicles
 - i. off-duty conduct
 - j. harassment
 - k. discrimination
 - l. other

2. **Service Complaint:** An external communication of dissatisfaction with Department service, procedure or practice, not involving employee misconduct. Service complaints are classified into the following categories:
 - a. policy/procedures
 - b. response time

¹ “Department Service Reviews,” LASD Manual of Policies and Procedures. 3-04/010.00.

- c. traffic citation
- d. “other”

Watch Commanders may record complaints under more than one of the categories if the complainant cites multiple issues in their report.

C) Complaint Investigation Process

Table 1 describes the complaint investigation process step-by-step with days signifying the proper timeline. As the diagram shows, after complaints are received by LASD, the complaint must be investigated by the handling supervisor within 30 days.² Within that 30 day period, LASD should directly contact the reporting party and if necessary, offer conflict resolution.

In some cases, the watch commander may decide to terminate the review because the complaint is clearly false or should not be investigated due to a diminished capacity or other reasons. Pursuant to LASD's Service Complaint Report Handbook, Section III (E) (3) (a-d), p.40-41, there are four circumstances in which a watch commander may terminate a service review prior to completion: if the complainant is under the influence while making the complaint; complaint is factually impossible ("Martians directed a deputy to be rude to me") or the result of mental illness; third-party complaints that cannot be corroborated, and complaints which the watch commander has personal knowledge the complaint is false. On the “Result of Service Comment Review” form, the unit commander and division commander are instructed to review and approve the “Review Disposition” of the service review. The “Review Disposition” includes a subsection where the watch commander can terminate the service review. Therefore, since the termination section is within the “Review Disposition,” the unit commander and division commander must approve of the watch commander’s decision to terminate the service review.

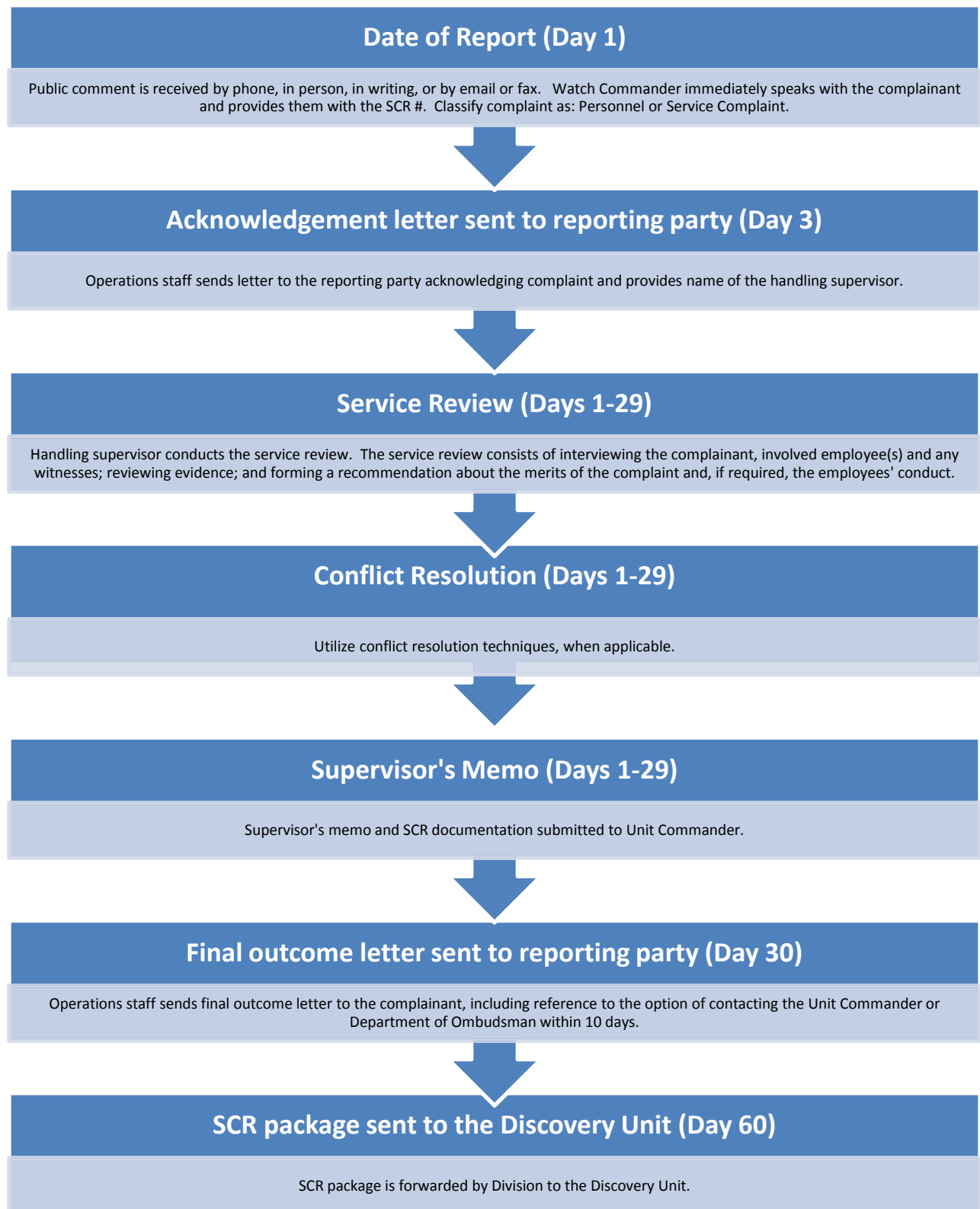
² Although we use the term “investigation” throughout this chapter, it is important to note the distinction between the SCR “service review,” which in most cases would not result in any discipline for the involved employee(s), and an administrative investigation, which involves allegations of personnel misconduct or policy violations that, if founded, would result in discipline. If there is reason to believe that such conduct may have occurred, the service review is closed and an administrative—or in some cases, criminal—investigation is opened. The investigation can be performed by IAB or at the employee’s unit of assignment. This chapter focuses solely on service reviews.

We applaud this oversight of watch commanders' discretion by unit and division commanders in terminating service. **However, we recommend that this final approval of a watch commander terminating a service comment report be explicitly outlined in the Service Comment Report Handbook.** Currently, the Service Comment Report Handbook does not state in the "WATCH COMMANDER'S DISCRETION – SERVICE REVIEW TERMINATED" section that a unit commander and division commander still have final approval of the termination.

In most cases, however, the handling supervisor will weigh the statements and the evidence to determine whether the complaint has merit and, if it involves a personnel complaint, make a determination about the involved employees' conduct.

Conflict resolution, if requested, occurs after the service review. Conflict resolution consists of LASD facilitating a voluntary meeting where the involved parties can express their feelings about the issue with a Department-approved third party. All involved parties must agree to the conflict resolution for the session to take place. The conflict resolution's facilitator, usually the watch commander, must remain neutral while assisting with the complaint's resolution. After a conflict resolution session, the Watch Commander documents the outcome of the session as either "Complaint Resolved" or "Complaint Not Resolved." If the complaint was not resolved, the supervisor will proceed to disposition and make a recommended determination about the officer's behavior or actions.

Table 1



D) Entry into the Personnel Performance Index (PPI)

All complaints are entered into the Department's risk management database, the Personnel Performance Index (PPI). Those classified as personnel complaints will be attached to the records of each involved officer and are used as part of the LASD's early intervention program, the Performance Mentoring Program, which flags employees who reach a certain "threshold" of complaints or other risk-related activity. Initial entry into the system occurs through the Preliminary Data Entry (PDE) application, conducted by unit personnel, and captures basic information about the SCR.

The record is then transferred into the PPI and will receive a final update—to include additional information about the complaint and investigation, the disposition of the case, and a scan of the actual file—at the Discovery Unit once the case has been completed and submitted. As we have noted in previous reports, final data entry faces a backlog of nearly a year due to low staffing at the Discovery Unit, meaning that unless they are brought forward to the Unit, mistakes in the system will persist in the PPI for a lengthy period of time. **It is therefore imperative that initial classification and documentation of the complaint is as accurate as possible. We also reiterate our recommendation that the Department move to implement E-forms,³ which will speed up data entry and reduce duplication.**

In December 2011, LASD initiated a pilot program in Region III⁴ that allowed all sergeants and lieutenants access to PDE to input SCRs and use of force cases on the date they occurred. As of March 2012, the program has reduced the number of days between the event and the PDE entry date for the participating stations in Region III. **We recommend that the Department expand this successful pilot program to other regions to improve timeliness and reduce duplication.**

³ E-forms are "electronic-forms" that can be filled out on a computer and sent electronically.

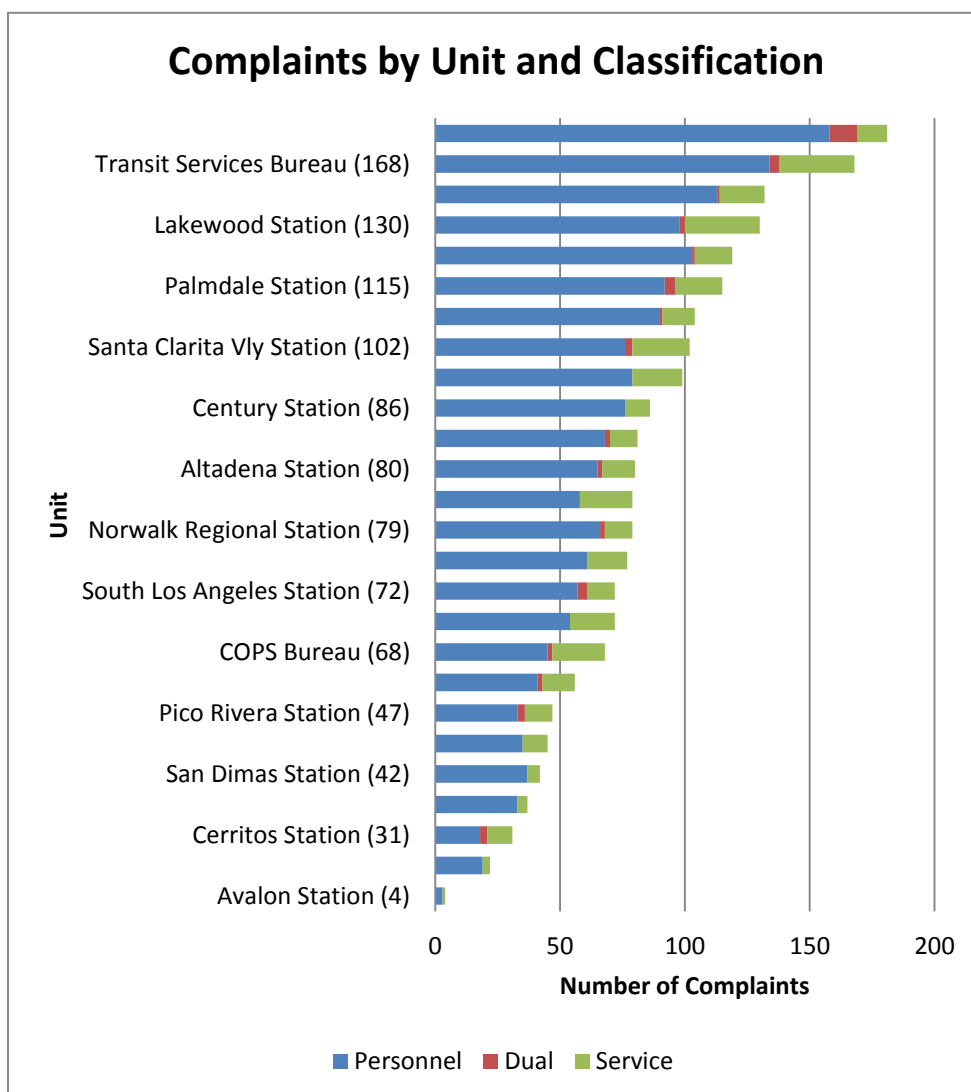
⁴ Region III includes the Cerritos, Industry, Lakewood, Norwalk, Pico Rivera, San Dimas, and Walnut/Diamond Bar stations.

The complaint and investigative process is described in more detail in our **23rd Semiannual Report**.

II) Overview of Complaints Received by Patrol Units in 2010

The Department received 2,128 service and personnel complaints relating to the performance of its major field operations units in 2010. Of those, approximately 17 percent were classified as service-only, 81 percent were classified as personnel-only, and two percent were classified as dual complaints. Table 2 shows the number of complaints by unit and classification.

Table 2



Lancaster Station, a large and very busy unit, had the highest number of complaints as well as the highest proportion of complaints classified as a personnel complaint. Avalon station had the fewest number, followed by Marina Del Rey. Of all the units, Cerritos had the highest proportion of complaints—about 31 percent—classified as service-only complaints. It should be noted that these numbers do not take into account those complaints that we judged to be misclassified, which, if classified properly, would likely reduce the proportion of service-only complaints overall and at some units.

To some degree, the number of complaints per station was correlated with the size and relative busyness of a station—i.e.; contacts with the public. Interestingly, however, some stations with relatively low crime and arrest rates, such as Malibu/Lost Hills Station, had seemingly high complaint rates, while busier stations such as Century Station had fewer complaints relative to, for example, its arrest numbers. We interpret this trend to be a result not only of the level of activity of a given station, but the willingness of the residents to file a complaint. Table 3 number of complaints per 100 arrests by station (non-station units are not included in this calculation).

Table 3

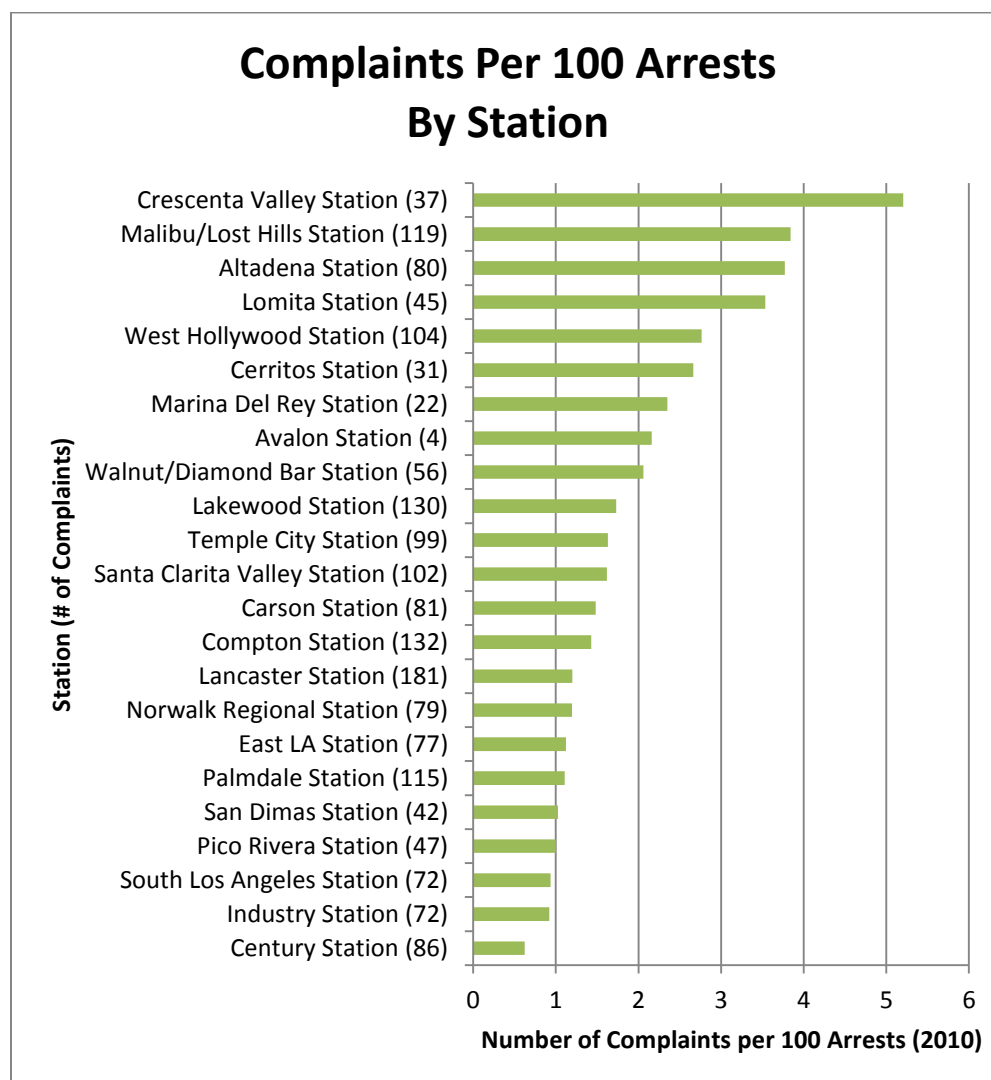
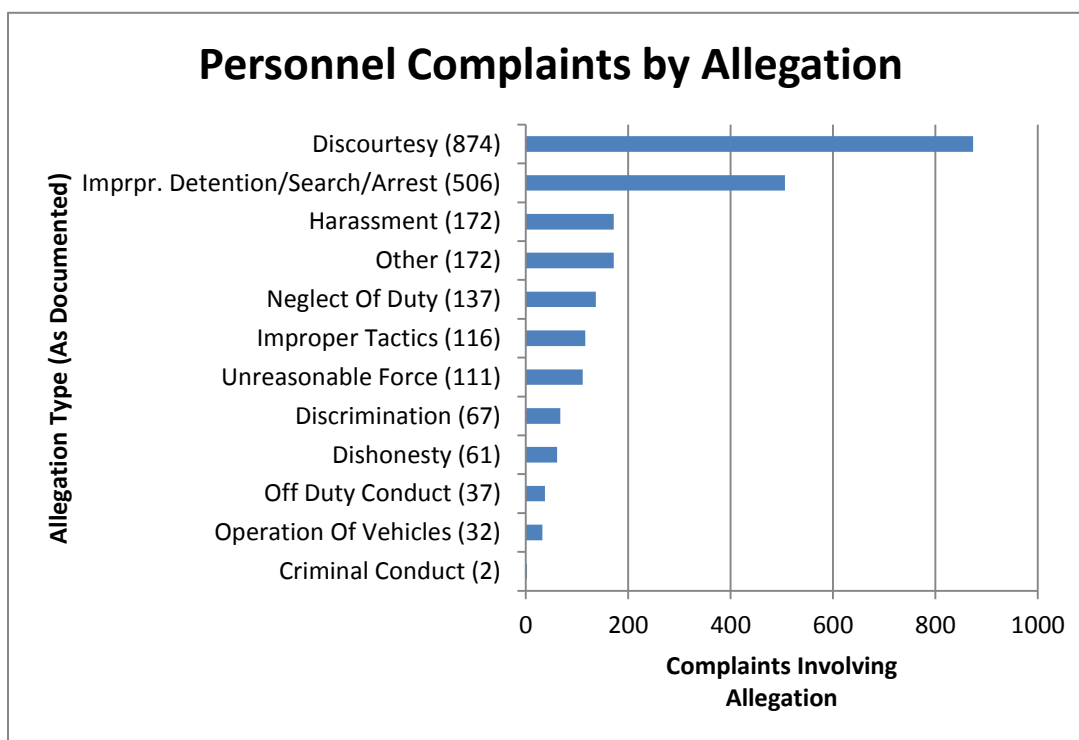


Table 4 shows the number of personnel complaints involving each type of allegation, as documented by the unit.⁵ Overall, the most common type of allegation was that of Discourtesy, with 874 such complaints. Other common types included Improper Detention, Search, or Arrest (506), Harassment (172), and Other (172).

⁵ Many SCRs included more than one complaint type.

Table 4



The content of complaints varied somewhat by unit. At some stations, such as Marina Del Rey, Lomita, San Dimas, Avalon, and Crescenta Valley Stations, more than two-thirds of all personnel complaints alleged discourtesy. In contrast, stations such as Compton, South Los Angeles, and Lancaster hovered near one-third for such complaints.⁶ Other notable highs include the following:

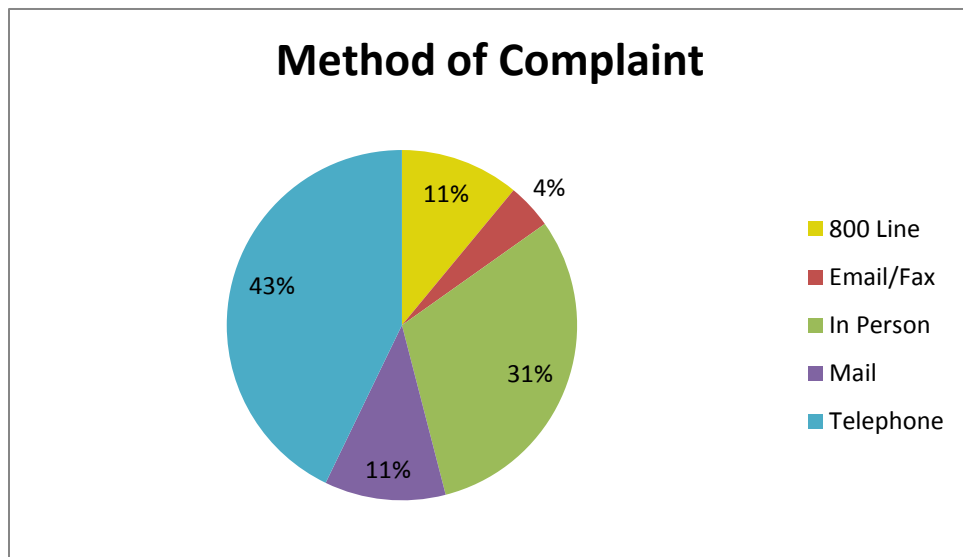
- 50 percent of Century Station complaints included an allegation of Improper Detention, Search, or Arrest, followed by OSS (48 percent), Compton (44 percent), South Los Angeles (43 percent), and Community Oriented Policing Services (COPS) (40 percent).
- 11 percent of Transit Services Bureau complaints included an allegation of Discrimination, followed by Cerritos (10 percent), Malibu/Lost Hills (seven percent), and Altadena, Norwalk, and Lomita (six percent each).

⁶ As we discuss in the next chapter, we found that a number of these complaints were missing appropriate complaint types. As such, these numbers reflect classification of complaints, and not necessarily the full substance of the complaints.

- 13 percent of East LA Station complaints included an allegation of Unreasonable Force, followed by South LA, Transit Services, and Compton (11 percent each).

As described earlier, the Department accepts complaints through a variety of channels. Table 5 shows complaints by method, with telephone and in-person complaints being the most common.

Table 5



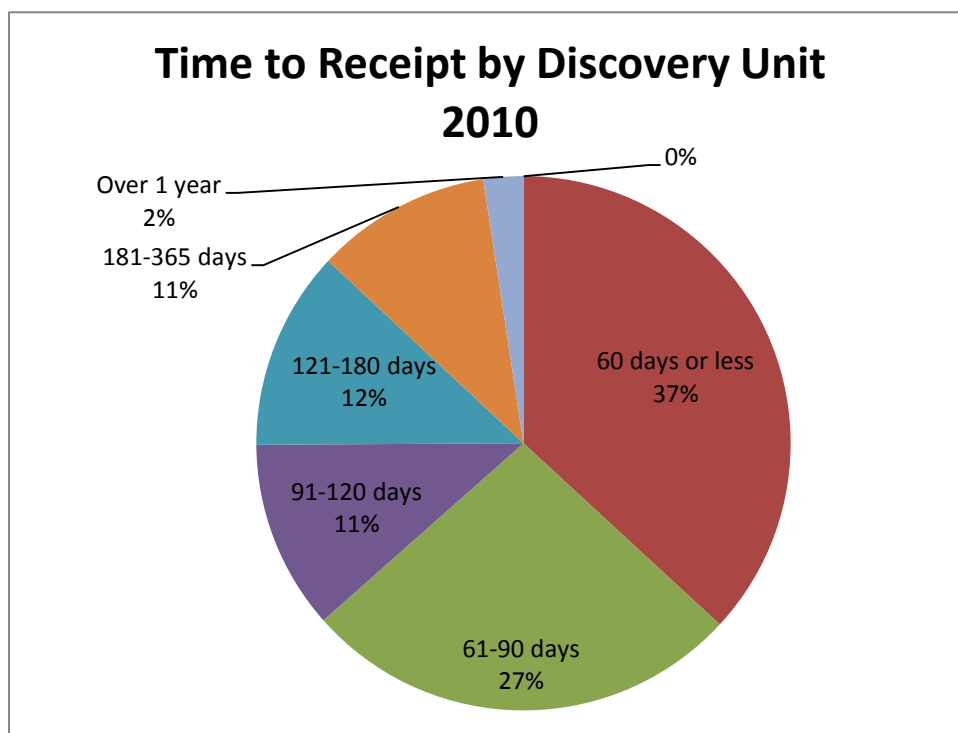
III) Timeliness of Submission

LASD policy states that a service review (investigation of a public complaint) “shall be completed within 30 calendar days and forwarded to Division. The completed SCR package shall be forwarded to the Discovery Unit within 60 calendar days.”⁷ To determine whether Field Operations units were complying with this standard, we requested and received a dataset that included the date of the complaint, the date that the complaint was signed by the unit commander, the date it was signed by the area commander, and the date that it was received by the Discovery Unit. We then analyzed the data to find out how long each step of the process took.

⁷ “Procedures for Department Service Reviews,” LASD Manual of Policies and Procedures. 3-04/010.05.

According to the data we received, the timeliness of complaint investigations was, overall, quite poor in 2010. Of the 2,128 complaints in our sample, 25 complaints (about one percent) still had not been submitted as of December 1, 2011, nearly a year after the close of the year in question. Of those that had been submitted, just 37 percent—slightly more than one-third—had been completed and submitted to the Discovery Unit within the required 60-day time period, as shown in Table 6.⁸ An additional 27 percent were submitted within 90 days, with the remaining 35 percent submitting even later than that. On average, for all Field Operations Regions (FOR), it took an average of 101 days to forward the package to the Discovery Unit, with a median of 72 days. For 2010, the longest submission period for a complaint was 659 days, nearly two years.⁹

Table 6

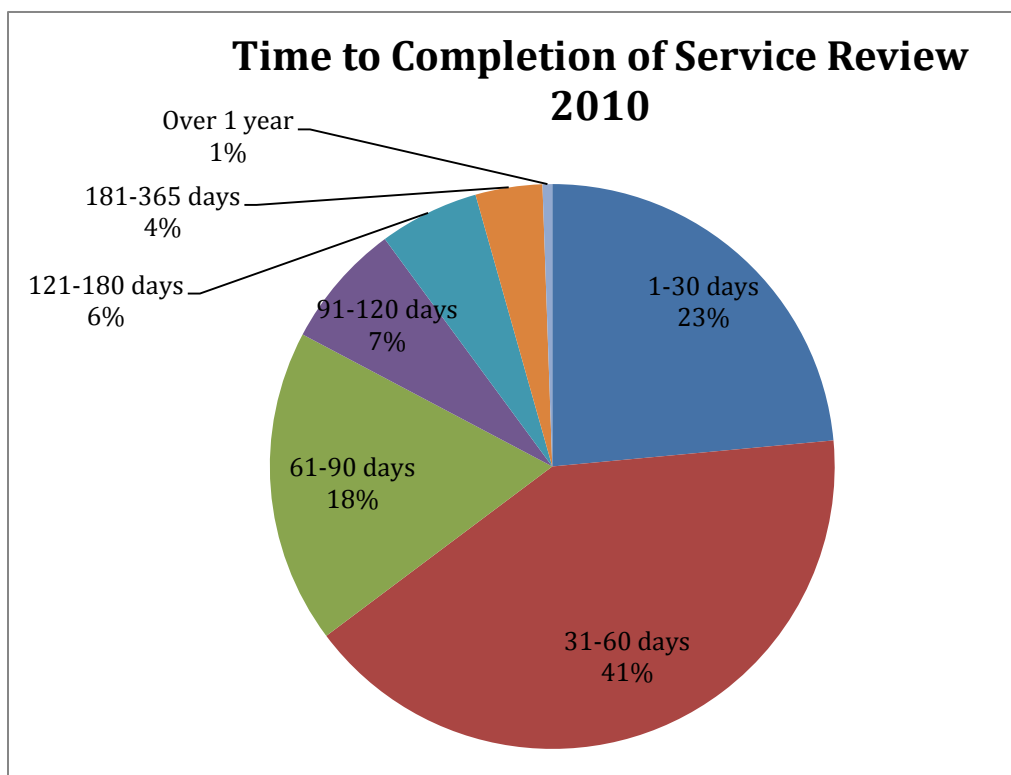


⁸ 12 percent of all cases—not a particularly substantial proportion—were submitted close after the cutoff, between 61 and 70 days.

⁹ These figures exclude all open complaints.

To find out whether the issue was simply a problem with bureaucracy and not the investigation itself, we also checked to see whether the completion of the service review was completed and submitted to the unit commander within the 30 days required by Department policy. Unfortunately, because of the late submission of many packages, the relevant information in those cases had not yet been entered by the Discovery Unit into the PPI. There were 301 cases that were, according to the PPI, completed and submitted to the Discovery Unit, but which lacked information about when the service review was approved by the unit commander. These cases were excluded from our analysis, but it should be noted that, as they represent some of the least timely reviews in our dataset, the proportion of timely cases is likely lower than it appears.

Table 7



Overall, as Table 7 shows, just 23 percent of reviews were completed by the assigned supervisor and approved by the unit commander within the required 30 days, with an

additional 41 percent being completed within 31 to 60 days.¹⁰ On average, it took 64 days to complete the investigation, with a median of 48 and a maximum of 653.

It should go without saying that this is an unacceptable result. A lack of timeliness in the investigation and completion of complaints can have many undesirable consequences, not the least of which is increased difficulty in investigating the complaint. The complainant and witnesses may be difficult to contact or may have a poor recollection of what occurred, as might the deputy or deputies in question, and paperwork or other evidence may be harder to find. A lack of promptness can communicate to the public that the Department is not concerned with responding to or vigorously investigating their complaints of deputy misconduct, and that there is a lack of accountability for such lapses. Finally, slow investigations and submission to the Discovery Unit compromise the LASD's risk management processes, potentially leaving managers in the dark about employees requiring intervention and about problem areas. In our review, we found that many complaints are reclassified as personnel complaints during the investigation or by the reviewing chain of command, but when those changes are not made in the PPI, an employee will not be associated with the complaint for the purposes of Performance Review or other personnel processes. It also leads to incorrect numbers about the types of complaints the Department is receiving.

There is also no reason why these complaints should be allowed to linger uncompleted. The PPI is a robust tool for the tracking of open cases. Though PPI is not currently set to provide a simplified report of open cases by unit, unit commanders are free to contact the Discovery Unit at any time to find out that information if they are not able to do so on their own. The Discovery Unit does conduct audits—though not as frequently as they would like—that work to inform unit commanders of outstanding SCRs. It is that process that resulted in large numbers of cases being submitted in the first few months of 2011. Yet while we recommend that the

¹⁰ Again, this does not include 314 complaints that whose late submission (after the end of the calendar year) meant that the data had not yet been entered by the Discovery Unit. Approximately 15 percent were completed during the 31-40-day period, so it should not be assumed that a large proportion of complaints were completed immediately after the cutoff period.

Unit continue to conduct these audits on a regular basis, preferably quarterly, it does not absolve unit commanders from ensuring that this important component of a unit's operation is completed in a timely fashion.

A. Timeliness by Unit

Performance in the area of timeliness varied widely, with some units completing and submitting their complaint investigations in a relatively timely fashion, and others exhibiting results that were very poor. Most units had submitted all outstanding complaints, in some cases as a result of an audit by the Discovery Unit in March 2011, but there were some stations that had still not submitted all complaints. Pico Rivera Station had the highest percentage of open cases, with four, while Lakewood, which reported 130 complaints in 2010, had the highest number with five. It is not clear why these complaints were still open.

Table 8 shows average number of days it took to submit the complaint package to the Discovery Unit. None of the stations achieved a 100 percent timeliness compliance rate, but several stations—such as Carson, Lomita, South Los Angeles, Temple, and Malibu/Lost Hills submitted at least half of their complaints within the required 60 days, with a significant proportion being turned in within the next 30 days. Carson Station, in particular, was quite timely: about two-thirds were submitted in 60 days, and 98 percent within 90 days.¹¹ This is despite the fact that Carson received 81 complaints in total, the 11th highest number of the 27 bureaus and stations. In contrast, several stations submitted almost none of their complaints within the 60-day deadline or even anywhere close to that period. Avalon, Lakewood, West Hollywood, and Pico Rivera, in fact, submitted less than 10 percent of all their cases within 90 days of the complaint.¹² These stations did extremely poorly in terms of getting their cases in on time, with Lakewood submitting just seven percent—9 of its 130 complaints—within 120 days.

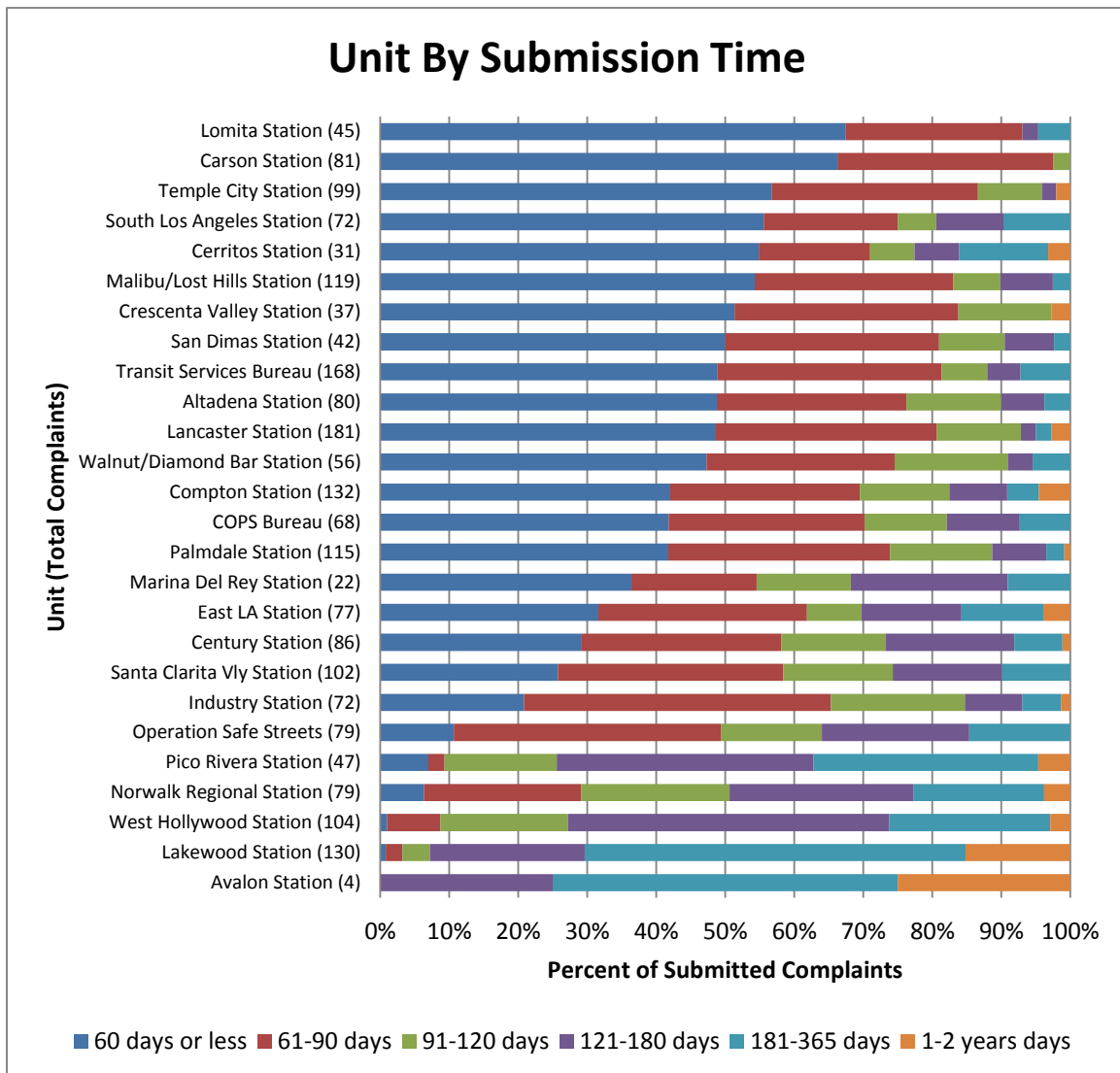
¹¹ 10 complaints (about 12 percent of the total) were completed within 10 days of the 60-day deadline.

¹² Avalon reported just four complaints in 2010, meaning that even one late complaint has an oversized influence on the percentage complete. With such a small number of complaints, however, it is surprising that any complaint would be late.

We recognize that Lakewood and West Hollywood in particular received relatively large numbers of complaints—104 and 130, respectively—but there were several other units, such as Lancaster, Transit Services Bureau, Compton, and Palmdale, that had similar or higher numbers of complaints. These units showed significantly better results than Lakewood and West Hollywood, although they also were not in complete compliance with the required timelines.

Because nearly half of the complaints from Pico Rivera and Lakewood were submitted after the Discovery Unit had completed its entry of 2010, those complaints have not been updated in the system, containing missing or even inaccurate information. As a result, information about the completion date of the initial review was missing for many cases, and we could not fully analyze where the delay occurred. From the data we have, however, we conclude that the primary issue is with the most important part of the process – the investigation. When looking at the four stations with slowest submission times, we found that only a few, if any, service reviews were completed within the required 30 days, or even within 60 days.

Table 8



a) Timeliness by Field Operations Region

Although units varied within regions, we found that, on average, complaints to Field Operations Region (FOR) I, which includes busy stations such as Lancaster, Palmdale, and East LA, were submitted in a more timely fashion than FORs II and III. As it includes both Lakewood and Pico Rivera, FOR III's average had the longest average of any of the regions.

b) Tracking Systems

According to Lt. Gerhardt at the Discovery Unit, PPI Systems Development has developed a report for units or Divisions to query SCRs that are more than 60 days outstanding, which will make it easier for supervisors to ensure that investigations are being completed in a timely fashion. Also, the Discovery Unit will conduct quarterly audits of units and Divisions to ensure compliance of SCR timeliness. **We recommend that the report tracking system be implemented immediately and that area commanders be required to review reports for the units under their command on a monthly basis. Unit commanders should be also held accountable for poor compliance with complaint timelines.** In our review of complaints and administrative investigations in the PPI, we found no explanation of why an investigation was delayed or any indication of corrective action, although at least one station did discipline supervisors for late completion of SCRs.

Along with the PPI, patrol stations also have access to a system called the Station Admin Tracker that allows managers to track service reviews and other administrative tasks and ensure that they are being completed on time. Among other functions, the system provides a visual tracking system that shows managers where SCRs are in the process – complaints that are close to the deadline will show yellow, while a complaint that is overdue shows red.

We contacted several stations with relatively high late submission rates to determine how they tracked SCR timeliness and whether there were any special circumstances that may have contributed to their results. Most of the stations we talked to—Lakewood, Pico Rivera, and West Hollywood—do use the tracker system, while Norwalk has a separate tracking system. All were aware of their past problems with timeliness and had worked to improve them. We were surprised to find that not all the of the stations had full staffing at the operations level, which may have impacted the unit’s ability to ensure compliance with deadlines or even to complete

the reviews, and heard that CARPing¹³ or other staffing issues meant that completion of administrative paperwork suffered. We were also told that, in at least some cases, unit commanders received the message that, due to budget cuts and staffing concerns, administrative paperwork (including SCRs) was not a high priority and that there would be leniency for late submissions. In recent months, however, that message has changed, emphasizing that all paperwork, particularly SCRs and force packages, must be completed on time. Some stations also noted that they had personnel or systemic issues in tracking or completing the forms that have since been corrected. As noted above, however, only one station specifically reported having disciplined any supervisors for these problems.

One issue unique to both Lakewood and Operation Safe Streets (OSS, a gang unit)—but primarily OSS—is the large number of SCRs disputing an individual’s inclusion on the Hawaiian Gardens gang injunction list. According to the captain at Lakewood, they received these complaints in large batches, which were generated and collected by concerned community activists, but had to be addressed individually. These complaints, which go through a specialized approval process with the Office of Independent Review, often take a long time to complete. Our review of the content of complaints in 2010, however, showed that only six of Lakewood’s 130 complaints specifically dealt with the gang injunction, as did 14 of OSS’s 79 complaints.

We also asked each of the four lowest-ranked stations to send us their current list of open SCRs to see whether their timeliness had been approved. We are very pleased to report that each of these stations showed excellent results, with no overdue complaints. Assuming that all SCRs have been properly entered into the tracking systems, these are excellent results. We commend these units on their improvements and urge them to continue to maintain them.

¹³ The word “CARP” stands for Cadre of Administrative Reserve Personnel and refers to the LASD’s program of temporarily assigning staff to other positions, whether on patrol or at another facility, to curtail overtime. For example, a captain of a station may go out on patrol once a week or another officer may be assigned to a 3-month rotation at Court Services.

In the next chapter, we describe our review of the classification, documentation, and investigation of public complaints.

3. Review of Public Complaints

We conducted a review of service and personnel complaints to find out whether they were classified and documented properly and whether investigations and dispositions were full, fair, and thorough. To accomplish this, we reviewed the substance of all service-only complaints and a random sample of personnel complaints to assess the adequacy of the documentation, investigation, and analysis. Because our primary area of concern was complaints generated by field contacts with the public, we focused only on complaints assigned to and investigated by patrol stations and, in a more limited fashion, patrol units such as the Transit Services Bureau, OSS and COPS.

In the following sections, we describe the review process, our findings, and, where necessary, our recommendations for improvement. The chapter also includes basic statistics about public complaints received by the Department.

I) Classification of Complaints

Proper classification of complaints is one of the most important aspects of the documentation of a complaint, as it determines how the SCR will be assigned in the PPI and, to a lesser degree, how the SCR is investigated.

The LASD classifies complaints into two types, service and personnel. According to Department policy, a service complaint consists of “an external communication of dissatisfaction with Department service, procedure or practice, not involving employee misconduct.”¹⁴ As such, it should only be used for complaints for which the action can easily be identified as a practice of the department, a systemic issue outside the control of any individual officer, or an outside law or rule. The most obvious complaints of this type concern issues such as frustration with traffic

¹⁴ “Department Service Reviews,” LASD Manual of Policies and Procedures. 3-04/010.00.

laws or practices, or disagreement with how the Department handles civil disputes or non-criminal incidents. A personnel complaint, on the other hand, is defined as “an external allegation of misconduct, either a violation of law or Department policy, against any member of the Department.”¹⁵ These can range from less-serious allegations such as those of general rudeness to more serious ones of unreasonable force or even criminal conduct.¹⁶ An SCR can be classified as both a service and personnel complaint, which we refer to as a dual complaint. The distinction between the two classes of complaints is not a trivial one. Although both should be fully investigated to discover whether the complaint has merit and whether something should be done, a service complaint does not require a finding of fact and results only in a “completed” disposition. Personnel complaints, on the other hand, do require that the investigator make a finding about the involved employees’ conduct. In the case of a personnel complaint, the fact of the complaint, the type or types, and the disposition will all appear on the employee’s PPI profile, a summary that provides managers with a summary of reported involvement in risk-related activities, as well as commendations, in the past five years.¹⁷ These are used during the annual review process and are one component of the Performance Mentoring Program, the Department’s early intervention program. Even if an employee’s name is attached to a service complaint, it will not show up as part of the file.

We have long been concerned about misclassification of complaints, as it frustrates the risk management process and could be used to shield an employee from being assigned to a particular complaint. In our **23rd Semiannual Report**, we reviewed all complaints from six stations during the year 2005 and found that about 42 percent of service complaints—seven percent of all complaints—should have been classified as personnel complaints. To address this issue, the Department has worked to explain and emphasize the importance of proper

¹⁵ *Ibid.*

¹⁶ When it appears that a violation of a policy may have occurred that could result in discipline, the investigation moves immediately from a service review to an administrative or criminal investigation.

¹⁷ The PPI Profile is limited to incidents reported within the past five years which did not result in an unfounded or exonerated finding. There is also a second report, the Executive Profile Report, which shows all such incidents, regardless of disposition or time lapsed, which has limited accessibility. For a full description of the reports, see our **23rd Semiannual Report**.

classification of SCRs in the Service Comment Handbook prepared by the Internal Affairs Bureau. That handbook reminds units that:

*Service complaints are complaints about the general policies or practices of LASD and are not linked to a particular employee. Service complaints do not involve specific allegations against particular employees, and thus, they will never show up in that employee's PPI record. Instead, they are more generalized and concern a policy or the Department as a whole.*¹⁸

As part of our study, we reviewed all of the available SCRs classified as service-only complaints in the PPI as of October 2010, including those that were still pending in the system but had been received by the Discovery Unit. In all, we found and reviewed 335 SCRs that were classified as service-only complaints in the PPI.

Overall, there was significant improvement in the classification and investigation of service complaints. Service-only complaints made up 18 percent of all complaints, similar to that of our sample in 2005. In reviewing them, we found a notable effort to explain why a complaint should be classified as service-only.

Examples of service complaints that were properly classified include the following:

- A man complained that he was cited for playing his music too loud. He claimed that he was not disturbing anyone's peace.
- A woman was upset that she was stopped in front of a school and given a citation.
- A man complained that the post office would not allow him to obtain his postal records, and a deputy who responded failed to take his complaint about this and to cite the postal worker in question.
- A complainant blamed the Department for a slip-and-fall because a deputy did not cite the property owner for having a fruit pit on the property.

¹⁸ 2011 LASD Service Comment Report Handbook, p. 13.

- A man complained that his vehicle should not have been towed because the State of California has no authority over him.

We were pleased to find that even in cases where a complaint was classified as service-only, the investigator in almost every case nonetheless made an effort to fully investigate the allegations to ensure that there was no potential misconduct or poor performance on the part of individual LASD employees. Indeed, in most cases, there was very little difference in the length of the memo, the amount of analysis, or the extent of the investigation. It is a credit to the Department that these complaints were fully investigated.

Despite improvements, however, we found that the classification of complaints could nonetheless be better, and that approximately 22 percent of service complaints—about three percent of all complaints, a significant improvement from the seven percent in 2005—were classified as service-only when they should have been classified as a personnel or dual complaint.¹⁹ In these complaints, we found explicit allegations by complainants about an employee's conduct, demeanor, or the way that they handled an incident, ranging from Discourtesy to Unreasonable Force, which should have been classified as a personnel complaint. In some cases, it was difficult to understand why a complaint was classified as it was or why it was not corrected along the way. In reviewing others, however, we found two notable trends that might explain why a complaint might have been misclassified, described below.

A) "Employee's Conduct Was Reasonable"

In these cases, there was a tendency to apply the finding—that is, that the employee's conduct was reasonable—to the classification of the complaint. In essence, the investigator determined that, because the employee's actions were within policy, the complainant was actually making a complaint about the policy or procedure. For example:

¹⁹ In about another eight percent of cases, the complaint was properly reclassified as a personnel complaint, but had not been changed in the PPI, whether due to an oversight or a backlog in data entry.

- A man complained that his Miranda rights were violated during a pre-planned warrant operation. (The investigator found that because he was not technically under arrest at the time of his questioning, this was not the case.)
- A man complained that deputies shot his dog during the execution of a search warrant.
- A man complained that deputies responding to a call from the Los Angeles Fire Department searched his bedroom without consent or probable cause.
- A man complained that deputies threatened to put child pornography on his flash drive and refused to let him use the restroom, causing an embarrassing accident.
- A complainant alleged that a particular deputy was harassing her sister by contacting family members in her private driveway and alleging that the house was a drug house.

While the employees' actions in each of these cases were found to be reasonable and within policy, classifying them as a service complaint implies that it is Department policy to shoot dogs during search warrants, violate rights, or threaten to put child pornography on people's flash drives. Each of the cases required some investigation to determine whether the actions occurred or were in policy, and therefore should have been classified as personnel complaints. The SCR process has appropriate dispositions for complaints that are clearly false or for which the employee should be exonerated, as described later in this section.

While the rationale behind these classifications is understandable, particularly where it is clear that the employee did everything exactly right, it is important that the allegation and the finding be kept separate. Service complaints about department policy should be clearly identifiable upon receiving the complaint and should not require any investigation to determine whether what the employee did was appropriate. For example:

- A woman complained that deputies did not enforce a Temporary Restraining Order against her neighbor. Because the neighbor was smoking on his own property, he was not violating the order and deputies did not have grounds to arrest him.
- A man was upset that a deputy placed him under arrest and put him in the back seat of his patrol car in full view of the public.

- A man complained that, because his TAP metro card had been stolen, he should not have received a fare citation.
- A woman complained that LASD personnel did not take a report after a traffic collision involving her son and instead directed them to call the California Highway Patrol.
- A woman complained that when deputies responded to a “shots fired” report, they should have removed her from her home and found her a place to stay.

In the cases above, the investigator could easily ascertain that the complaint was not about an employee’s actions, but rather a policy or procedure that the complainant did not like or disagreed with. (It is important to note that, even in such cases, the investigator generally still investigated, commendably, the allegations to make sure that the facts were as reported.)

The Department has a special designation—exoneration—for cases where the “allegations, broadly construed and even if true, would not in any circumstances constitute a violation of the law or Department policy, rule, or procedure, and the conduct is not otherwise censurable.”

Complaints in which an employee was exonerated will not appear on his or her PPI Profile Report. While this disposition requires the approval of a division chief, it is nonetheless better to use it where appropriate than to simply designate personnel complaints that lack merit as service complaints.

We acknowledge that there is sometimes a fine line between complaints about Department policy and complaints about an officer who ultimately appears to have acted appropriately, and reasonable minds may sometimes disagree as to how a particular case should be classified. Nonetheless, it is important not to apply the finding to the classification, and to ensure that the Department is keeping a record of complaints against individuals. Even if all complaints appear to lack merit, repeated complaints about the same conduct by an individual officer may indicate the need for counseling, additional training, or other intervention.

B) Complaints Involving Traffic Citations

Because complaints about the substance of a traffic citation—such as whether the person was actually wearing a seatbelt or whether he or she was driving faster than the speed limit—are appropriately resolved in court, the Department allows such complaints to be classified as service complaints. We do not object to this policy, as it would be impractical for the LASD to track and investigate every case where the person was unhappy with a traffic citation. We found, however, many cases where other types of complaints about an officer's actions were generated during a traffic stop. In some of these cases, although the complainant was clearly complaining of harassment, improper detention or search, or even racial discrimination, the complaint was classified as a service-only complaint. For example:

- A man complained that he or his son was profiled as a gang member and said he should not have been cited because he cooperated with the deputies. He stated that he did not give permission for the deputies to search him or detain him in the car.
- A man complained that he was improperly cited for not wearing a seat belt. He also alleged that he asked to speak with a sergeant, but none was ever called.
- A man complained that he was improperly issued a traffic citation and subsequently patted down without verbal justification. He stated that he believed that he was given the citation out of spite because he asked for the deputy's identifying information.
- A man complained that during a traffic stop the deputy pointed a gun at his head and refused to tell him why he was being detained.
- A complainant alleged that he was cited solely because of his race and because he asked for the deputy's badge number.

The SCRs above differed very little in substance from other complaints that were classified as personnel complaints, perhaps because they were received by different units or investigated by different supervisors. This is unfair to officers in units that are stricter about proper classification, and it is important that investigators carefully parse through traffic complaints to see whether they have a personnel-related component. It appears that this was commonly done to see whether there was a complaint of discourtesy, but not always when there was a

complaint of, for example, improper detention, search, or arrest, which is arguably a much more serious complaint.

Overall, we commend the Department for improving its classification of complaints, which appears to be more careful than in our last review. In doing so, we note that representatives of the Discovery Unit also review complaints to see whether they were properly classified. Our review indicated that many cases that were originally classified as service-only ended up being properly reclassified along the way. **We urge the Department to continue to improve this process and ensure that all service complaints reflect only complaints about a Department practice or policy, a minor traffic ticket, or laws or procedures external to the LASD. To improve the efficacy of the risk management process, it is important that the classification be done right during PDE—and corrected where necessary— so that the PPI doesn't reflect inaccurate information for an extended period of time.**

II) Assessment of Personnel Complaint Service Reviews

Investigation of a complaint—whether categorized as a service or personnel complaint—is known by the Department as a service review. As noted earlier, a service review of a personnel complaint is distinct from an administrative investigation in that it cannot result in disciplinary action for the involved officer, even if it is found to have merit. This means that either the alleged conduct, even if it occurred, is not serious enough to rise to the level of a policy violation, or for allegedly serious conduct, there is insufficient evidence to open a full administrative investigation. If it is determined that the alleged conduct is serious enough to result in a policy violation and that there is enough evidence to merit a full investigation, the service review will be closed and an administrative or criminal investigation immediately opened. Administrative investigations are conducted either at the unit level or by the Internal

Affairs Bureau (IAB), while criminal investigations are conducted by the Internal Criminal Investigations Bureau (ICIB).²⁰

The supervisor assigned to conduct the service review—usually a lieutenant, but sometimes a sergeant—is responsible for contacting the complainant to receive a full account of the complaints, interviewing the involved personnel and any witnesses, and checking relevant documentation. All of these investigative steps should be summarized, and followed by an analysis of the information gathered and assessment about whether the employee’s conduct was appropriate or needed improvement. As part of this process, it is also important that the complaint be reviewed to ensure that the complaint types assigned adequately reflect the substance of the complainant’s allegations for proper entry into the PPI. In the following sections, we assess whether these complaint types were properly assigned, the adequacy of the investigation and accompanying documentation, and the appropriateness of the disposition.

To assess the quality of the LASD’s response to personnel complaints, we selected and reviewed the case files for a random sample of complaints filed against personnel at a patrol station, as well as complaints filed against deputies assigned to the Transit Services Bureau. We did not review complaints filed against administrative, custody, or court personnel, or employees assigned to specialized units.²¹ For each station, we selected a random sample of up to 10 percent of all personnel complaints, with a minimum of ten complaints per station. As a result, we reviewed ten complaints each for stations with fewer than 100 complaints, and 10 percent for stations with more than 100 complaints. For stations with fewer than 10 complaints, we reviewed all available case files. In all, we reviewed 245 SCRs categorized as personnel-only or dual complaints.

²⁰ For more detail on how unit-level and departmental investigations are opened and conducted, please see our **23rd Semiannual Report**.

²¹ The LASD differentiates between SCRs—personnel complaints filed by a member of the public—and inmate complaints, filed by a person in custody. **We have repeatedly recommended that inmate complaints against personnel be included in the PPI and reiterate that recommendation now, particularly in view of rising concern about alleged misconduct at the Los Angeles County Jail.**

A) Complaint Type

We found missing or incorrect complaint types in about 22 percent of the personnel cases that we reviewed. We considered type to be incorrect in cases where the complainant clearly alleged a category of misconduct that was not marked on the SCR form, regardless of the apparent merit of the complaint, and even if the complaint type was investigated by the assigned supervisor. (In the examples listed below, we discuss only the actual allegations made by the complainants, not their apparent truthfulness or the existence of mitigating factors.)

- A complainant alleged that a deputy pulled him over and asked him to step out of the car. The deputy reportedly then removed the complainant's hat and began to search him. According to the complainant, when he asked why he was being detained, she (the deputy) "slapped him" on the side of his head, said "Shut up or you are going to jail," and gave him a ticket for various violations. The only complaint type selected was "Improper detention, search, or arrest," with "Unreasonable force" having been marked and then crossed out without explanation. While the classification of "Improper detention, search, or arrest" was correct, the complainant clearly also made allegations of unreasonable force and discourtesy; these types should also have been selected.
- A man complained to the Compton station that a sergeant refused to take a complaint and that a deputy made fun of his weight. He also said that a deputy slammed a patrol car door on his ankle, that he was called a "piece of shit," and that he was kicked when taken to the Los Angeles County Medical Center (LCCMC). The complaint was marked "Discourtesy." It should also have included "Neglect of Duty," "Unreasonable Force," and, if the complainant alleged that the slamming of his ankle was accidental, "Improper Tactics."

We found several cases where more serious allegations were boiled down to the category of "Discourtesy," which can mean anything from exhibiting a rude or unhelpful demeanor to using foul language. In general, discourtesy is considered the least serious type of complaint—

indicative, if true, of poor communication skills or an overly authoritative attitude. It is thus particularly inappropriate to categorize complaints of racial discrimination, force, or neglect of duty as simple discourtesy, particularly in cases that may allege a violation of a complainant's civil rights.

We also noted that there were two complaint types—Improper Detention, Search, or Arrest and Discrimination—which appeared to be more often ignored or dismissed in classifying complaints. We found 18 personnel complaints that did not document a complaint of Improper Detention, Search, or Arrest. Although these allegations were usually investigated (though not always as thoroughly as we would have liked, as we discuss in the next section), the complaint type was not marked. For example:

- A man alleged that a deputy, apparently looking for a burglary suspect, stopped him for no reason while he was standing next to his bike. According to the complainant, the deputy stated when asked that the person he was looking for wasn't on a bike. The man also complained that he was patted down. Although the complaint about improper detention was investigated, the SCR was marked "Discourtesy."
- A man complained that he was pulled over in the parking lot for driving too fast, but that he was not doing so. He alleged that he was only pulled over to check immigration status and that the deputy asked him whether he was "legal," as well as if he was on probation or parole. The complaint was marked "Discourtesy."
- A woman complained that a deputy was rude, accused her of being under the influence of methamphetamines, and detained her for 90 minutes before releasing her, apparently because she (the deputy) was not secure in her drug recognition skills. The complaint was marked "Discourtesy."
- A couple complained that deputies were mean and not "cordial" during a traffic stop. They also complained that their car was searched illegally and that the deputy did not know what he was doing. The complaint was marked "Discourtesy."

- A woman complained that deputies were rude, unprofessional, and improperly detained her after she entered a homicide scene to retrieve shoes from her car. She also claimed that she was treated differently from men doing the same thing and that she was detained in the back seat of a patrol car for an extended period of time. The investigator noted that her detention was actually an arrest and should have been treated as such. The complaint was marked “Discourtesy.”

It should go without saying that complaints of this type, particularly where they touch on Fourth or Fourteenth Amendment issues and could affect criminal prosecution, must be properly documented and fully investigated. Discourtesy is not an appropriate catch-all for such complaints and prevents managers from identifying employees requiring intervention in this area.

We also found 12 personnel complaints where an explicit allegation of racial or other bias was dismissed or even ignored. (In some additional cases, such a case was classified as a service complaint.) For example:

- A man complained that he was exiting his vehicle for work when a deputy pointed a gun at him. The complainant said that he believed he was being racially profiled, but the complaint was categorized as “Improper tactics.”
- A complainant alleged that, when responding to a complaint of harassment and theft, a deputy “used racial slurs” and stated, “This is America; everyone needs to speak English.” The only complaint type selected was “Discourtesy.” In the memo, the investigator noted the following, “I explained to [the complainant] that if [the deputy] had made the listed comments they would not be racial but discourteous.” We respectfully disagree. The complaint type of “Discrimination” should have been selected as well.
- A complainant alleged that a deputy was disrespectful and discriminated against him. According to the complainant, he was asked whether he had a “good” license when stopped, which he attributed to his being Hispanic. The complainant also alleged that a

sergeant appeared to get angry when he asked for his badge number, upon which the suspect (who claimed he was initially only going to get a warning) was asked for ID and whether he had weapons. He claimed he only got a ticket because he asked for the officer's badge number. The complaint was classified under harassment.

- A man complained that he was stopped solely because of his race and cited only because he asked for the deputy's badge number. Although the complaint was originally marked as a personnel complaint, it was later reclassified to a service complaint with the category of "Traffic citation."
- A complainant alleged that he was racially profiled by deputies, and that the deputies were rude and unprofessional. This was originally classified as a service complaint, but was later reclassified as a personnel complaint. Because it was submitted late to the Discovery Unit, that change has not yet been made in the PPI. (The complaint was originally made in November 2010, but was not submitted to the Discovery Unit until October 2011, nearly a year late.)
- A complainant stated that she was mistreated and verbally abused for her sexual orientation, claiming that a jail employee called her friend and her "dykes." The complaint was categorized as "Discourtesy."

It appeared that in at least some of the cases listed above, the discrimination or profiling complaint was dismissed because the complainant was unable to provide specific evidence of racial bias, pointing only to the fact that he or she was stopped, cited, or otherwise contacted as evidence of such. There is no doubt that, because they primarily reference the officer's state of mind, racial or other bias complaints are among the most difficult to prove unless an explicitly biased statement was made. It is also possible that, in at least some cases, the complainant is making the claim solely due to a hope that this will get them out of a ticket or charge.

Yet this does not mean that such complaints should be summarily dismissed without being properly documented and considered. Biased policing is an enduring concern for the public, and allegations of such on a systemic basis can lead to significant problems for the agency. As

we have pointed out on several occasions, one benefit of the PPI, beyond tracking the substance and outcome of individual cases—whether they be complaints, uses of force, or lawsuits—is to spot and track areas of risk. Proper documentation is essential to this endeavor. Repeated claims of bias against a particular officer or in a particular unit, whether the behavior is explicit or simply perceived, may be an indication that intervention is needed.

We recommend that managers up the chain of command more carefully review the substance of each complaint to ensure that all of the proper complaint types have been selected, and that catch-all types such as “Discourtesy” do not mask more serious allegations, regardless of the finding or apparent merit of the complaint.

B) Complaint Investigation

Overall, we were quite impressed with the quality of personnel complaint investigations, which tended to be well-written, comprehensive, and address important issues of policy and deputy conduct. In nearly every case, the memo documented a lengthy interview with the complainant that touched on important issues and asked complainants to provide detail or evidence about each allegation. In the vast majority of cases, the investigator also spoke to all relevant witnesses and the involved employee, as well as reviewing any relevant documentation.

We also commend the investigators for making sustained efforts to find or contact unresponsive complainants or witnesses, including mailing letters, going to the persons having listed residence, and doing other research. In a notable improvement since our last review, we found that even when the complainant could not be contacted, was uncooperative, or withdrew the complaint, the investigator generally nonetheless conducted a full investigation to the extent possible. Another notable improvement was a better effort to identify unidentified personnel by reviewing records, sending emails, and even going through each

employee on a particular shift to see whether they matched a complainant's description. These investigative efforts were, on the whole, well documented and impressive.

Finally, we found very little evidence of explicit bias or editorializing on the part of investigators, whose analysis and description of participants' statements were mostly factual and straightforward. Where an individual's poor credibility was discussed, the reasoning behind this determination was also factual and straightforward.

That said, about 16 percent of the personnel complaint cases did not meet the high standards set by the other investigations. We determined that an investigation could have been better or was inadequate when the investigator failed to interview a particular witness, check on a relevant document, or fully investigate more aspects of the complaint, sometimes as a result of improper complaint types. In general, it did not appear that such additional work would have substantially changed the disposition of the case, but would have rendered the investigation more complete and thorough. For example:

- A man complained that deputies responded while he and his girlfriend and were having a heated argument in public. He complained that he was unnecessarily searched and handcuffed and that her car was searched without consent. His girlfriend concurred with much of his story, although she could not be sure if he was handcuffed incident to the search. Although there were apparently three deputies present at some point during the incident, the investigator documented interviewing just two. Both deputies stated that the car was searched after the girlfriend stated there was marijuana in the car. The search was, however, stopped once it was determined there were no warrants on the man or the car. The first deputy denied handcuffing the complainant, but the second deputy was apparently not asked. The investigation could have been more thorough in addressing each of the complaints and in talking to the third deputy.
- A man complained that deputies shone a light on his boat and spoke to him in harsh tones. He felt that he was only stopped because he was black and said that he was hurt and embarrassed by the incident. The investigator found that the stop was part of a

routine investigation, but did not address the issue of whether the complainant was discriminated against, which could have been dealt with by reviewing the information about other boaters stopped that night.

- A complainant alleged that a deputy, his neighbor, said, “If I could get away with it, I would burn your shit down,” because he believed that one of the complainant’s guests had placed a beer can in his driveway. The complainant also stated that he felt that the deputy called the police on him whenever he had a social gathering at his house, even once when they were playing Scrabble. The complaint was marked “Off-Duty Conduct.” The assigned supervisor investigated the officer’s alleged statement, which he admitted to but had apologized for, but did not appear to consider the complaint that he was harassing his neighbor by calling the police on him constantly beyond verifying that there were a lot of party calls to the location.
- A woman complained that during a domestic violence call, the deputies made rude faces at her while putting her in the patrol car and also pushed her shoulder because she was having trouble getting in. Both deputies denied these complaints and there were no documented injuries to her shoulder, but the investigator did not interview her boyfriend, who was apparently present.

We also found six complaints for which the investigation, as documented, was poor. In these cases, the investigator ignored important allegations altogether, dismissed witness statements without justification, or failed to perform basic investigative steps. For example:

- A complainant stated that he was contacted and asked to step out of his car because he was blocking a driveway. According to the complainant, during the contact the deputy patted him down, pulled off the complainant’s hat, slapped him, and told him to shut up and that he was going to jail. The complainant reported that there were three witnesses, two passengers from the car and his boss. The investigator was unable to contact the two passengers. He did, however, speak to the boss, who stated that the deputy was “too strong” but that he did not see her hit the complainant. This statement was not analyzed further. Descriptions of the interviews with the involved

officer and the witness deputy (who simply “confirmed [the deputy’s] version of events”) were cursory and lacked detail.

Although the complaint was marked “Improper Detention, Search, or Arrest,” there was no discussion of the reasoning behind the stop and investigation, whether it was appropriate to pat someone down for blocking the driveway in front of his work, whether the deputy’s conduct was appropriate, or whether she made the alleged statements. An attached citation notes that the complainant was cited for tinted windows, being an unlicensed driver, not having proof of insurance, and blocking a driveway, but the investigation and discovery of these issues are not discussed in the memo. The alleged use of force was not marked as a complaint type on the SCR, and the officer’s conduct was found to be reasonable with little apparent analysis.

- A woman complained that a deputy was rude to her and harsh in his mannerisms. She stated that during her detention for a possible DUI he grabbed her arm, causing pain and marks. She passed a blood alcohol test, but the deputy stated that he grabbed her because she was staggering and he prevented her from falling. She was ultimately cited for driving while talking on her cell phone. The investigation did not adequately address the alleged use of force beyond the deputy’s statement and, although a sergeant witness was apparently there at some point, it is not clear when she arrived or what she could have seen. The deputy’s conduct was found to be reasonable. In this case, it would have been useful for the investigator to re-contact the complainant to see whether the deputy’s grabbing her arm was in fact to stop her from falling, and to provide a clear picture of the sergeant’s involvement in the incident.
- A complainant contacted the department to say that he was improperly detained for no reason, but the investigator was unable to contact him or the listed witness. The investigator interviewed the involved deputy and determined that his conduct was reasonable without interviewing the other deputy present during the incident.

We recommend that, in every case, the investigator must ensure that every investigative step is followed, including speaking to all pertinent witness to the scene, and make sure that every

aspect of the complaint is addressed and, to the extent possible, analyzed, with any inconsistencies noted.

1) Analysis of Improper Detention, Search and Arrest Complaints

One of the most common complaint types was that of “Improper Detention, Search, and Arrest” a category that often includes allegations that a complainant was improperly stopped or detained, asked to exit a vehicle or residence, or subject to an improper search of his her person, vehicle, or home. These are serious complaints and often touch on Fourth Amendment issues. Although we recognize that peace officers have relatively wide discretion to conduct searches or detentions during traffic or other stops, generally to ensure their own safety during the contact, we found that these allegations were not always as fully analyzed as they could be. That is not to say that the investigation was not thorough or that the finding was incorrect, but rather that there was not always a clear articulation of why a deputy had a right to take a particular action. For example, an officer may conduct a pat-down search based on a reasonable suspicion, based on “specific and articulable facts” that the person is armed and dangerous.²² Similarly, a “protective sweep” may be permissible during an in-home arrest or parole search when there is a “reasonable belief,” based on “specific and articulable facts” that “the area swept harbored an individual posing a danger to the officer or others.”²³ In some of the complaints that we reviewed, however, such searches were simply referred to as a “safety check” or “protective sweep” without explaining why they were justified. In other SCRs complaining about being stopped or detained for “no reason,” there was not enough information about the reason behind the stop in the service review itself, though a citation or other documentation may have been attached. It may be that the complainant simply does not understand the legalities of the stop, but as these concerns form the basis for the complaint, they should be explicitly addressed in the memo.

²² Terry v. Ohio, 392 U.S. 1 (1968).

²³ Maryland v. Buie, 494 U.S. 325, 333 (1990).

We recommend that, for SCRs complaining of Improper Detention, Search, or Arrest, the investigator ask and clearly document the deputy’s reasoning and, if necessary, the legalities that justify the complained-of action.

C) Disposition

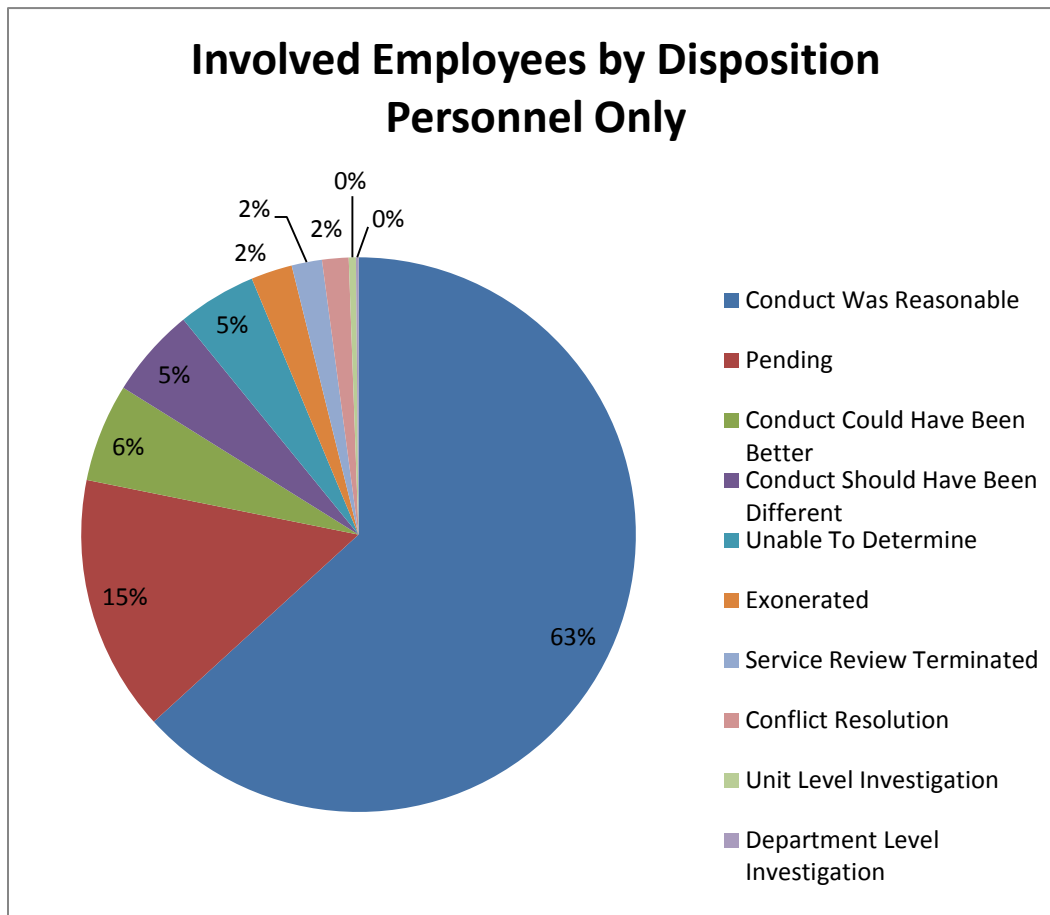
The final step of a service review is the adjudication of the complaint. Assuming that a significant violation of policy has not been uncovered, the investigator recommends a finding that the employee’s conduct was “reasonable,” that it “could have been better,” or that it “should have been different.” In cases where no determination can be made due to conflicting stories or a lack of evidence, the finding will be “unable to make a determination.” The employee may also be exonerated if it is determined that the actions complained of did occur, but that they do not constitute a violation of policy or procedure.²⁴ In rare cases, the complaint investigation may be terminated because the allegations are clearly false, the complainant exhibits diminished capacity, or there are other obvious reasons why a complaint should not go forward.²⁵

Table 9 illustrates the final disposition, according to the PPI, for the 2,656 employees associated with a personnel complaint as of December 1, 2011. As of that date, 15 percent of employee cases were still pending. In the majority of cases, the employee’s conduct was found to be reasonable or the person was exonerated, with small percentages—around five or six percent—resulting in a finding of “could have been better,” “should have been different,” or “unable to make a determination.”

²⁴ Not all personnel complaints will result in a finding. In some cases, the Watch Commander may choose to close the service review because the account is clearly false, the person is of diminished capacity, or other reasons that justify termination of the investigation. As noted in Chapter 1, we recommend that the unit commander at minimum approve terminating a service review prior to completion.

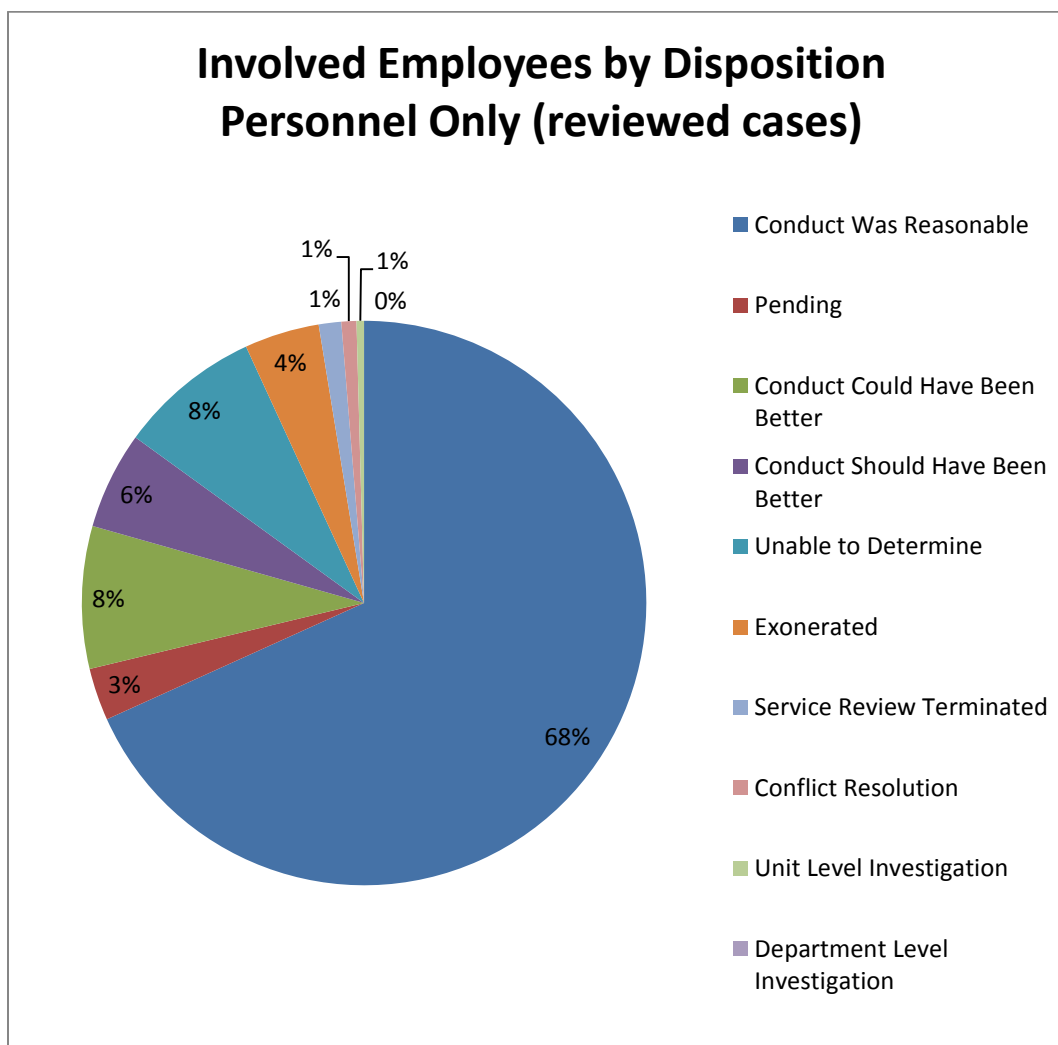
²⁵ A full description of disposition types can be found on the “Result of Service Review” form, located in the Appendix.

Table 9



The breakdown of findings among the cases we reviewed was similar, although we were able in most cases to determine what the recommended finding was even when the case was pending in the PPI. Table 10 shows that the majority (68 percent) of our reviewed cases contained a finding of “conduct was reasonable,” while a little over 30 percent of the cases had one of the other finding choices. About 14 percent of the reviewed cases had findings where the employee’s conduct “could” or “should” have been better, which was a little higher than the overall population of cases.

Table 10



As with the investigations, we were generally satisfied with the recommended findings of the complaints that we reviewed, finding that they were, in most cases, supported by the facts and accompanying analysis by the investigator.

In approximately 14 percent of cases, however, we determined that the final disposition was not properly justified by the investigator's analysis or the facts of the case. In eight cases, we found that the investigator's discussion and justification of the recommended finding did not meet the high standard set by other reviews. In another 11 of cases, the employees' behavior was found to be reasonable, or the employee was exonerated, despite either conflicting

information or a lack of relevant information that might better have resulted in an “unable to make a determination” finding. For example:

- A man complained that an unidentified deputy or deputies stopped him for no reason and refused to look at his medical marijuana card. Because the investigator could not determine which deputy was being complained of or conduct an interview of that person, he or she was exonerated.
- A woman complained that, as she was sitting in her car with another woman, a deputy approached them and told her to turn off her “fucking car.” Simultaneously, another deputy detained a man on the sidewalk adjacent to where the woman was parked. According to the complainant, she asked the deputies present for a sergeant to be called, but was refused. She claimed that a deputy then reached inside her car and took her keys and did not return them before leaving. A tow truck had to be called to remove the car. A second woman corroborated the complaint, but the deputies in question denied that this occurred, saying that the complainant was belligerent and screamed at them. A review of a videotape from LAPD surveillance cameras at the location was unable to resolve the question of what occurred, but there is no indication that the investigator attempted to contact witnesses such as the man who was being detained by the deputies.
- A man complained that a deputy was rude and failed to book his cell phone into property, which resulted in it going missing. The investigation consisted of asking the complainant whether he had a sales receipt of the phone and, after the complainant became irate and hung up, asking the deputy what happened. The deputy simply said that all property was booked in, and there was no investigation beyond that point.

In six cases, the facts or analysis appeared to show that the employee’s conduct could have been better or should have been different, but the ultimate disposition was one of “reasonable.” In another, the finding was “could have been better” where the analysis appeared to indicate that the employee’s actions “should have been different.” For example:

- A man complained about his treatment during a traffic stop, claiming that the deputy repeatedly asked whether he was on parole or probation and whether he had drugs in the car, behaved in an intimidating fashion, and was loud and hyperactive. The investigator listened to the recording of the interaction and noted: “On first blush, it appeared that [the deputy] could have used a different tactic... However, based on the fact that he provided me with the recording, it would appear he is comfortable with the contact and his statement [that the complainant was being evasive] would account for his continuing to ask... the same questions.” We do not agree that a deputy’s own comfort level is an appropriate standard for determining that his or her behavior was reasonable.
- In a case mentioned earlier, a woman complained that a deputy was rude, accused her of being on methamphetamines, and detained her for 90 minutes even though she was not under the influence. According to the investigation, the deputy did not feel comfortable with her knowledge of drug symptoms and called for another deputy, who determined that the complainant was not under the influence. Given that the extended detention (the deputy stated that it was 30 minutes) was prompted by the deputy’s mistaken perception, based on her admitted lack of knowledge, a “could have been better” finding would have been more appropriate than a disposition of “reasonable.”
- A woman complained that, despite having a restraining order against her husband, the deputy refused to arrest her husband at her house. Instead, the deputy asked him to leave, and the man complied. The deputy admitted that he did not check his mobile system to see whether the order was in place or what it said, but determined that it was void because the complainant had allowed the ex-husband to visit on occasion. The investigator found that his understanding of the legalities was limited and that his conduct “could have been better.” A finding of “should have been different” would have been more appropriate, since he failed to verify the facts of the restraining order.

In three cases, we disagreed with the investigator’s recommendation that the officers’ conduct be found reasonable.

- A man complained that he was detained, searched, and questioned without cause. The involved deputy stated that he detained the man because he was parked in a street sweeping zone and because he was not parked at the Jack in the Box restaurant that he claimed he was going to. The deputy further said that he became concerned about the welfare of the man's mentally challenged companion and felt that the complainant was being evasive. Although a conflict resolution was held, the finding was that the deputy's actions were reasonable. We do not agree that the deputy's stated concerns appropriately justified the complainant's relatively invasive detention, search, and questioning.
- A woman complained that she was repeatedly stopped for a warrant on her car and that despite the fact that the warrant is for a Latino woman and she is African American, she was questioned by deputies in a derogatory manner even after it became clear she was not the person in question. The complainant alleged that she was stopped because she is black. The investigator determined that the complaint was a service complaint, in part because there was not a systemic problem of racial bias at the station in question. Even if that assessment is accurate, it should not form the basis for a finding about an individual case.²⁶
- A woman called to complain that a deputy was "rude, discourteous, and a mean person" and racially discriminated against her during an incident in which she was parked in front of a house where an alarm was sounding. She made several specific complaints such as that the deputy called her a "fucking dummy." A witness added that the deputy spat during the interaction and stated that people like the complainant "do dumb shit." Both she and her companion said that they felt the deputy was insinuating that they should not be in the area. The deputy maintained that he was polite during the interaction, while another deputy present did not hear what was said. A sergeant, who arrived to deal with allegations of bias, also did not hear the conversation. Despite a lack of conclusive evidence and a note that the deputy had incurred three other complaints

²⁶ Note: This complaint was initially classified as a personnel complaint, but reclassified as a service complaint. It thus appears in both samples.

of discourtesy, the investigator concluded that the deputy's conduct was reasonable, due in part to his style of "aggressive policing."

Overall, the complaints that we reviewed evidenced improvement in the analysis and disposition of public complaints. **We recommend, however, that they continue to be held to a high standard that requires that each finding be clearly justified by analysis and discussion of each of the relevant issues. Where there is not enough verifiable information to make such an analysis, the finding should be "unable to make a determination." We also recommend that where the employee's actions merit criticism or require excessive justification, a finding of "could have been better" or "should have been different" should follow.** Again, such a finding generally recognizes that the complainant's dissatisfaction stems, at least in part, from an incident that could or should have been handled better, not that the deputy clearly violated Department policy.

D) Conflict Resolution

It is not uncommon for complaints to have a "he said, she said" quality, where the complainant makes a claim that is disputed by the officer and there are no witnesses to break the tie. We also observed complaints where the complainant expressed a generalized dissatisfaction with the officer's demeanor or conduct without being able to point to specific evidence of discourtesy. We have long advocated for the use of conflict resolutions in such cases. These interactions, which are voluntary on the part of both complainants and involved officer, can help to increase understanding between the two parties and forestall the need for a judgment about the officer's behavior. Since we last reported on SCRs, the Department has formalized the conflict resolution process, requiring supervisors to offer the process to the involved parties or explain why it would not be appropriate for the situation. Where the employee agrees to participate, he or she receives a positive performance log entry regardless of whether the process takes place.

We were disappointed to find that, despite the emphasis on offering conflict resolution, the process was rarely used. According to the PPI, just 41 complaints (about one percent) were so resolved. Assuming that the opportunity was presented to both parties in the proper spirit, and not just a formality, we would expect to see a higher proportion of cases resulting in a conflict resolution.

We have previously expressed the concern that, because the conflict resolution is conducted by an LASD employee, it may be perceived by the complainant as a biased process (or may in fact be one) in which he or she will not receive a “fair shake.” We also note that, unlike mediation programs in such jurisdictions as Pasadena, California, and Denver, Colorado, the participation by an employee in a conflict resolution does not prevent adjudication of the complaint. If, following a conflict resolution meeting, the complainant does not feel that the issue has been “resolved,” the review will continue to an assessment of the officer’s conduct. This removes much of the incentive for an employee to participate, and does not give proper weight to an employee’s (assumedly) good faith effort to resolve the conflict.

We reiterate our recommendation that complaint resolutions be conducted by an impartial, professional mediator, and that employees who participate in a conflict resolution receive an automatic disposition stating as such.