

*The Los Angeles County*

# **Sheriff's Department**

**3rd Semiannual Report by**

**Special Counsel Merrick J. Bobb & Staff**

**December 1994**

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# 1 . I n t r o d u c t i o n

This is the third **Semiannual Report** by Special Counsel Merrick Bobb and staff on the progress of the Department in the implementation of the recommendations of the **Kolts Report** of July 1992 on recruitment, training, job performance and evaluation, record-keeping and management practices, excessive force, community sensitivity of deputies, and the Department's citizen complaint procedures.

This Report is the third of six over a three-year period that we are required by our contract with the County of Los Angeles to deliver to the Board of Supervisors and the Department. We are thus at the midway point in what seems like a very short period of time given our responsibilities to monitor whether the LASD is fulfilling the Supervisors' mandate to fully implement the Kolts recommendations.

We are generally encouraged by what we have seen in the last six months. **Through some recently-announced promotions in the Department's middle and upper management levels, Sheriff Sherman Block has sent an unequivocal message that implementation of the Kolts recommendations is a high priority.** These promotions have both symbolic and practical significance. The promotions betoken the Sheriff's approval of some of the individuals whose work over the last couple of years has been most closely associated with the Department's embrace of the Kolts reforms and the LASD's commitment to greater rigor and accountability. As a practical matter, the elevations further empower these individuals to influence the direction of the Department and to demand excellence in the performance of police work at all levels. Sherman Block has permitted and is presiding over substantial and positive institutional change, putting his Department at the forefront in many areas of police administration.

Our investigation over the last few months confirms that there are areas in which the Department is accomplishing a great deal. The Professional Standards and Training Division, or PSTD, has been, and remains, the locomotive pulling a long train. In the areas of PSTD's immediate oversight, the Department has made the greatest progress. As our Litigation Chapter will demonstrate, the combination of our recommendations and the

Department's efforts have produced impressive results to date in a dramatic reduction in the number of excessive force lawsuits and the County's exposure from them. We will also demonstrate that the risk management efforts of the Division are similarly very promising.

We will show in our Chapter on Shootings and Serious Force that the numbers of suspects and citizens wounded by the LASD has dropped by more than a third from the yearly rate in 1991. The number killed has dropped by more than a fourth. The number of deputies killed in 1994 through November is zero. The number wounded has dropped from ten in 1991 to two for 1994 as of late November.

Our Chapter on Recruiting and Hiring will show that great progress has been made in these areas to attract a more diverse group of candidates. Our Chapter on the Ombudsman will similarly demonstrate that there has been improvement in the process for receipt and investigation of citizen's complaints.

We are encouraged by evidence of some greater attention to indications that things had gone seriously awry at certain stations or facilities. We will watch with interest whether current indications of different difficulties are similarly addressed.

There also are areas in which the Department lags. The Personnel Performance Index, or PPI — the computerized tracking system that is at the heart of risk management efforts — is not yet in place. In January 1993, the Department promised Judge Kolts that the system would be in place before the end of 1993. In October 1993, we were told that it would be "fully operational" later in the fall of 1993. In April 1994, we were told that the LASD expected to "turn on the switch" in late June 1994. Now, we are told it is still in beta testing, has a number of bugs to work out, and will not be ready for "a few months."

We do not take the Department to task for unexpected technical difficulties: it is obviously complex software and delays and corrections can be expected. We do wonder, however, whether the Department has been as insistent and forceful as it can be that the

contractor developing the software perform the agreement in a timely fashion and make the necessary changes quickly. Whether the delay is the fault of the Department or the contractor, we worry about the erosion of the Department's credibility when it says something will be ready in a certain time and it is not.

In another area that lags, we have yet to see the wave of reform and critical thought that is transforming PSTD and is beginning to impact the patrol side of the Sheriff's operations reach the custody side. When the people we most respect within the Department give us the advice that we should not waste our energy and goodwill on intractable problems or tilt at windmills, we try to take the advice to heart: Thus, we do not expect to see the custody rotation abolished. We are not holding our breath for the institution of rotations out of custody to patrol, or between different kinds of custody facilities, or for leaves to perform community service. As valid as were Judge Kolts's criticisms of the custody rotation and as good as were his recommendations for reform, we recognize that wholesale change will not come any time soon.

But the Department nonetheless promised Judge Kolts that it "has as its goal the reduction of the time that a deputy is assigned to a custody facility to a range of 18 months to two years." Judge Kolts agreed that the goal would not be reached in the near term. While the Department promised to continue to look at "options to expedite custody rotation," we have not seen anything meaningful from the Department in this regard. In the interim, the morale problems among deputies in custody assignments continue to mount. How the lives of deputies are being impacted by years and years in the jails deserves close study. One cannot fail to worry about the attrition rate for deputies who leave the Department after expensive training to join another police department because the custody rotation is seemingly endless.

The entire custody side of the Sheriff's operations merits increasing scrutiny and reform. The increasingly serious problems of inmate upon inmate violence, combined with more frequent race disturbances, along with health and medical issues, mean that the County jails present terribly serious problems of liability risk. We remain concerned about these aspects of the Department's operations.

As this Report will also describe, we have concerns with respect to the quality, consistency, and integrity of the data the Department is generating. Both at the station level and at the Department level, we have run into data problems which we describe in greater detail later in this Report. Moreover, the production of certain reports we asked for seemed to take a long time. Also, we are far more curious and hungry for the data that is now available than many Department managers and executives appear to be. The Department's managers and executives do not appear to make adequate use of complaints and use of force data. The computerization of this data provides a powerful management tool. It should be used to a greater degree.

In this Report, we also begin an in-depth review of issues involving women in the Department.

**We also must stress the fragility of the Kolts reforms. In substantial part, the progress to date rests on the shoulders of a small handful of key individuals.**

Although we respect what Sheriff Sherman Block and Undersheriff Jerry Harper have done themselves as well as by giving rein to these key people, the changes in culture, rigor, accountability, and risk management have, in all candor, not yet penetrated deeply and could prove evanescent. Chiefs and assistant sheriffs and undersheriffs come and go. A great captain may turn around a station for a short period of time only to have things revert when he or she moves on. And the money, too, comes and goes.

To be frank, there is inadequate funding with which to complete, in any reasonable time frame, the training of existing personnel in the revised use of force. Nor are there adequate funds for in-service cultural diversity training leading to greater understanding and tolerance of differences in race, gender, culture, and sexual orientation. Nor is there enough money to conduct sexual harassment training. Nor is there money for additional bilingual positions. Nor is there adequate money to devise new programs to reach out and increase the hiring of women and other under-represented groups. Nor is there enough money to allow the PSTD to roll out to more than about a fifth of the incidents it



should see firsthand in order to better manage and control the County's liability exposure. Nor are there adequate funds to purchase video cameras and other necessary hardware to enhance the safety and security of deputies and members of the public. Without money for these purposes, we worry about the transiency of efforts to implement the Kolts recommendations.

We also want to recognize other contributors to the Department's progress. All the positive efforts to date may not have occurred without the steadiness of public attention and support for our oversight and monitoring efforts by newspapers, citizen's groups, advocacy groups, city officials, and the civil rights and civil liberties bar. We appreciate the participation of public-spirited individuals like Judge Skip Byrne and Kathy Krause; the generosity of Sheppard, Mullin, Richter & Hampton, and, of course, the support of the Board of Supervisors.

**In that regard, special recognition must be afforded to retiring Supervisor Ed Edelman and his deputy, Rich Llewellyn. If our efforts and those of the Department prove successful, and if Los Angeles County comes to have the largest, finest, and most professionally managed community-oriented urban police agency in the nation, as we hope and expect it shall, it will be ultimately because of them.**

We urge the Board of Supervisors to continue its tradition of strong support for the Sheriff's Department and for our oversight efforts. We take comfort that our relationship with the Department continues to be one of good faith and a common set of goals. As one Commander puts it, it has become increasingly clear that we and the Department are "singing from the same sheet of music."

There are times in this Report where we may seem frustrated by lack of progress or critical of the Department. These instances should be placed in context. **At the end of the day, it is clear to us that for now the LASD remains committed to an ambitious program of reform and improvement. We take our job very seriously, and the Department views its responsibilities in the same way. We believe our relationship to the Department is beneficial and that even though we may be a burr under the saddle, we are also perceived as being of benefit within the LASD. We feel free to say in these Reports what is on our mind. We get**

similar candor in return from the people in the Department. The dialogue, we hope, makes for better implementation of our common agenda with the Department and, we also hope, makes us better at our job of monitoring and evaluating progress.

## 2 . L i t i g a t i o n   a n d   R i s k   M a n a g e m e n t

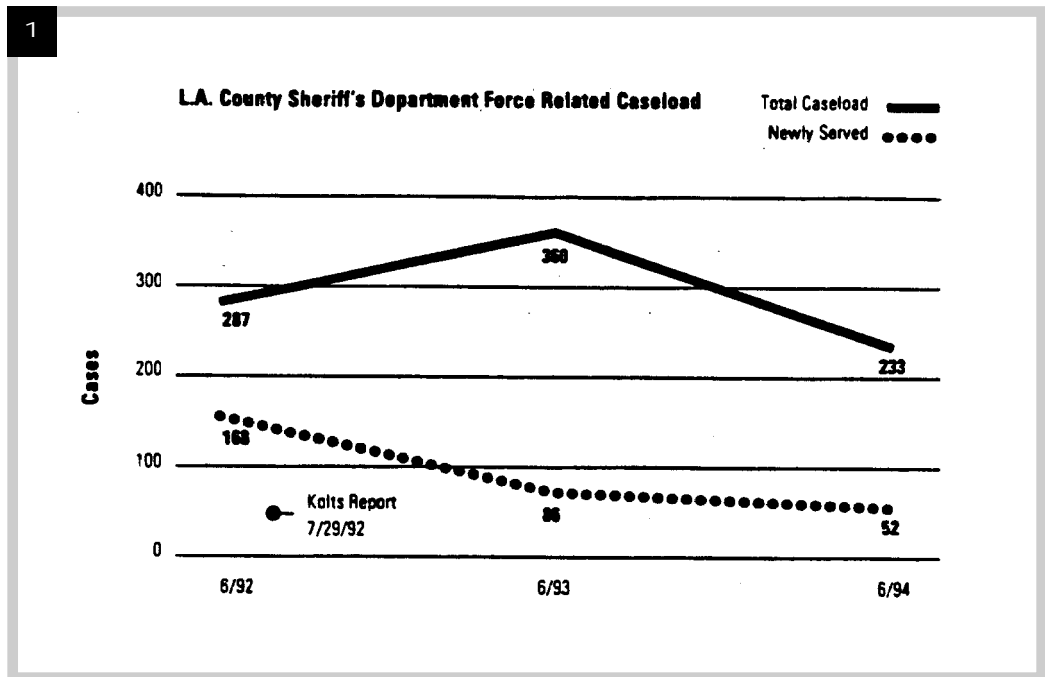
### *Litigation*

Force-related lawsuits have dropped from a high of 168 per year shortly before the **Kolts Report** to 52 for the fiscal year ending June 30, 1994. The total caseload of excessive force cases has shrunk from a high of 369 cases at the end of fiscal 1992-93 to 233 cases for 1993-94. Using 1991 as a base year, the Sheriff's Department caseload has declined by 40 percent. Using the same 1991 base year, the County's exposure on LASD cases rose 56 percent in 1992 and an additional 6 percent in 1993. But by June 1994, the County's exposure estimate dropped 67 percent, and is currently 5 percent less than in base year 1991. See Tables 1 and 2 herein.

**Thus, the strongest proof of the efficacy and success of the Kolts recommendations is the steep decline in the County's monetary exposure in Sheriff's Department cases, the drop in the number of new lawsuits, and in the continuing shrinkage of the County caseload arising from asserted excessive force by the LASD. Building upon the Kolts recommendations, the Department has initiated important and innovative programs to manage risk.** This Chapter explores litigation and risk management. The relationship between them is clear: The more effectively risks are identified, managed, and controlled, the less likely that costly litigation will ensue.

A positive trend noted in our last report also has continued into this reporting period: Among all suits naming the Sheriff's Department, the percentage alleging excessive force continues to decline. Moreover, the percentage of all lawsuits against the County of Los Angeles arising from the activities of the LASD continues to decline even though the overall caseload of new lawsuits naming the County remain steady.

We are encouraged by the significant decline in new lawsuits alleging use of excessive force by deputies. As shown on Table 1, in the first year after the **Kolts Report**, the number of newly-served lawsuits was almost halved, and in the second year the number again declined significantly.



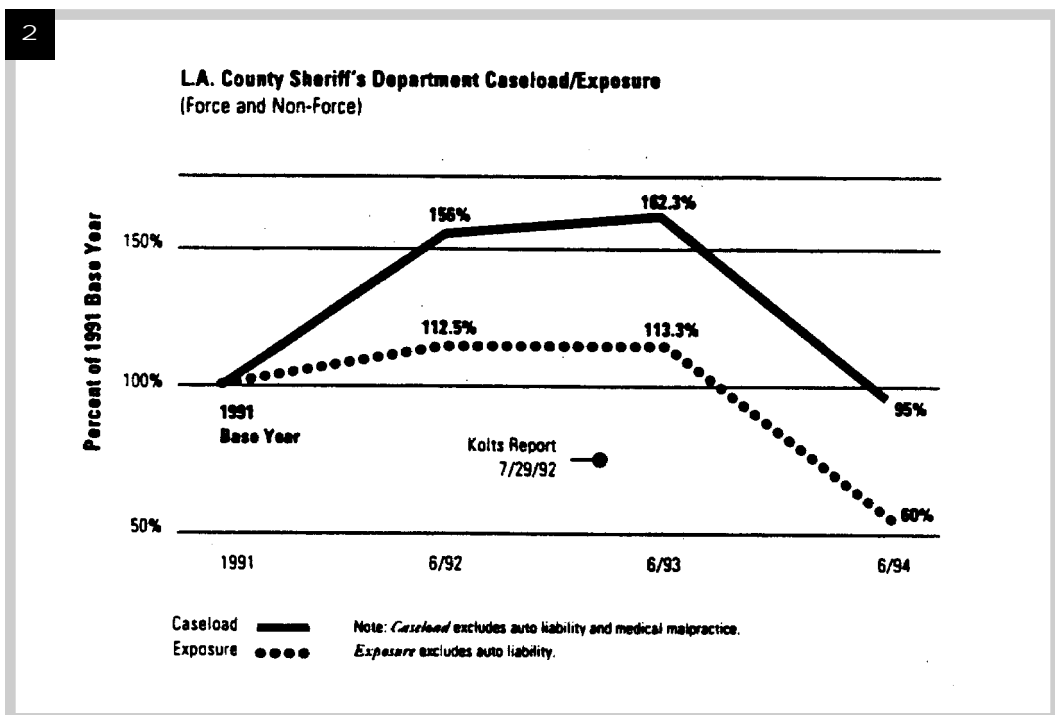
We also examined lawsuits served through October 15, 1994 to compare the number of lawsuits which arose from incidents that took place during the two years that preceded the **Kolts Report** (July 1990 - June 1992) with those which arose from incidents that took place in the two years since the **Kolts Report** (July 1992 - June 1994). See Table 3. This comparison must be qualified because the statute of limitations has not run and more lawsuits arising from incidents in the recent past are likely to be filed in the future. Nonetheless, there are positive trends emerging from the comparison.

Incidents arising during the two years preceding the **Kolts Report** generated four times the number of suits compared to incidents in the two years after **Kolts**. The comparisons are most dramatic with respect to canine incidents: Eighteen canine incidents led to lawsuits in the two years before **Kolts** whereas only one canine incident has led to a lawsuit in the two years after **Kolts**. More than twice as many wrongful death lawsuits arose from incidents in the two years before **Kolts** as from incidents in the two years after **Kolts**. See Table 3. These figures are encouraging.

To be sure, significant costs continue to be incurred for settlements, verdicts, and attorneys' fees in force cases. For Fiscal Year 1993-94, the County Counsel reports expending \$4,684,732 for defense fees and costs in force-related actions. The cost of force-related approved settlements (including both lawsuits and claims) and adverse verdicts for Fiscal Year 1993-94 totalled \$6,206,950. See Table 4. Although these numbers remain high, it is important to note that the vast majority of these settlements relate to incidents which pre-date the **Kolts Report**.

Largely due to the settlement of lawsuits for incidents that pre-dated the **Kolts Report**, the total payouts have not yet declined as substantially as we anticipate they will in the years to come. As older cases are resolved and fewer new cases are served, the County's costs should decline more rapidly, although we must caution that the dollar amount of damages or costs in any particular lawsuit can vary widely.

At every station we visited during the last several months, and consistently since the initial investigation leading to the **Kolts Report**, we continued to hear complaints from deputies about the County's policies with respect to settlement of lawsuits. There are



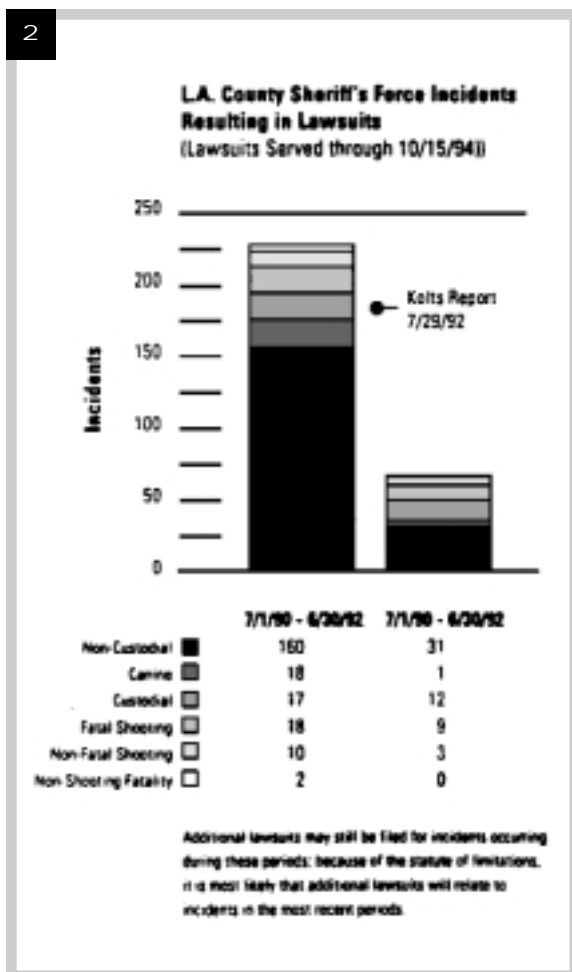
deputies who consider it a sell-out when the Department and the County are unwilling to take a case to trial in which the deputy may have a reasonable defense. Although the deputies may understand the logic of why cases settle and may concede that the odds favor settlement in cases where monetary exposure is high and liability could go either way, some deputies nonetheless equate a settlement with capitulation and believe that an inference will be drawn that the deputy acted wrongfully.

These worries are exacerbated by fears that because the results of lawsuits are to be tracked, a settlement may later prejudice a deputy's career because it will be seen as a negative on the deputy's record. These fears should be addressed by management.

Some deputies also raise the specter that troublemakers may blackmail deputies by

filing false complaints. They posit that management is weak and self-protective and thus willing to "hang the deputy out to dry" rather than face criticism from politicians for expensive judgments and legal expenses. As a result, they argue, the Department will pay off the blackmailer by way of settlement. This in turn creates a downward spiral where settlements embolden troublemakers to file more spurious claims to target the most aggressive deputies.

These fears are often dismissed by management as resulting from the deputy's assertedly over-heated imaginations or from the stampeding of



### LASD Litigation Activity, Fiscal Year 1992-93 and Fiscal Year 1993-94

	FY 92-93		FY 93-94	
<b>New Force Related Suits Served<sup>1</sup></b>	86		52	
<b>Total Docket of Excessive Force Suits</b>	369		233	
<b>Lawsuits Terminated</b>				
Lawsuits Dismissed	79		90 <sup>2</sup>	
Verdicts Won	22		9	
<b>Verdicts Against LASD</b>				
\$1-\$20,000	0	\$0	4	\$34,500
\$20,000+	3	\$122,983	3	\$830,000
Subtotal	3	\$122,983	7	\$864,500
<b>Settlements</b>				
\$1-\$20,000	42	\$304,450	44 <sup>3</sup>	\$449,800
\$20,000+	28	\$3,191,700	37	\$4,892,650
Subtotal	70	\$3,496,150	81	\$5,342,450
<b>Total Verdicts and Settlements</b>	<b>73</b>	<b>\$3,619,133</b>	<b>88</b>	<b>\$6,206,950</b>
<b>Defense Costs<sup>4</sup></b>		<b>\$5,078,282</b>		<b>\$4,684,732</b>

<sup>1</sup> The LASD and County Counsel changed their definition of "force related" litigation in early 1994. This chart restates previous FY 92-93 figures to reflect the change; FY 93-94 figures also reflect the revised definitions.

<sup>2</sup> Includes two dismissals of state lawsuits as a part of settlements of parallel federal lawsuits.

<sup>3</sup> Includes two settlements of claims prior to lawsuits being filed (one for \$10,000 and one for \$20,000).

<sup>4</sup> Includes outside counsel and County Counsel fees and costs.

deputies by the union. But even if the fears are vastly disproportional to the real risks, and we believe they are, they reflect feelings on the part of deputies that should not be dismissed out of hand. It brings us back to a point we have made before and feel compelled to make again: The Department needs to do a better job communicating with deputies and in building and maintaining morale.

## *Risk Management*

Two central themes underlie each of the recommendations in the **Kolts Report** and in the **Semiannual Reports**: (i) intelligent control of risk, and (ii) accountability for doing so (or failing to do so) at all levels within the LASD. The specific liability risks that are the

subject of the **Kolts Report** and the **Semiannual Reports** are excessive or unnecessary force, although that is clearly not the only category of liability risk facing the Department.

In the **Kolts Report**, and at each opportunity we have had thereafter, we have strongly urged the creation of centralized risk management programs within the Department. We have also recommended the creation of feedback mechanisms between those sectors of the Department that process claims, lawsuits, and citizen's complaints and the sectors of the Department responsible for academy and in-service training, risk management, and internal affairs.

It is therefore with particular interest that we have followed the creation and development of the Risk Management Bureau. To our knowledge, the LASD is the only police agency in the country that has created a bureau specifically to evaluate and control risk. We know of no other police department that will require each unit and facility within the organization to come up with a written risk assessment and a written plan for mitigation of risk.

We know of no other police agency that has set up a joint venture between the Risk Management Bureau and the Training Bureau, called the Risk Identification Training Information Committee to conduct "biopsies" of litigation and IAB investigations. The Committee is comprised of lieutenants from the Civil Litigation unit, IAB, the Training Bureau, the Custody Training unit, the Kolts Recommendations Implementation Team, and the Risk Management Bureau. The committee has devised a methodology to track and to determine whether given incidents create either an undue risk of litigation or an undue risk that certain tactics or procedures will lead to officer injuries. Although the work of the Risk Management Bureau is only just beginning, and we will have to evaluate the implementation of risk reduction plans with care, we believe the existence of the Bureau, the care that has gone into its planning, and the scope of its ambitions deserves our approbation.

The Risk Management Bureau is headed by Captain Ernie Maldonado. The Bureau is part of the Professional Standards and Training Division, which is the Bureau's logical



home given the information flow that has come into being between and among the Risk Management Bureau, the Training Bureau, and the Internal Affairs Bureau.

A designated Executive Risk Manager has been named for each of the Department's main divisions. That the Executive Risk Manager in each division is a commander underscores the importance and visibility of the role. There is additionally a designated lieutenant at each station or facility responsible for the preparation of a risk management plan for his or her unit. The Executive Risk Managers are responsible for review of these plans and for preparation of a Divisional Risk Management Plan. Sample risk management plans have been prepared to give guidance to the lieutenants. It is anticipated that the drafting and refining of the risk management plans will take the better part of the next six to nine months.

A related development we find particularly promising is the recent development of a computerized Risk Identification and Training System (RITIS). In April 1994, the PSTD, unwilling to postpone analysis of high-risk incidents until the PPI becomes fully operational, ordered the Risk Management Bureau to move swiftly to create an interim computer system that would identify patterns of risk to the Department. Under the leadership of Risk Management Bureau Lieutenant Ben Nottingham, a committee of lieutenants, known within the Department as RITIC, completed the system design within a few months. Data entry began on July 1, 1994.

RITIS currently collects data from two sources: the Civil Litigation Unit (CLU) within the Risk Management Bureau and the Internal Affairs Bureau (IAB). Investigators from each unit review the case files to extract the relevant data for entry into RITIS. The Risk Management Bureau decided to build the database gradually to ensure that the database design is sound and to ensure that CLU and IAB officers understand the criteria for adding information to RITIS. In this initial phase of data entry, RITIS will track (1) lawsuits filed or served upon the LASD on or after January 1, 1994, and (2) all IAB investigations and PSTD Team rollout reports closed on or after January 1, 1994. Although RITIS serves

primarily as an interim database, the Department hopes to integrate some of its features with the PPI.

Personnel from the Risk Management and Training Bureaus will periodically review RITIS data for trends in force or other types of risk. Within the Risk Management Bureau, a “risk identification team,” headed by Lieutenant Art Ng, will administer the RITIS database, review its data, and conduct “biopsies” of full case files to determine what lessons may be drawn therefrom. The Training Bureau will also use RITIS to conduct biopsies of its own to assess how new training plays out on the street, or to determine whether new training is needed. Because the Department is still gradually building the RITIS database, neither bureau has had an opportunity to conduct any file biopsies.

We applaud PSTD’s initiative and decision to build an interim computer system specifically geared to risk analysis. We have a couple of suggestions with respect to the way data is treated by RITIS. Specifically, RITIS does not report, in easily retrievable form, citizen allegations of force which surface in IAB investigations. Instead, it primarily tracks the types of force (1) reported by the concerned officer, or (2) ultimately determined by the Department to have been used.

Although clearly an effort to record data that is deemed more reliable than unvarnished citizen’s allegations, this narrowed focus may unwittingly obscure risk. To fashion strategies to limit litigation risks, one must examine allegations that are likely to be made, whether truthful or not. The limitations of RITIS currently became apparent in the following example, drawn from an actual IAB investigation we reviewed: A citizen suffers a broken arm and bruises from an encounter with a deputy. Both the concerned deputy and the citizen agree that the deputy used some force, but disagree on what force the deputy actually used. The citizen claims that the deputy twisted her arm and struck it with a hard black object, possibly a flashlight. The deputy admits the arm twist, but denies the flashlight allegation. There are no witnesses who can corroborate either version of events. The treating physician reports that the injuries are consistent either

with an arm twist or a flashlight blow. He adds, however, that the bruises are also consistent with a fall to the ground.

Ideally, a risk tracking system would alert risk managers that this case potentially involves both an arm twist and an alleged flashlight blow, and that the citizen's story differs from the involved officer's. Knowing that these circumstances may give rise to conflicting accounts, the Department might wish to consider ways to resolve such conflicts, perhaps by requiring the officer to tape record encounters so that there is a sound track to help resolve conflicting accounts. Under its current design, RITIS would classify this IAB investigation only as a "hands" rather than as a "hands or flashlight" case, unless the Department ultimately accepts the citizen's word over the deputy's. This way of classifying the data frustrates accurate risk analysis. The citizen's allegations, whether truthful or not, rather than the deputy's version of events or IAB's, constitute the risk to be analyzed and controlled. They are the allegations which will surface in any subsequent lawsuit. In order to manage the risk, it is important to know what allegations may arise in litigation and how to fashion a strategy to defeat them if they are untruthful.

Another problem is that reliance on the Department's final word on an IAB investigation will substantially delay entry of an IAB investigation into the RITIS system. Our experience since the **Kolts Report** has been that investigations of serious force incidents can easily take many months to adjudicate fully. Thus, the current system does not permit timely inclusion of precisely those incidents which pose the greatest litigation risk: cases where the Department believes misconduct may have occurred. Again, it is not the truth of whether misconduct did or did not occur that is critical to risk analysis. Rather, it is what may find its way into litigation.

These problems are easy to solve. Separate data fields which would record all citizen allegations could be added. The information is easy to obtain and would allow the Department to distinguish its litigation risks from its officers' view of events. The time lag would be ameliorated, for RITIS could record complainant or witness allegations

immediately upon the completion of an IAB investigation; the officer's or Department's own version of events would be added when the decision-making process finally draws to a close.

The proffered rationale for not entering citizens' allegations is that to do so could sully the reputations of individual officers.

This view, though well-intentioned, misconceives the very nature of the RITIS system. This system is not intended to be used to manage personnel or make judgments about individual officers. It is to deal with risk. To do that, the Department needs to know what the risks are, whether or not given allegations are true or false. RITIS was designed solely to aid the Department to manage its litigation risk and improve its training curriculum. If the Department is true to its word, RITIS data will not be used by, or even accessible to, officials in the concerned deputy's chain of command. Thus, the potential for unfairness is absent and should not be allowed to distort the data that risk managers must have.

In the long run, these concerns may become moot after the full PPI system becomes operational. However, we see no reason not to correct RITIS in the meantime. We hope to revisit RITIS in our next audit to assess what improvements, if any, have been made to its design and to report some of the data it contains. We will also assess whether, and to what extent, the Risk Management and Training Bureaus have conducted file "biopsies" to discern patterns exposing the County to lawsuits and individual officers to needless risk.

The Department has sent a number of signals to make clear that it is affording the risk management function a high priority and has served notice that it intends to hold high level personnel responsible for its implementation and accountable for its results. With some Department initiatives, the splash at the initiation is more noticeable than the fizzle at the end. This is one which we plan to monitor and audit with particular care, and we hope and expect that its results will be as promising as its start.

### 3. Review of Shootings & Serious Force

*“We’ve got commanders spending a few hours thinking about this case, and our tactics, and training. If you’d have been around this Department as long as I’ve been in it, you’d know what a big, big change that is for us.”*

— LASD commander

As Table 1 indicates, the sharp downward trend since 1993 in officer-involved shootings and serious force incidents in the LASD has continued throughout 1994. Although we remain cautious in drawing firm conclusions, the longer the trend continues, the greater reason to infer a more discerning use of force by line officers.

Nonetheless, this positive trend does not mean an absence of several questionable uses of deadly or serious force by some “repeat offenders” — officers who have been found to have used inappropriate force on more than one occasion. One officer, for example, was disciplined last year for severely beating an inmate. The deputy was returned to the same assignment, where he became involved in two additional serious force incidents, one of which involved a pattern similar to the severe beating a year ago. In another case, two partners accused of a flashlight beating had a record of a prior instance of similar conduct.

By now, more than two years since the **Kolts Report**, it is disturbing that there are violent individuals who seem to be slipping through the net. In particular, we wonder why we still come across beatings in each of our reviews involving headstrikes and flashlights.

#### *PSTD Team Rollouts*

Although Table 1 shows relatively few force-related rollouts, it would be a mistake to infer from those numbers that the LASD officers are involved in only a few physical confrontations with suspects or inmates. Table 1 merely reflects those incidents which IAB considered serious enough to respond immediately to the scene. IAB only has the capacity to roll to approximately 20 percent of the notifications it receives.

Since August 1, 1993, IAB has been vested with substantial discretion to decide which

<b>Deputy Involved Shooting Incidents*</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994**</b>
Number of Shooting Incidents**	56	47	29	27
Number of Deputies Wounded	10	6	4	2
Number of Deputies Killed	0	2	0	0
Number of Citizens/Suspects Wounded	40	31	12	11
Number of Citizens/Suspects Killed	23	18	22	16

\* Incidents during which an LASD officer intentionally fired at and hit a citizen/suspect

\*\* Through November 21, 1994

<b>Non-Hit Shooting Incidents*</b>	<b>Aug./Dec. 1993</b>	<b>1994**</b>
	14	21

\* Incidents during which an LASD officer intentionally fired at a citizen/suspect but missed

\*\* Through November 21, 1994

<b>Incidents Requiring PSTD Rollouts</b>	<b>Aug./Dec. 1993</b>	<b>1994**</b>
	45	97

\*\* Through November 21, 1994

force incidents warrant an immediate rollout investigation. Our review of IAB's telephone logs revealed that for the period August 1, 1993 through October 16, 1994, IAB received a total of 668 notifications. Table 2 shows the breakdown of these calls.

The PSTD Response Team must automatically respond to all incidents in which (1) an officer intentionally shoots at another person; (2) a suspect or inmate is admitted to a hospital due to an officer's use of force; or (3) a suspect or inmate dies following an actual or alleged altercation with an officer. According to IAB's telephone logs and PSTD's records, these mandatory rollouts accounted for 84 or 12.6 percent of all the PSTD Response Team notifications for the same period.

The on-call IAB lieutenant has the discretion to activate the PSTD Response Team for a broad of range of high-risk force incidents, such uses of force resulting in broken bones or requiring hospital treatment. (A full list of the discretionary incidents is set forth in our **First Semiannual Report**.) Our review of IAB's weekly call logs revealed that the vast majority of calls received by IAB — 584 or 87.4 percent of the total — involved discretionary factors. Of that number, IAB exercised its discretion to roll-out on 50 occasions, or 8.56 percent of the time.

In all cases where the IAB lieutenant decides not to send a PSTD Response Team to the scene, the watch commander at the involved unit must prepare a “force review package,” complete with photographs, reports, and audiotaped witness statements. The force review package is forwarded to the concerned unit captain and IAB for review. If IAB determines that the force review package is incomplete or inadequate, it can return it to the station with instructions for further documentation. If it determines the incident may indicate officer misconduct or potential civil liability exists, it can then activate the PSTD Response Team and prepare a report to be reviewed by a panel of three commanders selected by PSTD.

IAB’s handling of rollout notifications is somewhat unscientific. For example, IAB could not report the number of notifications it had received, nor could it provide a breakdown of the notifications by type or by station. In addition, neither PSTD nor IAB offer any written guidance to on-call lieutenants about how to use their discretion to authorize a rollout to a given force incident. As a result, the Department cannot be certain that the lieutenants are applying the same standards. In our meeting with all four rollout lieutenants, it was clear that they had never sat down together as a group to discuss the implementation of the rollout policy. The meeting also revealed a lack of uniformity, both in the

	Number of Notifications	Rollouts/ Reports
<b>Mandatory Rollouts</b>		
Hit Shootings*	39	39
Nonhit Shootings*	33	33
Hospitalizations**	4	4
In-Custody Deaths**	3	3
<b>Discretionary Rollouts</b>		
Accidental Discharges	15	3
Shots Fired at Animals	22	0
Other Hospitalizations***	3	0
Other Custody Deaths***	4	1
<b>Force-Related Incidents Not Resulting In Hospitalization</b>		
Skeletal Fractures	18	9
Head Injuries Indicated	95	16
K-9 Bites	50	5
Pursuits	100	12
<b>Notes</b>		
* Refers to shots intentionally fired by an LASD officer at another person		
** Refers to incidents following an actual or alleged use of force by LASD personnel		
*** Refers to incidents which did not follow an actual or alleged use of force by LASD personnel (e.g., drug overdoses, heart attacks, etc.)		

lieutenants' knowledge of existing Department policy (*e.g.*, whether Training Bureau representatives must attend all rollouts) and in their views on when a rollout is appropriate. Some lieutenants, but not others, seemed to factor the costs associated with a rollout into the equation. Although we found no evidence that these lieutenants were acting on orders from above, the Department should make clear that the lieutenants are to base their decision solely on the merits and not on real or imagined considerations of cost. We have yet to review a single rollout report which did not yield information, either for purposes of risk management or training, worth many times the overtime pay possibly required to prepare that report.

We hasten to point out, however, that we trust the collective judgment of the lieutenants responsible for rollouts. We nonetheless want to look next time at force review packages for those incidents which did not result in a rollout. In the meantime, and for the guidance of future lieutenants, the Department can and should promulgate rollout guidelines. Such guidelines should not merely be a restatement of general principles, but should draw upon actual cases which called for rollout and those which did not.

The Department might also consider assigning members of its Risk Management Bureau to conduct "spot audits" of randomly-selected force review packages to determine whether the PSTD Response Team is rolling out to all incidents involving serious force or high litigation risks. We intend to conduct similar audits in our next review and report our findings.

### *Quality of Investigative Procedures*

Effective October 14, 1994, IAB members of the PSTD Response Team were allowed to sit in on Homicide interviews of witnesses to officer-involved shootings. This moves the Department one step closer toward a key recommendation from the **Kolts Report**. Traditionally, the Homicide Bureau has had primary control over the investigation of shootings involving LASD officers. Homicide's role has been, and continues to be, strictly limited to preparing a criminal investigation report which is forwarded to the District Attorney's office for a decision whether or not to prosecute the involved officer.



The **Kolts Report** had found that although Homicide was competent to run the investigations, it engaged in a variety of practices — such as conducting unrecorded “pre-interviews” of involved officers and coaching them with leading questions — which led Judge Kolts and his staff to recommend that IAB be given primary investigative authority over shootings. We continue to see examples of investigations influenced by Homicide’s excessive solicitude for the involved officer. **Although we are pleased that IAB may now participate in witness interviews, we re-affirm our recommendation that IAB be given primary investigative authority for shootings.**

The Department has resisted following this recommendation for reasons of turf as well as concerns about possible compelled statements from involved officers. One knowledgeable Department official explained to us, “They [Homicide] are pretty well-rehearsed to tell you why they should run the show. But if they are honest with you and [with] themselves they’ll admit it’s because Homicide has always done [officer-involved] shootings. It’s a turf thing.” Another official with many years of experience in the area confirmed our suspicion that Homicide is, at best, perhaps overly solicitous of the involved deputy, stating that “*Homicide will do whatever it can to keep IAB away from ‘those young deputies’.*”

We take these and other similar comments very seriously. We agree of course that it is in no one’s interest to trap a young, frightened deputy into saying something that he really does not mean and that may destroy his career or put him at risk of possible prosecution. On the other hand, it is not in the interest of residents of Los Angeles County to leave primary investigative authority in the hands of those who, in their well-intentioned desire to protect the innocent, may provide the Department with a sanitized version of events. We believe the increased IAB presence will add integrity and thoroughness to the system. It is our hope that this will ultimately lead to the Department’s vesting of primary investigative authority in the PSTD Response Team headed by IAB.

During this last review, we noted a decline in the quality of a number of rollout reports prepared by training officers on the PSTD Response Team. Since August 1, 1993, training

officers have had the responsibility to write a brief report highlighting issues of tactics and training implicated by shootings and serious force incidents. In our two previous reviews, we were pleased with both the candor and detail in the reports. We found that the best reports (i) broke each incident down into discrete stages, (ii) described the tactical options available to the officer in each stage, (iii) highlighted particular facts that may have affected the officer's tactical decision-making, and (iv) discussed what, if any, changes could be made to Department training to help officers cope more effectively and safely with similar situations.

During this review, we found for the first time a noticeable number of training reports which offered little or no tactical insight. Most often these reports merely echoed (at times inaccurately) the incident summary provided by IAB in the rollout report. In fact, these reports were so threadbare that our initial impression was that the Training Bureau had been instructed to omit any discussion which might be considered critical of the officer's performance.

The Department acknowledged that there had been some communication from senior PSTD officials to the Training Bureau regarding the content of the training reports. However, the Department claims that the Training Bureau was told to *expand* its discussion on tactical alternatives and to reduce its discussion of the basic facts, except as they relate to tactics and training. The Department later acknowledged that PSTD had also conveyed, directly or indirectly, its view that some training reports had been written in too conclusory a fashion. It nonetheless maintained that the intent was not to eliminate candid discussion of tactical alternatives or deficiencies in Department training.

If this account is true, then the Training Bureau has gotten the wrong message. We agree that the Training Bureau is not there to provide the final word on tactics: it is only when a panel of commanders convenes to discuss a shooting or serious force incident that the decisionmaking process even begins. The Training Bureau's job is to provide the panel with a thorough, unvarnished discussion of the tactical and training issues presented

by a rollout incident. By sanitizing its reports or by otherwise pulling its punches, the Training Bureau deprives the panel, and ultimately officers on the street, of the opportunity to learn from past mistakes. We will revisit this issue in future reports to determine whether the Training Bureau is back on track.

### *The Commanders' Panel*

As noted in our last two **Semiannual Reports**, the LASD has moved a quantum leap forward by creating a panel of three commanders — one from PSTD and two chosen from a rotating basis by PSTD — to review shootings and serious force incidents for their policy, training, or risk management implications. From its inception on August 1, 1993 through November 21, 1994, the LASD has convened 20 different commanders' panels to review a total of 91 separate shooting or serious force incidents. As in the past, we have reviewed all of the available PSTD Response Team reports on these incidents and have tracked the panel's recommendations. We also spoke to various commanders' panel participants, including PSTD Commander Gerald Minnis, who presides over the panels. Once again our view is that the panels take their duties seriously and generally render appropriate decisions.

We were glad to see the Department follow our recommendation from the **First Semiannual Report** to increase IAB's role in the commanders' panel discussion. For all incidents occurring on or after April 15, 1994, the IAB lieutenant who rolled out to the incident will appear before the commanders' panel to present a summary of the incident and to respond to any questions the commanders may have.

Although we perceived some initial discomfort within IAB about the change, we believe the increased IAB involvement will bring the commanders' panel closer to understanding the context in which a particular incident arose. We were particularly impressed by the ability of IAB lieutenants to highlight policy issues raised by the incident. Our perception thus far is that IAB has ably facilitated the review process. It has also

provided a much-needed counterweight to the presence of the concerned officer's captain at the panel meetings — particularly where certain captains seem unwilling to concede that their deputies may have acted in less than exemplary fashion.

Despite these improvements, there were this time, as there have been on previous occasions, particular cases where we believed the panel erred in not recommending discipline. An example from this most recent round was a case where a deputy had struck a suspect several times in the head with a flashlight. Department policy since July 1992 has narrowly circumscribed the use of headstrikes with impact weapons to life-threatening situations calling for the use of deadly force. While the IAB investigation made clear that the deputies were in a real fight with the suspect at some point, it also revealed that the deputy and his partner had been involved in a similar headstrike incident roughly nine months earlier. Although the deputies were to receive supplemental force training following the first incident, there had been no follow-up. Neither officer had undergone the required training by the time of the second headstrike incident. The evidence collected by IAB, in our view, pointed strongly toward a violation of the headstrikes policy.

The decision of the panel apparently turned at least in part on the reliability of two independent witnesses. Since audiotapes of the witness interviews would later become available, we believe it would have been better practice for the panel members to each listen to the tapes before rendering a decision. This case, like a handful of others that have come before the commanders' panel, involved not only serious allegations of excessive force, but also substantial eyewitness and physical evidence to support the allegations. Indeed, after reviewing the files and listening ourselves to the audiotapes, we concluded that discipline was in order and that the chances were good that discipline would be upheld against a challenge before the Civil Service Commission. The panel, however, made a different judgment call. We cannot say that the result was clearly unreasonable.

In any event, although we are troubled by this decision and have been troubled in the past by other decisions of the panel to forego discipline, we find our disagreements with the panel to be the exception and not the rule. Thus far the commanders' panel has shown the potential to revolutionize the way the Department grapples with the difficult issues surrounding officer-involved shootings and serious uses of force. Therefore, we will continue to monitor the commanders' panel with great interest.



## 4 . R e c r u i t i n g   a n d   H i r i n g

We have not had an opportunity to review the Department's efforts to recruit new deputies since the **Kolts Report** was issued in July 1992. The Department has not done any substantial recruiting since budgetary limitations resulted in a hiring freeze in 1991. As a result of the freeze and attrition, between May 1992 and March 1994, the number of sworn personnel within the Department decreased over 8 percent, from 7977 to 7305 (not including deputy trainees). As a result of recent new funding, the Department reactivated the Recruiting Unit in February 1994 and authorized the hiring of new deputies.

As described in our **Second Semiannual Report**, the first class of new deputy trainees since 1992, a small group of 40, began training in January 1994. Additional classes began in May (100 trainees) and August (55 trainees). These classes were all chosen from applicants who were already in the applicant pool at the time of the hiring freeze. The Recruiting Unit completed background checks on these groups and admitted them into the Academy.

This Chapter focuses on the recruiting efforts made by the Recruiting Unit starting in April 1994 and which, thus far, has resulted in Academy Class 285 consisting of 95 individuals who began the Academy on November 14, 1994.

The changes which have taken place in the Department's recruiting procedures since 1992 are welcome and dramatic. We have seen recruiting begin to change from a process whereby the Department overwhelmingly seemed to recruit only white males (in 1992 approximately 70 percent of applicants were Caucasian males) to the current process designed to attract applicants which reflect the diversity of Los Angeles County. The PSTD is to be commended in particular for this change, and Lt. Janet Williams, the lieutenant in charge of recruitment and hiring, is to be commended for her obvious dedication to, and success at, helping to reform the process.

The reforms are reflected, first of all, in the demographics of the people most directly involved in the recruitment process. Besides Lt. Williams, who is African American, the recruitment team consists of one sergeant and six deputies: one Asian American male, one

**Demographics of Academy Class 285,  
November 14, 1994**

	Male	Female	Total
Caucasian (58.9 percent)	47	9	56
African American (8.4 percent)	4	4	8
Hispanic (25.3 percent)	19	5	24
Native American (0.0 percent)	0	0	0
Asian American (5.3 percent)	4	1	5
Filipino (2.1 percent)	2	0	02
<b>Total</b>	<b>76</b> (80.0 %)	<b>19</b> (20.0 %)	<b>95</b>

African American female, one Hispanic male, two Hispanic females, one openly gay Caucasian male (who is on loan to the Recruitment Unit when he is needed), and one Caucasian female. An African American male is to be added to the Recruiting Unit within a few weeks. This team symbolizes the Department's commitment to diversity.

As is evident in the Tables 1, 2, and 3, the demographics of the applicants, and those proceeding through the hiring process, has also improved in many

categories. Of the reactivated Recruiting Unit's 1639 applicants who have passed the written examination and the pre-screening interview in June, July and August and are now in background investigations, 20.5 percent are women and 79.5 percent are men. To the best of the Recruiting Unit's determination, the racial demographics for the applicant pool show that 43.7 percent of the applicants are Caucasian, 14.5 percent are African American, 36.2 percent are Hispanic, 0.1 percent are Native American, 3.4 percent are Asian American and 2.0 percent are Filipino. The Recruiting Unit expects to complete backgrounds checks on this applicant pool by approximately March 1995.

The Department has also changed the application process itself. Instead of the continuous open filing and testing the Department formerly permitted, which resulted in existing personnel getting their friends and relatives into the Department, thus perpetuating the existing make up, the Department is using controlled, targeted recruitment.

One mechanism employed by the Department this past summer was a solicitation letter sent to women and minority sworn personnel asking them to refer potential women



and minority applicants to the Department. The letter was not sent out until after all Department members had received a teletype announcing the test. While the solicitation letter was an innovative idea, it resulted in an angry outcry from Caucasian males within the Department who felt left out. Sheriff Block replied, appropriately, that white males were not disenfranchised, but rather that the Department was committed to attracting diverse candidates. The Department will hold firm and include language to encourage women and minorities in the teletype announcing the tests.

Another significant, innovative, and admirable change the Department has made is the establishment of formal affirmative action committees targeted towards different under-represented groups. Separate affirmative action committees have been established for Asian Americans, Hispanics, gays and lesbians, African Americans and women. Each committee's mission is to serve as a think tank and help to devise innovative methods to attract applicants from its target group.

The Recruitment Unit, with some assistance from each committee, creates a monthly list of events and venues which attract potential applicants from the under-represented groups. Recruiters attend the events in an effort to contact diverse applicants. The Department appears to have done a fine job at keeping track of the demographic statistics relating to the potential applicants contacted at these events. The Recruiting Unit's attendance at the various events also serves the important function of giving the Department a presence within minority communities, which should ultimately result in attracting more minorities to the Department.

2

**Demographics of Those Taking Written Test  
June, July and August 1994**

	Male	Female	Total
Caucasian (37 percent)	891	179	1070
African American (19.5 percent)	380	184	564
Hispanic (38.1 percent)	886	218	1104
Native American (0.1 percent)	3	0	3
Asian American (3.1 percent)	79	12	91
Filipino (2.2 percent)	57	6	63
<b>Total</b>	<b>2296</b> (79.3 %)	<b>599</b> (20.7%)	<b>2895</b>

In September 1994, members of the Recruitment Unit visited or attended twenty locations or events in order to establish contacts with minority communities, ranging from the City of Duarte annual picnic to Compton College to the Cacique 5/10k Run for Children at Griffith Park. The statistics for the contacts made at the September events are impressive: Out of 923 people expressing interest, 17.3 percent were Caucasian, 26.4 percent African American, 45.3 percent Hispanic, 8.1 percent Asian American, .1 percent Native American, 1.8 percent Filipino and .9 percent other (68.3 percent of the contacts were male and 31.7 percent were female). Although these statistics by no means transfer directly into actual applicants, the contacts certainly help the demographics of the eventual applicants. Of the 1463 interest cards filed with the Department during the month of September 1994, 30.0 percent of the applicants were Caucasian, 21.5 percent African American, 41.0 percent Hispanic, 6.2 percent Asian American, .06 percent Native American, 1.4 percent Filipino and .54 percent other (73.5 percent were male and 26.5 percent were female). Through continued effort, it is hoped that these recruiting proce-

dures will result in a police force reflective of the community.

A welcome and positive change for the Department has been the establishment of an affirmative action committee and the use of an openly gay deputy to coordinate recruitment efforts among members of the gay and lesbian community. By all accounts, the deputy won friends for the Department by doing an exemplary job during this past May, June, and July, receiving accolades and appreciation from City Council members and

3

**Demographics of Those Passing Written Test  
June, July and August 1994**

	Male	Female	Total
Caucasian (43.7 percent)	599	118	717
African American (14.5 percent)	161	77	238
Hispanic (36.2 percent)	462	132	594
Native American (0.1 percent)	2	0	2
Asian American (3.4 percent)	50	5	55
Filipino (2.0 percent)	29	4	33
<b>Total</b>	<b>1303</b> (79.5 %)	<b>336</b> (20.5%)	<b>1639</b>

other officials from the City of West Hollywood, one of the LASD's most important contract cities and one where asserted insensitivity on the part of the Department to gay and lesbian issues led to thus far unsuccessful ballot propositions to oust the LASD. What the Department accomplished by the placement of this deputy to recruit in West Hollywood serves as a model of what can be done for any under-represented group and as a model for improving the Department's reputation and image in areas of large concentrations of minority groups. One hundred seventeen gay and lesbian individuals expressed interest in the Department during this past summer's recruiting and 35 ultimately took the written examination. Fifteen of these individuals are currently in background investigations.

The Recruiting Unit's efforts appear to be paying off. As shown in Table 1, the demographics for Academy Class 285, the first class selected by the reactivated Recruiting Unit, show higher percentages of women, Hispanics, Asian Americans, and Filipinos than the percentages for such groups among either the Department's sworn personnel or the Department's deputies. It is worthy of note, however, that the percentage of African Americans in Class 285 is lower than the percentage of African Americans in the Department.

Class 285 is merely the first class resulting from the Department's new approach to recruiting. Several more classes will come out of the current applicant pool. In addition, the written examination was again administered to a new group of applicants on October 29, 1994. Two more test dates are scheduled for November and December 1994. We will continue to track the applicants recruited by the Recruiting Unit as such applicants progress through the hiring process. We want to make certain that the strong efforts to recruit from all the under-represented gender and minority groups are more than a mere flash in the pan but rather represent standard operating procedure.

The task of getting those who file interest cards to take the written test and survive the hiring process is enormous. The members of the Recruitment Unit we talked to discussed the mentoring they do to ensure that qualified applicants are successful. The recruiters

engage in personal counseling designed to help the applicants through recruiting, testing, background investigations, and the Academy. The mentor program is designed to guide the recruits through the process and avoid losing qualified applicants from under-represented groups. The members of the Recruitment Unit we met seemed committed and enthusiastic. We hope that this attitude continues in the Department and the use of the affirmative action committees and mentoring program become institutionalized as a permanent part of the Department's recruitment process.

We also hope that the mentoring program is successful at guiding qualified minority and women applicants through the lengthy hiring process. There are many steps throughout the process where applicants are disqualified or drop out. The hiring process begins with the applicant's initial contact with the Department, expressing interest in becoming a deputy. The applicant files an application and receives information about the hiring process. The applicant then takes the written examination on a set test date and completes a pre-screening questionnaire on the same day. If the applicant passes both the written examination and the pre-screening, he or she must then pass an oral interview, a physical agility test, and an office interview revisiting the applicant's answers to the pre-screening questionnaire. After surviving all these hurdles, the background investigation begins.

The background investigators used by the Department are also a more diverse group than they were when we last interviewed background investigators two and one-half years ago. Of the ten investigators added to the unit this past August, joining the fifteen already there, two are Asian American males, three are Hispanic males, one is an African American female, three are African American males and one is a white female.

The background investigators contact the applicant's relatives, friends, neighbors, and employers to determine whether anything in the applicant's background or behavior would make the applicant unsuitable for police work. Background investigators now try to discover whether an applicant holds and acts upon discriminatory and prejudiced views

by asking generalized questions of the applicant’s relatives, friends and neighbors. They still ask no questions designed to uncover homophobia. The background investigators tell us that kind of information is more likely to come out in the psychological testing. The background investigation also includes a polygraph test focusing on criminal matters.

Once an applicant passes the background investigation, a conditional offer of employment is extended. This allows the Department to discuss the applicant’s medical history and make the determination whether the applicant can perform essential job functions. The applicant then takes the Department’s psychological examinations and clinical interview, followed by a two-phase medical examination. If the applicant survives all these steps, he or she is admitted to the Academy.

Other than the relatively small sample of Class 285, we have insufficient data to analyze how such steps such as the background investigation and the psychological examinations are impacting the under-represented groups. We will continue to look at these issues in our next report.

We will also look at any other additional methods employed in the recruiting process,

**Los Angeles County Sheriff’s Department Breakdown by Rank, Sex, and Ethnicity as of October 27, 1994**  
(FTO Breakdown as of November 9, 1994)

Class	Total	Male	Female	Caucasian	African American	Hispanic	Native American	Asian	Filipino	Other
Sheriff	1	1 100%	0%	1 100%	0%	0%	0%	0%	0%	0%
Undersheriff	1	1 100%	0%	1 100%	0%	0%	0%	0%	0%	0%
Asst. Sheriff	2	2 100%	0%	2 100%	0%	0%	0%	0%	0%	0%
Chief	8	8 100%	0%	5 62.5%	2 25.0%	1 12.5%	.0%	0%	0%	0%
Commander	20	17 85.0%	3 15.0%	18 90.0%	1 5.0%	1 5.0%	0%	0%	0%	0%
Captain	54	49 90.7%	5 9.3%	46 85.2%	2 3.7%	5 9.3%	0%	1 1.9%	0%	0%
Lieutenant	305	284 93.1%	21 6.9%	250 82.0%	27 8.9%	24 7.9%	0%	3 1.0%	1 .3%	0%
Sergeant	933	847 90.8%	86 9.2%	775 83.1%	56 6.0%	83 8.9%	1 .1%	18 2.0%	0%	0%
Deputy IV	100	95 95.0%	5 5.0%	73 73.0%	14 14.0%	12 12.0%	.0%	1 1.0%	0%	0%
Deputy	6421	5548 86.4%	873 13.6%	4313 67.2%	681 10.6%	1238 19.3%	6 .1%	145 2.3%	38 .6%	0%
Deputy Trainee	141	123 87.2%	18 12.8%	90 63.8%	12 8.5%	34 24.1%	.0%	4 2.8%	1 .7%	0%
<b>Totals</b>	<b>7986</b>	<b>6975 87.3%</b>	<b>1011 12.7%</b>	<b>5574 69.8%</b>	<b>795 10.0%</b>	<b>1398 17.5%</b>	<b>7 .1%</b>	<b>172 2.2%</b>	<b>40 .5%</b>	<b>0%</b>
FTO	82	81 98.8%	1 1.2%	58 70.7%	5 6.1%	15 18.3%	0 0.0%	2 2.4%	1 1.2%	1 1.2%

such as advertising in the media. The Department has not used advertising in its recent efforts because of a perceived lack of need and because of budgetary considerations. We have been told, however, that advertising may commence in the near future. We would expect to see advertising appear in a wide variety of publications, aimed at women and all of the under-represented minority groups.

We stated in the **Kolts Report** that changing the demographics of the Department would “require significant, committed and sustained effort.” Table 4 sets forth the Department’s current demographic breakdown. We recognize that the effort to change the demographics that has been made has indeed been significant. We also recognize that the Department appears to have made a commitment. Our future reports will judge whether the effort is sustained through future recruitment periods. We have no reason to believe it will not be.

## 5. Documenting Use of Force & Complaints

More than two years have passed since the publication of the **Kolts Report** in July 1992. In that time, two broad initiatives have been launched to change the way the Department reports and documents use of force and citizen's complaints. We went to three stations to determine whether the procedures mandated by the Department in these two areas are being observed and what the results are.

The picture is mixed. As will be developed at length in this section, we conclude, happily, that deputies appear to be reporting force as is required by the policy. But we also found that deputies remain uncertain and uneasy about whether and how the new emphasis of documenting and tracking uses of force will affect their careers. Some deputies told us that these concerns are causing deputies to be less proactive. Watch commanders complain that the new procedures are keeping them from the field and turning them into "highly paid secretaries." Both groups are struggling to implement procedures without the benefit of clear direction and standards from the Department.

As a result, there is substantial variation within and between stations in documenting force and citizen's complaints of force. There are significant gaps in Department-wide reports generated from information collected from the stations: Information from some citizen's complaints is absent from Department reports, leading to an inaccurate picture, and the Department is not making best use the information at its disposal.

**We went to the three stations fully prepared to find some deficiencies and inconsistencies in the way data was collected and disseminated because we know that with organizational change come mistakes and misunderstandings. Our goal in this review is to point out problems and suggest ways for the Department to solve them. In this way, this Chapter is linked to the Chapter herein on Data Integrity and Reporting, which describes other aspects of the Department's information systems which need remedial care. Thus, the comments that follow should not be misinterpreted as a condemnation of the Department, the captains and lieutenants at the three stations, or those officers who have worked hard to understand and implement these new policies.**

That being said, we will first summarize the changes in procedures for use of force and citizen's complaints. We will then report on how these procedures are being put into practice at three sample stations. Finally, we will describe how information collected at the stations is being handled by the Department.

## *Revised Reporting and Documenting of Force and Citizen's Complaints*

### **A. Revised Reporting and Documenting of Force**

As reported in our **First Semiannual Report**, the LASD, in August 1993, initiated new policies on reporting and documenting force. Deputies who use force "greater than that required for unresisted Department-approved searching or handcuffing" or which "results in an injury or complaint of pain" must make an immediate oral report to their supervisor. The LASD's revised definition of reportable force exempts from the oral reporting requirement force of a minor nature, such as placing a hand on a suspect's shoulder or gripping a suspect's arm, where the suspect neither resists nor complains. Reportable force under the new policy thus includes:

- searches or handcuffing met with resistance by the suspect;
- control holds for other than routine searches or handcuffing;
- application of the "RIPP" hobble (e.g., hog-tying);
- use of specialized weapons (e.g., tasers, rubber-bullet rifles);
- use of any impact weapon to strike or control;
- any force greater than a control hold or comealong (e.g., slaps, punches, or kicks of any magnitude);
- any force resulting in injury or complaint of pain; or
- any force involving actual or alleged misconduct.



All **reportable** force must be documented. Upon receipt of an oral report from a deputy, the supervisor must document the force on a Supervisor's Report, Use of Force ("SUOF"). There will be instances, of course, where force will be reported that is not necessarily reportable, such as an unresisted handcuffing or a hand on a shoulder. In such instances, when satisfied that the force was in fact unresisted and not reportable, the Supervisor need not fill out an SUOF.

If certain kinds of low level force is involved, the SUOF is completed and routed to the station captain for review. The paperwork is then forwarded to Department headquarters for entry into the computerized force tracking system. If the force is "significant," the immediate supervisor must immediately notify the watch commander, locate and identify witnesses, photograph the scene, interview all witnesses, including any attending physicians, and complete an SUOF for each employee who used force. The recommended practice at the station, which is followed at the three stations we sampled, is to make audio or videotape interviews with the person injured or claiming injury and with key witnesses. Significant force includes any injury; any complaint of pain or injury; any allegation or indication of misconduct; or the use of force greater than a Department-approved control hold or comealong.

For a specifically defined subset of significant force incidents (e.g., when the subject is hospitalized, when canine bites result in hospital treatment, or when there is injury or complaint of injury to a person's head resulting from impact from any source), the watch commander must fill out an SUOF and, in addition, immediately notify PSTD of the incident. PSTD has the option to roll out immediately to conduct an investigation. If PSTD declines to roll out, there must nonetheless be a further investigation at the station level by the watch commander, who compiles a "force review package" for the captain. The captain then decides if further action or investigation is warranted. Portions of the force review packages are then forwarded to PSTD for review within three business days of receipt. The PSTD may then conduct its own investigation if it believes it necessary. Force review packages are kept at the stations along with other materials documenting the incident. Some stations may also enter the data regarding use of force into their own stand-alone station tracking system.

## **B. Revised Reporting and Documentation of Citizen's Complaints**

The LASD requires that each and every citizen's complaint or commendation, regardless of source, be recorded on a Service Comment Report ("SCR"). A member of the public may make a citizen's complaint in person, by telephone, or in writing. In theory, the complaint can be presented at any station or facility of the Department as well as other County facilities, the contract cities, and elsewhere. In whatever form the complaint comes, it is to be recorded on an SCR and dealt with first at the station from which the complaint arose. It may be resolved informally with the consent of the citizen; it may be the subject of mediation called "conflict resolution" between the citizen and the deputy complained about; it may be subject to further formal investigation at the station level; or it may be subject to further investigation by Internal Affairs. The citizen is to be notified of receipt of the complaint and is to be notified again of the result. If the complainant is dissatisfied, the citizen has rights of appeal, as set forth in greater detail in our description of the duties of the Ombudsman.

## **C. Collection and Distribution of Information from SCRs and SUOFs**

Currently, the SCRs and SUOFs are forwarded to LASD headquarters where information from them is entered onto different databases. The Department provides integrated reports based upon this information. Each quarter, captains receive a summary report as well as a detailed Employee Profile Report for each individual in his or her command. In addition, Division chiefs and commanders receive a summary report listing employees "ranked" by: the number of administrative investigations, reported uses of force, personnel complaints, force rollouts, officer-involved shootings, lawsuits filed naming that individual, and claims filed.

The forthcoming Personnel Performance Index, or PPI, will combine this information into one, easy to use database system. Once completed, the PPI will permit supervisors, with the push of a button, to look up any specific record, such as a documented use of force, and to view on line any memos or reports discussing the given incident. This latter feature should address many of the comments and suggestions we heard regarding the inability of supervisors to see beyond the numbers.

### *Testing These New Procedures at Three Stations*

We wanted to find out how these new Department-wide policies regarding force and citizen's complaints are being implemented at the station level and whether they are being followed or disregarded. We also wanted to assess the impact of these new policies on deputies, sergeants, lieutenants, and captains. Time and resources were too scarce to allow us to visit every station or facility, as much as we would have liked to do so. We therefore selected three stations to look at in depth.

We chose one station from each of the Department's three Field Operations Regions. We chose neither the largest nor the smallest stations in each region. The stations we selected were not chosen with the idea of putting any particular station under a microscope; rather, we looked at the stations on the assumption that they would serve as a microcosm of how the new procedures are being implemented at all stations.

We spent substantial time at the three stations. We talked to station personnel at all levels many times over. We attended briefings and answered questions. We rode in patrol cars with deputies and sergeants during the day and at night. We were given unrestricted access to documents and personnel, and we spent many hours reviewing the files relevant to our inquiry. We attended station functions, including functions sponsored by the station for the Department or the community. We had meals with deputies and others. We logged many hours of candid and open conversations with deputies, sergeants, lieutenants, and

captains. We came away with a deeper appreciation of the fine police work performed in the LASD and with the quality and decency of the personnel.

Each of the stations has its own strengths and weaknesses. But our job was not to compare them or to decide which station was the best managed. Our job was to learn as much as possible about how the new procedures on force and citizen's complaints are becoming (or not becoming) part of the fabric of daily life at the patrol stations.

We also wanted to witness the growth pains. We wanted to hear the complaints and gripes about the new procedures. We wanted to hear about their failings and their strengths. We wanted to see if the implementation of our recommendations has unduly burdened sergeants, lieutenants, and deputies. We wanted to see in what ways we have been helpful. We wanted to gauge whether we have been getting things right. We wanted to hear our critics first hand, and we wanted to hear from those in the Department who think we are on the right course.

The individuals from our staff that we sent to spend time at the various stations were not ones who had participated in the formulation of the initial Kolts recommendations. We wanted to send people who were not loaded down with the baggage

## Glass Walls

On Saturday, June 18, 1994, as reported by the Daily News, a volunteer chaplain who rode with Sheriff's deputies from the Carson station "was chased down and killed early Saturday by a gunman who also seriously wounded a sheriff's deputy." The 40-year old chaplain was pronounced dead shortly after the 2:45 a.m. shooting. Carson Deputy Sheriff Terrance Wenger, 31, had an eye removed in a six-hour surgery in the early Saturday morning hours. Daily News, Sunday, June 19, 1994, p.6.

Three months later, on Saturday, September 10, 1994, as reported by the Los Angeles Times, a reputed gang member with a criminal record walked into the lobby of the Carson Sheriff's Station and, without warning, pulled out a .38 caliber handgun and shot at a Robert Frank, a 25-year old Carson deputy who was at the lobby counter, wounding him seriously. Three other deputies inside the station rushed to the lobby and fatally shot the gunman. The young deputy underwent surgery for gunshot wounds in both arms. Los Angeles Times, September 13, 1994, Metro; Part B; Page 8; Column 1.

In the ensuing weeks since the shootings, the captain has been considering the installation

of the Kolts recommendations or the investigation that proceeded it. **We wanted a fresh perspective on a changing Department;** we did not want to send people whose views were formed by the investigation a couple of years ago. We wanted to send people who are the same age and come from the same generation as the deputies; people who we hoped would communicate with greater ease with deputies than some of us whose hair is grayer. What follows is what we found in the time we spent at the three stations and from our review of station and Departmental records.

## *The Results of our Station Audits*

### **A. Use of Force Reporting**

**We are generally encouraged that the importance of reporting and tracking uses of force appears to be taken seriously at the station level. It is our impression that the vast majority of force incidents are being reported by involved deputies.**

#### *1. Documenting Use of Force*

As noted earlier, current policy requires a deputy to report all but the most minimal use of force. All force which is resisted or causes an injury or complaint of pain should be reported by the deputy

of a bulletproof glass wall at the lobby counter in the station for the protection of station personnel.

The station's captain, who has an exemplary reputation in the Department for a well-run station and a hands-on approach to management, has an unenviable dilemma in deciding whether to build the wall. Under his direction, over the past years, the station personnel have worked to present a friendlier and more welcome face to the public. Programs pioneered at Carson by the captain have fostered warmer relationships between the station and the communities it serves. The captain is generally viewed as having embraced with enthusiasm a number of community-oriented policing policies. The station and the captain are well-regarded by the commanders and chief of the division, and it was under their tutelage that the captain prepared an ambitious quality assurance plan which has a detailed ten-step program to increase satisfaction in all sectors of the community with the performance of the Sheriff's Department.

The captain often analogizes the station to a business; the public are the business's "customers." Any successful business must be welcoming and keep the customers happy. To

and should generate an SUOF by the watch commander.

**While it appears that force is being duly reported, we found a high degree of inconsistency and lack of clarity as to how force was documented.** Deputies and their supervisors noted that “force redefinitions keep happening.” Many watch commanders said that they were never told in what circumstances reportable force is to be documented, and the inconsistencies we found with respect to how force is documented supports the watch commanders’ assertions.

At one briefing, a deputy stated the concern that deputies at his station would appear to be “heavies” compared to deputies at other stations, noting that his station documents all force, while other stations do not. Unfortunately, his concern is not without merit: At one of the stations we visited, a lieutenant stated that if a deputy and a member of the public are only involved in a “momentary struggle,” the incident does not need to be documented. He was wrong: the necessity to report and document force does not turn on the length of the struggle, but rather whether there was a “struggle” at all.

Personnel at another station we visited, probably out of confusion about when documentation of

erect a glass wall at the lobby counter would alter the feel of the station and the “customers” perception of it. A wall is a wall, transparent or not. It conjures up feelings of protectiveness, distrust, division. “We” are on one side of the glass; “they” on the other. The barrier would make communication more difficult and stilted. A wall precludes a reassuring touch or pat on the back. It does not make the station friendlier and more accessible. It does not send the right message to the overwhelming majority of people who come up to the front desk of the station simply to transact routine business. This kind of security measure may be unwarranted: the shooting in the lobby was the first such incident the station’s twenty-year history. The odds of a recurrence are arguably slight. Practitioners of community-oriented policing are not advocates of walls; a glass wall is better than a metal one with a narrow eyeslit, but it is still a wall.

On the other hand, a deputy was nearly killed, and the September shooting in the lobby followed closely the shooting of Deputy Wenger. The 25-year old deputy who was shot at the counter in the lobby was all too vulnerable; nothing stood between him and a gunman who acted without warning. All the training and skill

use of force is required, created their own independent station-level “Low Level Use of Force Form.” As a result, the station may be under-reporting force to the Department. Under this station’s procedure, deputies are instructed to report “all force,” however minimal. When a deputy reports force, the watch commander completes the station’s own “Force Review — Low Level Use of Force Form.” At the top of the form there are four yes/no selections for: (1) visible injury; (2) complaint of injury; (3) indication of misconduct; and (4) force greater than a control hold or come along. If the answer to any of these questions is “yes,” then the supervisor is supposed to go on to fill out the standard Department SUOF.

The use of this form, however, betokens some confusion about reporting and documenting force, and **the upshot is that some reportable force that should be documented and transmitted to Department headquarters is not being done at this station.** An answer of “yes” to any of the four categories at the top of the station form would indicate that the use of force was **significant** under Departmental policy. The station-generated form and the station’s procedures are at variance with LASD policy requiring that certain types of **low-level** force be reported on SUOFs. For example, if a deputy at

in the world could not have given the deputy the ability to repel the bullets or to prevent the assailant from suddenly drawing a handgun and starting to shoot. Every deputy in the station, at some time or other, must have stood at the counter in the station lobby. It could have been any of them. The bullets that hit Deputy Frank could have hit them. A bulletproof glass wall would put something between the deputies and a would-be assailant.

Faced with this Hobson’s choice, the captain ultimately has to make a difficult judgment. In the interim, as he weighs the alternatives, the glass wall has become a metaphor to the deputies at the station. Which side of the glass is the captain on? Should he refuse to erect the wall and appear to come down on the side of keeping the customers happy? In doing so, is he erecting another kind of wall between the deputies and himself? Who’s more important, the public or the deputies? Should he therefore erect the wall and appear to come down on the side of officer safety? How will the public interpret what he does? How will the deputies? As one very bright and able deputy put it, “Community-oriented policing is fine and we all support it. But what about some deputy-oriented supervision?”

this station were to use a Departmentally approved control hold or comealong, out of the context of routine searching or handcuffing, the answer to all four questions would be “No” and no SUOF would be completed, even though Department policy expressly requires an SUOF for such incidents.

We also found that current practice is inconsistent both within given stations and between various stations regarding how detailed and how accurately force is described on the SUOFs. The SUOF requires a description of the “type of force” used in the incident. Although watch commanders have reportedly been told repeatedly to use precise and specific language, some render the form useless for analytical purposes by employing vague descriptions such as “physical,” “restraint,” “minimal” or “appropriate.” On the other hand, other watch commanders are careful to note whether a baton or pepper spray is used and give sufficient information so that the information on the form can be used with confidence. **These inconsistencies mean that the data from these forms which inform policy decisions by executives is faulty: If an executive wanted to learn with precision how many times pepper spray is being used, or how one station’s use of pepper spray compares to another station’s use, the executive would not**

During the last few months, the shock and hurt the deputies felt at the shootings have ceded ground to anger with some deputies, and we saw evidence of frayed nerves in some when we talked with deputies at the station in October and November. We perceived varying degrees of dissatisfaction that the glass wall had not yet gone up. The most vocal and angry railed at the danger the deputies have to face and at those who seemed not to care.

Other themes we heard at Carson were repeated by deputies at other stations. We felt displeasure directed at us on the grounds that we have brought down on them greater scrutiny, more second-guessing, and greater vulnerability to managers who they fear will act arbitrarily or will be lazy and won’t look past the numbers of force incidents or citizen’s complaints and look at the full picture when evaluating them. Some deputies expressed bitterness toward the County Counsel’s office for seeming to give in to plaintiffs and their lawyers. Some deputies hypothesize that gangsters will blithely file “citizens complaints” in order to “do” a deputy, and assert that an attempt to do so actually occurred at Carson.



**have complete and consistent data upon which to rely.** The PPI will hopefully address this problem by allowing the watch commander to select from among precise descriptions of the type of force and injury. Nonetheless, the Department should consider taking steps now to correct the collection of faulty and incomplete data.

In addition to describing the type of force, each SUOF requires the watch commander to state whether the suspect or the deputy was injured and required medical treatment or was hospitalized. **There is no consistency in the use of these categories.** In some instances, a given force incident will result in both categories being selected; in other instances, only the “hospitalized” field will be filled out. Some watch commanders apparently use the hospitalized category to reflect a visit to an emergency room for a bandage. Others reserve the category for an actual hospital admission. **Accordingly, if an executive wanted to review statistics on hospitalizations of suspects or deputies to gauge how often the LASD is seriously injuring suspects, or how often a deputy was seriously injured while using force, the executive would get a misleading tally inflated by a hidden number of possibly inconsequential visits to an emergency room.**

Regardless of the complaints, and irrespective of the unlikelihood of the worse case scenarios that are posited, what was thick in the air at the stations we visited was vulnerability; concern about arbitrariness and the unexpected; the assertion that no one listens or cares; the worry that the unprotected flank is the one toward which danger will spring.

At the same time, over the last few years, we have come to observe that some deputies and their union seems to operate from the baseline assumption that the LASD is going to hell in a hand basket, management is terrible, morale is bad, the public is unappreciative, and things will only get worse. One of the most difficult aspects of our job has been to try to sort out and analyze what we hear from deputies. At times, but more the exception that the rule by far, the pain, anger, and bitterness we perceive in some deputies is overpowering and downright dangerous. At other times, and indeed most of the time, the baseline dissatisfaction is akin to a low-grade, chronic fever.

So what is the temperature of the deputies in late 1994? Our answer causes us to generalize from the hundred or so we've spent time with in the last several months. With that caveat, we

## *2. Self-Reporting by Deputies*

To determine if deputies were dutifully reporting force incidents, we tested whether SUOFs were completed for all instances in which a complainant alleged force by the deputy and it was later determined that force had been used, properly or not. In other words, if citizens correctly complained that force had been applied, wrongful or not, in instances where the deputy had failed to report force to a supervisor, we could infer that deputies were under-reporting force.

We reviewed all SCRs for 1993 and 1994 in which a complaint of force was alleged. We are pleased to report that in almost all incidents where an investigation supported that force had been used, whether or not justified, the deputy had duly reported the force. We did come across two incidents where the investigation revealed that force had been used, but the deputies involved had failed to report it. In each case, the Department had responded appropriately: in one case the deputy received a five-day suspension for use of excessive force, and in the other case the deputies were reminded of the circumstances in which reporting was required. We conclude therefore that in the stations we reviewed, force is being reported by the

conclude that its enough above 98.6 degrees that attention needs to be paid.

There is an increasing structural problem of lack of movement within the Department that is eroding morale. For some experienced patrol deputies, the diminishing opportunities to move to specialized units and to advance their training and education are sharply felt. For some custody deputies, the long waits to get to patrol are debilitating. We rode with a deputy new to patrol who had been in custody for five and a half years. He had wanted to get to a patrol assignment from day one, and had requested no extensions of his custody rotation. As regards these reasons for eroding morale, there are grounds for hope that these issues will be addressed. For example, a commander who has very good ideas has been asked to look at the general issue of the Department's overall staffing needs.

There is a need to address the problem of vulnerability to misuse of the tracking system. We have seen a draft of a proposed policy on use of the PPI which, if adopted, should help alleviate concern and fear about abuse of the computerized tracking system. Of course, the way in which the system is actually employed in practice will be the acid test. There is fresh

deputies. We also conclude that the procedures for investigating citizen's complaints serves as a partial check on force reporting and serves to identify at least some force incidents not detected through self-reporting by the deputies.

## **B. Service Comment Forms**

As noted earlier, the LASD has had a policy of recording all comments from members of the public on service comment forms we call SCRs. The SCR has three categories of citizen comment:

(1) Commendations; (2) Personnel Complaints (e.g., complaints of officer misconduct, discourtesy, excessive force, or neglect of duty); and (3) Service Complaints (e.g., slow response time, improper traffic citations).

To evaluate the process for receipt and investigation of citizen's complaints at the three stations, we interviewed watch commanders and operations lieutenants and sergeants at all three stations and reviewed all of the SCRs completed in 1993 and 1994. As discussed later in this Chapter, we also compared the data collected at the three stations to the data generated therefrom in Departmental reports.

We concluded that each station follows the Department policy of requiring the watch sergeant or

thinking about issues of managerial and executive accountability that should redound to the benefit of the deputies.

What is not being done adequately is two-way communication. Getting a consistent, timely, undistorted message to several thousand deputies is no easy task. Getting an undistorted message from several thousand deputies is even harder. But it is in these areas that the Department has had great difficulties.

This brings us back to glass walls. They are not easy to see because transparency creates an illusion that nothing is there. But we kept running into them everywhere we turned.

The most unnecessary and troublesome walls were the ones we observed or heard about during this last audit and on previous audits between the captains and the deputies at the stations. By the same token, we observed deputies so walled off by their own rancor and bitterness that we question whether they could even recognize warmth or support from anyone senior to them. We saw other deputies who seemed unable to consider a new idea.

During the last several months, we have spent more time with deputies than at any time since the Kolts Report. We have been at some of

lieutenant complete the SCR. Although one of the three stations reviewed recently added a “risk management sergeant,” whose duties will include investigating some SCRs, it is currently the practice that the watch commander of the shift during which the incident occurred is responsible for conducting an investigation and making a report to the captain. Depending upon the nature and severity of the allegation, the investigation may include taped interviews of the complainant and witnesses, visits to the scene of the incident, and interviews of the involved deputies. Upon completion of an investigation, most SCRs have an investigative memo attached.

**There were nonetheless problems and inconsistencies with the Department’s data collection procedures regarding SCRs which may be distorting the information the Department derives from them.** In particular, in over 40 percent of the SCRs reviewed, there were allegations of force that were described in investigative memos but not described on the SCR itself. The investigative memos often differed in other material ways from the synopsis on the face of the SCR, including instances where (i) the SCR failed to identify involved deputies; (ii) the investigative memo indicated that force was alleged, but the

those stations all hours of the day and night. We have been there for all the different shifts and through busy times and quiet ones. We have talked to deputies, sergeants, lieutenants, and captains. As we have done in prior review periods, we have attended briefings and answered questions about what we were doing there and about the Kolts Report and the continuing role of Special Counsel. To their credit, the captains at all the stations set aside time for us to talk at length to deputies. At one station, we spent about five hours on two separate occasions in no-holds barred meetings with deputies outside the presence of any supervisory personnel to hear in unvarnished form what was on the minds of the deputies.

We logged many hours riding in patrol cars with deputies or sergeants. We rode at a wide cross-section of stations, including Antelope Valley, East Los Angeles, Carson, Lennox, Century, Industry, and Lakewood. We saw some very good police work. We provided an opportunity for a large number of deputies and supervisors to put faces and personalities on that otherwise faceless group of people known as the Kolts group or the Kolts Commission. We hope they saw that we tried to come with open minds and

force allegation does not appear on the SCR; or (3) the description of an incident in an investigative memo bore no meaningful relationship to the description of the incident on the face of the SCR.

**These problems cast a shadow on the accuracy of reports generated solely from the face of SCRs because the Department appears to use the information on the face of the SCR (as contrasted to information in the investigative memo) to generate the Department's database on citizen's complaints.** The SCR is an **intake** document, reflecting initial impressions. The investigative memo is an **outcome** document, reflecting more mature judgments. The differences may cut both ways: On occasion, the face of the SCR will present a more innocuous picture than the investigative memo. The face of the SCR may talk about rudeness and roughness; the investigative memo may disclose that the rudeness was racial slurs and the roughness was a broken arm. Conversely, the face of an SCR may present a citizen's allegation that he was struck four times by a flashlight. The investigative memo, on the other hand, might conclude that there were no injuries detected in the emergency room and that the citizen's story was a total fabrication. **Accordingly, the Department may wish to consider different procedures for generating reports based upon information in SCRs and investigative memos.**

were eager to learn and to listen.

We hope the deputies saw that we are on their side in important ways. We want them to be content in their careers and feel that opportunities are open to them. We want to see more opportunities for them to join specialized units or get coveted positions. We want to see the custody rotation brought down to the 18 months to two years that the Department has promised as its goal. We hope they saw that we are just as concerned as they are that the PPI not be used as a vehicle for punishment or arbitrary decisions.

We hope they saw that we also keep officer safety and security at the top of our list of concerns. We believe they saw that we do not condemn use of force as such, only abusive and excessive force; that we don't always believe in knee jerk fashion that all citizen's complaints are well-founded; that we are not ideologues on the political far left or the far right. We believe they saw that we too agree that the concerns of the line police officer are perhaps being attended to less assiduously than should be the case.

We hope they saw that we want a Department where professional, well-executed police work is valued and rewarded; where deputies who are sued or complained about

The citizen's complaint procedures require that complainants receive a letter at the close of the investigation. In many instances, we were unable to tell if a follow-up letter was in fact sent to complainants. While copies of letters to complainants were included in some files on completed investigations of citizen's complaints, in two of the three stations we visited, **almost half of the SCR packages we reviewed in detail included no such letters.** This is a matter of serious moment. Although in 1993 the stations apparently often contacted complainants by phone, it appears that more recently the letters are the only communication from the Department indicating that the complaint was in fact investigated. It may be the only communication that tells the complainant that the Ombudsman's services may be employed if the complainant is still dissatisfied. If the complainant is left in the dark, the complainant can all too easily assume the worst about the Department. **If the Department wants to maximize the opportunities for it and the Ombudsman to increase citizen satisfaction with its processes for investigating complaints, the Department should audit whether citizens are indeed receiving letters demonstrating that their complaints were indeed investigated and**

without good cause get as vigorous representation and as fair a shake as the citizen who has a legitimate gripe or who has been mistreated at the hands of the police; where the risks of liability for police misconduct and legal defense are carefully managed and controlled so that the dollars can be used instead for better policing and better equipment.

We believe that they also saw that we are serious in our mission to monitor the implementation of recommendations to put an end to excessive force, abusive behavior, and disrespectful attitudes toward women or racial, ethnic, or other minorities. We believe they also saw that we are serious that all ranks within the Department — from the deputy all the way to the top — be held responsible and accountable in an appropriate way when untoward conduct occurs. We think our presence among the deputies over the last few months removed barriers and eliminated glass walls. We hope the deputies we spent time with will agree.

It is important to focus in conclusion on the dilemma of the captain and the deputies at Carson. We respect the captain and the difficulty of the decision he has to make about the very real glass wall. It is not easy to strike a balance

**that they have recourse in the event they remain dissatisfied.**

We also tested whether watch commanders at the stations (and IAB personnel who fill out SCRs and then refer them to the stations for investigation) are correctly designating the nature of the complaint. **We found substantial under-reporting of excessive force allegations due to mistaken designations of the nature of the complaint.** We examined all investigatory files arising from citizen’s complaints in the three stations to see whether the complainant had alleged force and, if so, whether the “excessive force” box was checked on the SCR form.

We found a striking amount of potential mistaken designation. We looked at whether the summary description on the SCR or the investigative memo, prepared after the investigation by the watch commander, included an allegation that the involved deputy had used force on the complainant. **See Table 1.** We examined 87 SCRs that reflected that citizens had complained of excessive force against 110 deputies or sergeants. **In 42 percent of the cases, excessive force was not identified as the reason for the complaint even though the complainant had actually alleged force as part of his or her complaint.** In approximately 10 percent of those cases, it is possible that the complainant may not have

between factors that implicate officer safety and other factors that implicate community-oriented policing. Heavy-handed pressure from some deputies and their representatives may add to the difficulty or introduce extraneous issues. We also respect the deputies at that station and the difficulties they face balancing their obligation to protect themselves and their fellow officers and their professional duty to be open, courteous, and service-oriented to the public.

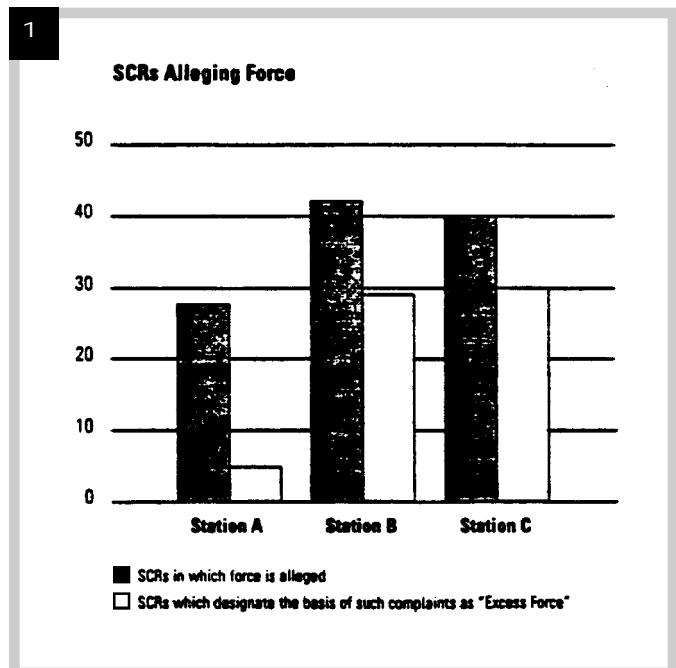
Indeed, we must broaden these statements because our sentiments extend beyond Carson Station: We have respect for officers throughout the Department, line officers and management alike. We regard with special care those who put their lives at risk, and those ones who have been injured, and all the vulnerable others who face different dangers.

alleged excessive force in the first instance but later claimed excessive force during the investigation. However, such occurrences would not account for the **over 30 percent of the force cases we reviewed where the complaint was not designated excessive force even though a force allegation was noted in the SCR narrative.**

Nor was the problem of mistaken designation only a problem at the station-level; thirteen out of the twenty-two SCRs referred to the three stations from IAB that included force allegations did not have an “excessive force” designation.

In some cases, watch commanders chose to designate a forceful comealong as “discourtesy” or “improper tactics,” rather than as “excessive force.” With respect to minor uses of force, the designation may reflect understandable confusion about the category to employ. **There were too many instances, however, in which complainants alleged being “struck twice in the stomach,” or struck repeatedly with flashlights and batons or “beaten,” where it could be nothing less than disingenuous to characterize the allegation as “discourtesy” rather than “excessive force.”**

Thus, perhaps because of the lack of clear direction from above, the stations appear to be setting their own standards for designation. The inconsistencies between stations is striking and disturbing. We took a look at all citizen’s complaints at the three stations where an allegation of excessive force was made. One of the three stations designated 75 percent of such complaints as “Excessive Force” complaints. Another designated 67 percent of such complaints as excessive force.





**But the third station designated only 18 percent of such complaints as excessive force and thus was potentially seriously under-reporting alleged force and painting a very different picture of its deputies than were the other two stations.** These inconsistencies in reporting lead to unreliable data. The Department should immediately address this problem to ensure that data is accurate and to be fair to deputies at different stations.

It is likely, given the variations described above, that the same alleged conduct will be denominated “excessive force” at one station and as “discourtesy” at another. One deputy will have more alleged excessive force complaints than another even though both engaged in the same conduct. The deputies deserve better. They are entitled to a “level playing field.” Department executives deserve better. They are entitled to reliable, consistent data. Commanders should insure that each station reports fully and should overcome any captain’s disincentive to report citizen’s allegations of excessive force.

### **C. Other Questionable Practices with Respect to Force Reporting**

Our review of procedures at the three stations also turned up other questionable procedures which may be distorting the data derived from force reports and citizen’s complaints. For example, if an **arrested suspect** complains about excessive force, the three stations consistently appear to treat the matter as one in which a use of force form is filled out, but not a citizen’s complaint form. On the other hand, if a citizen comes to the counter in a station with an excessive force complaint, an SCR may or may not be filled out.

What this means in practice is that the accuracy of a tally of citizen’s complaints may turn on whether the complainant was in custody or came in through the front door. This may lead to distortions in the records of how many citizen’s complaints a deputy has generated.

More disturbing, however, are the inconsistent practices at the three stations for handling excessive force complaints in general. One watch commander said that because

there is no mention of citizen's complaints in the policy for reporting and documenting force, he **never** fills out a service comment form — an SCR — when excessive force is alleged by a citizen, but rather **only** fills out a use of force form — an SUOF. A sergeant at the same station told us that he believes **it is the practice among watch commanders there to complete an SCR for excessive force only "when it's frivolous or fraudulent."** Hence, **the only time a citizen's complaint would be registered is where the watch commander had already concluded that the complaint was frivolous.**

Watch commanders in at least one other station also followed inconsistent practices for citizen's complaints of excessive force made by persons not in custody. Some watch commanders completed **both** an SCR and an SUOF, with the investigation conducted pursuant to the use of force investigation attached to the SCR. Some watch commanders **only** completed an SUOF. It appears that other watch commanders would "go either way," completing **either** an SCR **or** an SUOF on the rationale that they wished to avoid double counting of the same incident by filling out **both** an SCR and an SUOF form.

It is important to note that under any of the practices described above, an investigation is being conducted. Complaining citizens, however, are being treated very differently depending on the station they go to and the watch commander they see. **Some will be treated as having made a complaint of excessive force and others will not. Some will receive notice of the results of the investigation and some will not. Some will be given the right to seek review from the Ombudsman and others will not. Importantly, the statistical data derived from SCRs and SUOFs will not be consistent.**

Deputies expressed concern that the combination of unclear guidance from the Department to watch commanders and the consequent inconsistent practices between stations will lead to inconsistencies in their own records. Some will have citizen's complaints of excessive force whereas others will have no such complaints. This appears to be a valid concern. As noted above, some stations may be completing SCRs only for

force allegations they deem to be frivolous while others may be completing SCRs for the full range of force allegations.

In addition, we were told that **one station's standard procedure, up until January 1994, was not to record citizen commendations as SCRs.** Instead, the station filed written commendations in the personnel file of the deputy but made no written record of a commendation made orally. Commendations are supposed to be duly recorded on SCRs, whether oral or written. Neither the station nor the involved deputy got appropriate "credit" on the Department-wide tracking system for the commendation because of this station's divergent practice.

**The Department must establish clear standards and establish quality control procedures to insure that each station is following the procedures in the same way.**

#### **D. Watch Commanders' Concerns**

We would be remiss if we did not report that watch commanders complain about the investigatory and paperwork burdens imposed in particular by citizen's complaints. We heard frequently from watch commanders that SCR investigations, and to a lesser extent use of force investigations, were "chaining them to their chairs." Some said that they spent "up to 90 percent" of their time on citizen's complaints, with each such investigation taking from two to sixteen hours to complete. Instead of spending their time in the field, and "training deputies to avoid problems," watch commanders reported that they are only documenting and cleaning up problems after they have occurred.

Although we sympathize with these concerns, we do not recommend any changes in procedures at this time for the reasons stated in our last **Semiannual Report**. Also, as we pointed out last time, the perception that citizen's complaints and investigation of them are unduly time-consuming may arise from misperceptions about the amount of investigation or documentation needed. We recommended greater departmental guidance to watch commanders.

In the interim, we are concerned, however, about some of the shortcuts we observed.

We found that some watch commanders were “putting the discretion back into their jobs” and deciding not to fill out an SCR in instances where we believe Department policy clearly called for one. For instance, where a watch commander “clarifies” a Departmental policy to a citizen who has come in to the station to complain, and the citizen states that he or she no longer has a complaint given the clarification, some watch commanders will not complete an SCR. While watch commanders who say they engage in this practice claim to do so rarely, it nonetheless is wrong: the form should be filled out and it should be noted that the matter was resolved.

There is, of course, room for watch commanders’ discretion. That exercise of that discretion, however, begins only **after** the SCR has been completed. It is up to the watch commander to tailor the breadth and depth of the investigation to the situation at hand. Obviously, if a citizen leaves satisfied, no investigation of any moment is warranted, and the form can be filled out accordingly. The file can be open and closed at essentially the same moment. A failure to fill out the form, however, will lead to inconsistencies between stations and under-counting of citizen’s complaints. **More dangerously, failure to fill out the form has the risk of masking instances where the citizen is intimidated or dissuaded from making a complaint and does not leave truly satisfied. Although we did not come across instances of intimidation or dissuasion at these three stations, our Chapter on the Ombudsman suggests these practices have not entirely ceased. Those practices led to the Kolts investigation in the first place. We thus strongly recommend that the Department insist that watch commanders fill out the forms in all instances where a citizen complains, even if the citizen seems to go away happy.**

In order to relieve themselves of some of the paperwork burdens, some lieutenants recommended that investigations be completed by field sergeants. We do not support this suggestion. In the stations we visited, field sergeants were all too rare in the first instance. They should not be pulled from the field.

## E. Deputies' Concerns

Deputies expressed to us a number of concerns arising from new procedures for reporting and documenting use of force and citizen's complaints. One worry is that the information on the system will be inaccurate: there will be mistakes in the input of data and uses of force or citizen's complaints will be attributed to the wrong deputy. In our random review of Employee Profile Reports, we did not find any case of a use of force or citizen's complaint being ascribed to the wrong deputy. Indeed, we found the opposite: we found frequent instances of citizen's complaints, and occasional instances of uses of force, not being reflected on the deputy's Profile Reports.

More importantly, deputies worry that supervisors will not look beyond the numbers of citizen's complaints and uses of force. We have recommended time and again that the Department issue guidelines for use of the computerized information to put those fears to rest. Last February, the Sheriff issued a bulletin intended to ease the fears. Unfortunately, the bulletin apparently did not completely allay the deputies' concerns.

The Department has, however, developed guidelines in recent weeks that should further help allay concerns when it is eventually published. **We are satisfied that the draft of the guidelines we reviewed will in general meet the standards we have articulated for the computerized tracking system or PPI. Our standards are:**

- **The PPI is a tool for inquiry, investigation, and, if necessary, for intervention.** It is **not** a tool for discipline or punishment per se; nor is it the sole means by which promotions, assignments, or transfers should be decided, although patterns of inappropriate conduct over time should influence such decisions in appropriate circumstances. **It is entirely appropriate, however, to determine that a minimum number of founded unit level or IAB investigations disqualify a person from a given position.** For example, it is entirely appropriate to determine that a minimum number of founded investigations for excessive force in a relevant time period disqualifies a person from becoming an FTO.

- **The information on the PPI must be considered in context.** Supervisors should consider the number and kind of force incidents and complaints generated in the context of a deputy's unit of assignment and level of activity. Supervisors should take into account that some assignments will generate more use of force than others. Supervisors should take into account other relevant data, including, among other things, numbers of arrests, commendations, commendable restraint in use of force, the nature and extent of injuries generated by use of force, and whether the citizen's complaints are from known, frequent complainants who present repetitive, frivolous complainants.
- **Unfounded or unresolved investigations, or the mere reporting that force has been used, should never be disqualifying for transfers, promotions, or assignments.** Supervisors should, however, look to patterns of behavior disclosed thereby that may warrant further inquiry or follow-up with a given deputy.

We recognize that deputies' concerns will ultimately only be allayed as they see the tracking information used. The Department should, however, establish clear guidelines that will serve as the foundation upon which supervisors' actions will be made.

We also heard fears from deputies that the Department would not "back them up" and that they were being held to high standards of conduct whereas their supervisors and the brass were not held accountable at all. In our Chapter on Accountability in this report, we describe some hopeful signs that the Department is finally addressing in a responsible way the long-ignored issues of accountability and evaluation of managers and executives. If these new standards are promulgated and rigorously enforced, we believe that the deputies' legitimate complaints about double standards will have been heard. As we have said in the past, however, just because upper management has gotten off too lightly, it does not mean that the standards to which deputies are held should be loosened. The standards for all Department personnel must be rigorous.

Deputies and supervisors express the concern that the tracking of citizen's

complaints and use of force, along with lawsuits, claims, and other measures, are causing deputies to be less active on the job and self-starting in their policing, including a reluctance to use force when clearly warranted. We hear of deputies who will pass up opportunities to look in a proactive fashion for criminals or crimes in progress in favor of simply responding to radio calls as they come in. Based upon our research to date, we cannot conclude that deputies are becoming more reactive, but we urge the Department to keep a careful eye on the topic.

The numbers alone do not provide an answer to the question of whether deputies are becoming less proactive. Observation arrests (“Obs/Arrests”), i.e., those arrests made by deputies while or after observing a crime in progress, are probably the best single indicator of proactivity. Obs/Arrests have gone down in the past three years, but so too have crime rates in general. Further, while Department-wide Obs/Arrests have decreased about 16 percent from 1991 to 1993, they have remained approximately the same percentage of all arrests (55 percent in 1991 and 54 percent in 1993). In the three stations we looked at, arrests in general had decreased 20 percent from 1991 to 1993 in one station, in another they had remained constant, and in the third they **increased** by 6 percent. It is hard to derive a pattern from these variations.

Regardless of whether deputies are in fact becoming more reactive, many deputies assert that this is occurring. This is disturbing, because this perception may become a self-fulfilling prophecy. Many deputies and their supervisors blamed reasons other than the Departmental reforms for the perceived decrease in proactivity; including budget limitations (deputies did not want to make “small” arrests and thereby risk being unavailable for “major” incidents that would otherwise be adequately covered); the “laziness” of certain deputies who use the reform as an excuse for not changing their behavior; and the assertion that newer deputies are simply more “passive” than those hired years ago.

The anecdotes about reactivity were told too frequently to ignore. Deputies often described their peers as “looking the other way,” avoiding situations that might lead to

force so as to keep their record “clean,” and requesting not to be partnered with a deputy who had a history of using force.

We did discover one concrete example of deputies’ refusing to become involved. Deputies were apparently unwilling to help paramedics restrain violent or mentally ill drug users. **The Fire Department complained to one of the stations we reviewed of a pattern of refusals by deputies to assist paramedics when dealing with such individuals.** The stated reason for the deputies’ passivity was their desire to avoid an incident that could be recorded on the PPI. While it appears that such incidents declined or even ceased after the captain issued a policy directive reasserting deputies’ responsibilities, this one example is disturbing if it is an indication that deputies may be shying away from doing their jobs.

A number of watch commanders and supervisors expressed concern that the apparent retrenchment on the part of deputies was not only leading to fewer arrests but could be putting deputies at risk. One example of this concern was articulated as follows: if deputies may be less apt to search suspects for weapons, since the pat-down could lead to reportable force, deputies may be endangering themselves by allowing dangerous suspects to remain armed. It is not clear if deputies are indeed failing to pat down suspects when they could and should, but the concern was repeatedly expressed.

The Department needs to reinforce not only that it wants its deputies to be proactive, but also that it will support its deputies who use appropriate force. As the Department itself sees it, **the ideal deputy is one who is hard-working, productive, courteous and professional in dealings with the public and with each other. The ideal deputy only uses force when and to the degree necessary.** The Department should communicate these standards and then apply those standards consistently.



## *The Department's Collection and Reporting of Station Data*

### **A. Collecting and Reporting SCRs**

Much of the information that is collected at the stations, particularly information on SCRs, is not finding its way to Department reports, and thus the Department cannot effectively use the information at its disposal. On April 21, 1992, the Sheriff summarized his goals regarding the SCRs:

*Compilation . . . will enable the Department to establish the true number of commendations and complaints received from the public, compare the ratio of complaints and commendations received by similar units and by the entire Department, determine the percentage of overall complaints that are frivolous or a nuisance or linked to litigation, track frequent complainants countywide, monitor litigation trends, identify training needs, recognize developing at-risk behavior, establish the need for counseling, and enhance pro-active supervision.*

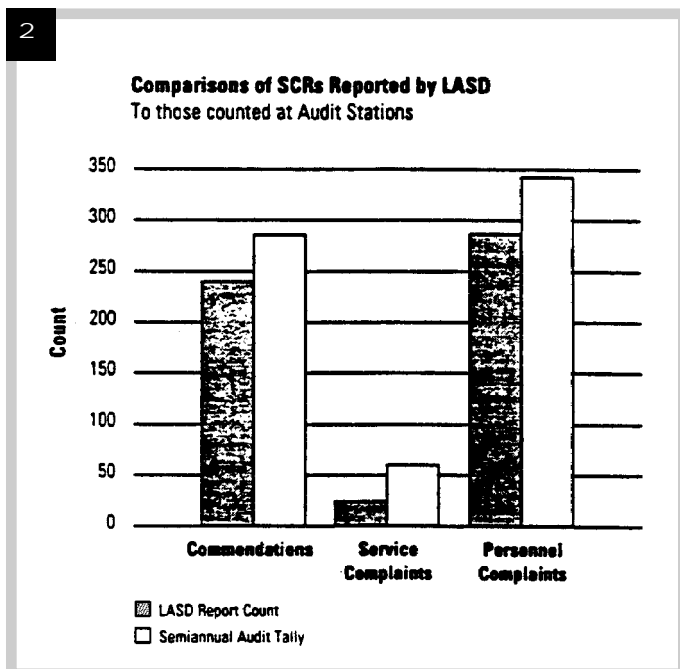
These goals are laudable. Unfortunately, the Department does not yet have in place quality control procedures necessary to insure that the information collected is actually being captured and reported by the Department's systems.

In order to test quality control procedures, we compared the number of SCRs for the three stations we reviewed on Department reports to the actual SCRs on file at each station. For 1993, for each type of SCR — Commendations, Service Complaints, and Personnel Complaints — the Department reports a lower number of SCRs than there are SCRs at the stations. **Approximately 20 percent of the SCRs collected at stations are not apparently included in the Department's reports.** See Table 2. Our estimate of under-reporting of SCRs takes into account the possibility both of double-counting and SCRs that are referred to other stations. We do not have a theory as to why this under-reporting is occurring.

We are more troubled, however, by the large percentage of SCRs that included allegations of force that are not appearing on the appropriate deputy's "Employee Profile Report," the quarterly report provided to captains for all of their personnel.

To test this problem, we looked at the individual Employee Profile for each deputy for whom there was an SCR that included a force allegation. We reviewed all of the SCRs for 1993 and 1994 in which the complainant alleged the deputy used force. There was a total of 87 of such SCRs for all three stations, with 110 deputies implicated. **For almost half of the deputies — 47 percent — no record of the SCR appears on the Employee Profile Report that is designed to report just such incidents.**

We advised the Department of this problem and were gratified by the Department’s diligence and responsiveness. We were less comfortable about the answer itself. The Department confirmed that the SCRs had been received from the stations and that they had been entered onto the database from which the Personnel Profile report is generated, but the Department posited three explanations for why involved deputies did not have an SCR on their Personnel Profile. First, if the complainant does not know the identity of the deputy, a relatively common occurrence, then even if a later investigative report identifies the deputy, the SCR is not amended to reflect that identification. **The fact of the citizen’s complaint against the deputy is thus lost, and it never makes its way onto that deputy’s Personnel Profile.** Second, if more than one deputy is involved,



only the deputy whose name appears in the “involved deputy” space on the form will have the citizen’s complaint show up on a his or her Personnel Profile. The other deputies, whether they were identified on the face of the SCR or in the attached investigation as having participated in the alleged use of

force, do not have the complaint registered on their Personnel Profile even if they may be equally or more “blameworthy” than the so-called “involved” deputy. To attack this latter problem, the Department states that it will redesign the SCR form to allow for multiple involved deputies. Third, there apparently was at least one batch of SCRs that somehow were lost in the transfer to the database from which the Employee Profile Reports are generated. We recognize that the Department is still working with an “interim” system, and that the PPI should be much better. But the reasons behind the gaping absence of such a significant percentage of SCRs must be identified and corrected for any “new” system to start with data that is not hopelessly flawed. In addition, the Department needs to learn from the gaps in the current Employee Personnel Profiles to ensure that the PPI does not have similar problems.

## **B. Collecting and Reporting SUOFs**

There also appear to be similar problems with the integrity of data retention and reporting of use of force incidents.

The Department counts uses of force by incident and not by the number of deputies who actually may use force. Hence, if Deputy A forcibly but properly handcuffs a suspect, Deputy B improperly strikes the same suspect with her flashlight, and Deputy C properly assists Deputy A to restrain the suspect, this is considered as one force “incident.” A use of force incident will appear on each of the deputy’s Personnel Profile, but it is impossible to determine which deputy applied which type of force.

We also performed tests to find out if the Department produced internally consistent records based upon use of force reports. We found the Department did not. We asked the LASD for a summary of use of force reports for the three stations we visited. That summary list was under-inclusive. There were use of force reports noted on Employee Profile Reports that were not on the summary list. We then asked the LASD for a detailed description of force incidents at the three stations. That document contained descriptions

of use of force reports that were missing from the summary list described above, and thus it was more accurate than the summary list. Nonetheless, it was still under-inclusive in that there were use of force reports noted on Employee Profile Reports that were not on the listing. We cannot account for the disparities. The point is that the LASD has data integrity problems that it should address.

We are also concerned that the information collected on use of force incidents for the past three years is not susceptible to being “down-loaded” to the new PPI and apparently the LASD has not yet decided if or how the information will be converted. We also are concerned, as we have noted, by the integrity of the data. We recommend that these problems be addressed quickly. Reports can be only as reliable as the underlying data. Decisions based on faulty reports may themselves be faulty.

## 6 . S t a t u s o f W o m e n i n t h e D e p a r t m e n t

With this report, we begin an in-depth review of issues involving gender equity within the Department. This report will focus particularly on sexual harassment and on affirmative action issues, including recruitment, hiring, assignments, and promotions.

### *Historical and General Background*

There have been women in the Los Angeles County Sheriff's Department since 1911. In that year, Margaret Adams was sworn in as a deputy and assigned to the bailiff's division where she served civil process. This position was created for her by the Sheriff following the death of her husband who had been a Department deputy, and in the absence of any widow's relief program.

Women also began to serve as matrons in the women's jail. In later years, women also began to serve in a sworn capacity in administrative, juvenile investigator, and station desk positions. These women bore the formal title "Lady Deputy." By 1969 there was at least one woman Captain.

In 1972, encouraged by several people studying the feasibility of women in patrol functions, Sheriff Peter Pitchess authorized a pilot program to experiment with the use of women in patrol.

In the pilot program, twenty women underwent patrol orientation. Of these, twelve were assigned to patrol stations, and the remainder were held in reserve in the belief that women might have a high failure rate. In fact, however, not one of the twelve quit during patrol training. Of those twelve original women on patrol, four are still with the Department: Deputy Detective Mary Fran Baker, Sergeant Elaine Minnis, Watch Deputy Kathleen Wade, and Commander Carole Freeman.

Although these officers were expected to discharge all of the duties of their male colleagues, Sheriff Pitchess believed that women should "remain women." As a result, women in patrol were required to wear a uniform consisting of a straight skirt, a white

blouse, and high heels. They were issued no field jacket “though we were freezing to death.” As it was considered not “ladylike” for a woman to be seen carrying a gun, these officers were required to carry their guns and ammunition in a purse especially designed for the purpose. One of the early women stated, “We looked more like elevator operators than Deputy Sheriffs.”

These early women on patrol chafed under the limitations on movement and the extra dangers posed by the women’s uniform. A number believed that carrying their gun in the “purse” made it dangerously inaccessible. The women quickly developed their own adaptations, including wearing low-heeled shoes, carrying their guns in their belts, draping their handcuffs over their belts, and carrying their ammunition in improvised pouches. When one woman officer in Long Beach was photographed carrying her gun in her belt, Sheriff Pitchess allegedly became enraged and threatened to fire her.

As part of the pilot program, the women met regularly with the Chief of the Patrol Division and raised their concerns. Various unsuccessful design adjustments were attempted, including a carcoat length jacket and a jacket with a built-in gun holster, again so that the gun would not be visible.

By 1975, women were issued the present uniform designed especially for women, including a “Sallie Brown” ammunition belt to replace the ill-fitting “Sam Brown” belt designed for men. The women in the pilot program were successful in establishing their fitness to undertake patrol functions. This required overcoming questions from a number of quarters. There was great concern that the wives of male deputies would react negatively to having women in the radio cars, and the early women deputies felt that they were required to “pass muster” with the deputies’ wives. In addition, the radio operators, who were mostly female themselves, complained that they could not understand the women deputies’ voices. Finally, other sworn women in the Department who were not interested in going on patrol were worried that they would be required to do so. It was soon decided, however, that they would be “grandmothered in” to their positions unless

they volunteered to go on patrol. Prior to this pilot program, female deputies' training at the Sheriff's Academy was shorter than that of male deputies. Commencing at about the time of the pilot program, Academy training for men and women was combined.

In the 1970's there were severe barriers to the promotion of women. In 1972, Margaret Snelson sued the Department when she was passed over for a promotion from deputy to sergeant although her scores were higher than those of men who were promoted. This lawsuit led to her promotion to sergeant and the abolition of a separate promotional list for "Lady Deputies."

In 1976, the first woman lieutenant, Jean Alley, was assigned to a patrol station as a Watch Commander. In 1981, she became the first woman to command a patrol station upon her promotion to captain.

In 1976, Carole Freeman was the first woman assigned to a patrol station as a field sergeant. In 1979, Shirley Browning became the first woman assigned to Arson/Explosives, and in 1981, Julie Cabe was the first female helicopter pilot assigned to Aero Bureau.

## *Gender Equity Committee*

Since our last report, the Department has established a Gender Equity Committee. The Committee was formed for the sole purpose of responding to the report recently issued by the Women's Advisory Council to the Los Angeles Police Commission entitled "A Blueprint for Implementing Gender Equity in the Los Angeles Police Department" (October 1993).

### **A. LAPD Women's Advisory Council Report**

The LAPD Women's Advisory Council was formed by the Police Commission in September 1992 "to develop a blueprint for reversing the LAPD's culture of gender bias" which the Christopher Commission had identified as critical to achieving the goals of eliminating excessive force and bias and moving to community-based policing.

The Women's Advisory Council membership includes LAPD officers, LAPD staff, representatives of community groups, external experts, and experts from relevant City agencies including the Commission on the Status of Women. This broad-based group spent a year conducting extensive interviews, reviewing research, and analyzing Departmental policies in order to develop specific recommendations for immediate action which the Department should undertake.

In its "Blueprint," the Advisory Council made 180 specific recommendations to reduce gender bias within the Department. These recommendations fall into the categories of General Recommendations; Recruitment, Hiring and Training; Promotion, Job Assignment and Performance; Sexual Harassment and Police Response to Violence Against Women.

#### **B. Sheriff's Department Gender Equity Committee**

Unlike the LAPD's Women's Advisory Council, the Department's Gender Equity Committee is composed entirely of Department personnel. It is chaired by Commander Carole Freeman and is composed of sixteen sworn officers (primarily lieutenants) and three civilian management personnel.

The charge of the Gender Equity Committee is limited to reviewing Departmental policies and practices with respect to each of the "Blueprint's" 180 recommendations. This review will be conducted largely in the fashion in which the Department conducted an internal review of the specific recommendations made in the report of the Christopher Commission.

Each recommendation in the "Blueprint" has been assigned to a small group which is charged with collecting data, determining the similarities and dissimilarities between the Department and the LAPD, and developing recommendations for improvements in Departmental policies, where needed. These reports will be reviewed by the whole committee, which will then circulate draft reports to appropriate people within the



Department for substantive input. The target date for completing the reports and presenting a comprehensive set of recommendations to the Executive Planning Committee was set for late November.

Regarding the “Blueprint,” one high level officer stated that the comparison with LAPD was likely to be very favorable for the Department: “My sense of this is we’re so far ahead of LA” that the report will not be very critical. The Committee does, however, state that it will make recommendations in areas in which the Department can make improvements on women’s issues.

In that the Committee had not yet produced any final or even interim reports, we will in future reports review their work in responding to the “Blueprint.”

## *Bouman Consent Decree*

A great deal of the Department’s work on gender equity issues to date has been a result of **Bouman et al. v. Block et al.** The parties in that action entered into a Third Amended Consent Decree on August 2, 1993.

### **A. Terms of Consent Decree**

#### *1. Hiring and Promotional Practices*

With respect to hiring and promotional practices, this decree:

- (a) enjoined and restrained the Department
  - (1) “from engaging in any employment practices which discriminate on the basis of sex”;
  - (2) from “using any promotion selection device for Sergeant that excludes females disproportionately and has no job relatedness”; and
  - (3) from using promotional exams which do not comply fully with federal and state law.

It further required the Department to :

- (b) notify personnel that new validated selection procedures for sergeant would be used;
- (c) prepare an equal employment opportunity policy;
- (d) file monthly reports with the Court regarding gender breakdown of promotions to sergeant;
- (e) maintain appropriate records to ensure compliance; and
- (f) make promotions to sergeant “so as to ensure that the percentage of females promoted is no less than the percentage of females in the deputy ranks” “[u]ntil the Defendants have validated selection procedures” acceptable to the Court.

## *2. Sexual Harassment*

In the Third Amended Consent Decree, the Department agreed “to continue to implement and enforce a policy regarding sexual harassment which shall comply fully with the requirements of both federal and state law,” to notify employees of the policy, to follow specific procedures with respect to investigating complaints, to conduct training for all sworn personnel “to sensitize them to the concerns of and issues pertaining to the management of a culturally diverse work force”; and to take disciplinary actions when appropriate.

## *3. Other Provisions*

In other provisions, the Department agreed to take specific steps to increase opportunities for advancement of female deputy sheriffs, minorities and others and to establish a Cultural Diversity Panel to “report to LASD’s Executive Planning Council during the term of the Amended Consent Decree.”

## **B. Order to Show Cause Regarding Contempt**

In July 1994, Plaintiffs in **Bouman** filed a Petition requesting that the Department be

adjudged guilty of contempt of court for its alleged failure to comply with the Amended Judgment and Third Amended Consent Decree as follows:

- (1) Failure to adopt or enforce a sexual harassment policy which complies with federal and state law;
- (2) Failure to fill 40 of the 170 sergeant vacancies it agreed to fill;
- (3) Promotions to sergeant through an unvalidated examination of a lower percentage of females than the percentage in the Department;
- (4) Failure to develop a validated sergeants' examination;
- (5) Imposition of unvalidated requirements for selection of sexual harassment training instructors; and
- (6) Failure to file certain reports with the Court.

An Order to Show Cause was entered by the **Bouman** court and the matter was heard on October 31, 1994.

### **C. Joint Status Report**

Prior to the October 31 hearing on the Order to Show Cause Regarding Contempt, the parties submitted a Joint Status Report to apprise the Court of efforts made by the Department to comply with the Judgment, Consent Decree, and other orders. The Joint Report advised the Court of the parties' agreement as follows:

#### *1. Anti-Sexual Harassment Policy*

In August 1994, the Department issued to all employees a manual which set out the Department's sexual harassment policy. In the Joint Report, the Department agreed with the **Bouman** plaintiffs that the recently issued policy did not meet the minimum criteria set forth in state and federal law and agreed to revise and republish the policy. No specific date for the republication was included or subsequently ordered by the Court.

## *2. Promotions to Sergeants*

The parties reported that 158 of the anticipated 250 appointments to Sergeant had been made by September 30, 1994. An additional 25 appointments are expected by December 31, 1994, for a total of 184. Promotions have been slower than expected due to the decline in the economy and consequent County budget problems.

## *3. Next Sergeants' Examination*

The parties reported that due to the slow rate of promotions, the existing eligibility list is still in use. As a result, no new examination has yet been developed. The revised deadline for the development of a new examination is the end of 1994.

## *4. Selections for Sexual Harassment Instructor*

Following the objection of Plaintiffs' counsel, the Department revised the selection procedures for these instructor positions by eliminating the requirements of patrol experience, a physical agility test and a medical examination.

## *5. Ombudsperson/Career Resources Center*

The parties reported that the office has been established as required by the Third Amended Consent Decree.

# *Sexual Harassment*

In August 1994, the Department revised its Manual and disseminated its new sexual harassment policy (the "Policy") to all personnel as required by the Third Amended Consent Decree. In October 1994, the Department agreed, as stated in the **Bouman** Joint Status Report, that the Policy did not meet certain state and federal legal mandates and agreed to revise and republish an amended policy. The need to reissue the Policy is most unfortunate and should have been avoided. Reissuance has the potential of creating confusion on a highly sensitive topic. Moreover, training has already occurred utilizing

the August 1994 Policy, and whether the **Bouman** plaintiffs and the **Bouman** court will demand retraining is presently unknown.

It does not appear that the mandated changes in the Policy will affect the process and procedures by which a sexual harassment complaint is reported, investigated, and resolved. Thus, in this section of the report, we will focus on specific provisions of the existing Policy, review recent sexual harassment complaints received by the Department, and explore Departmental reactions to the Policy and the whole issue of sexual harassment in the workplace.

## **A. The Policy**

The Policy defines sexual harassment and provides examples of conduct which may constitute sexual harassment. All Department members, whether sworn or civilian, are covered by the Policy. The procedures for reporting, investigating, and resolving complaints of sexual harassment are described.

### *1. Reporting a Complaint*

Under the Policy, Department members are to report complaints of sexual harassment to any supervisor. The Department recommends that complaints be made directly to the immediate supervisor of the alleged harasser. If this is not possible for any reason, the complaint is to be made to the complainant's immediate supervisor. If neither of these options is possible, the complaining party is to direct the complaint to any Department supervisor. If confidentiality is a concern, the complainant may report complaints of sexual harassment directly to either the Ombudsperson/Career Resources Center ("OCRC") or the IAB. The Policy also reminds personnel that they always have the option of reporting directly to the Federal Equal Employment Opportunity Commission or the California Department of Fair Employment and Housing.

## *2. Supervisor's Responsibilities.*

When a complaint of sexual harassment is received, the supervisor is to make immediate contact with all concerned unit commanders. In all cases, the supervisor must report the complaint, in a written memorandum, to those unit commanders. In all cases, a supervisor is required to inform the OCRC by written memorandum, with a copy to the reporting supervisor's unit commander. The OCRC is then required to make an initial contact with the complainant.

## *3. Unit Commander's Responsibility*

Upon notification of a complaint, unit commanders are responsible for the following:

- (1) assuring complainants that their complaint will receive equitable supervisory attention;
- (2) notifying the OCRC, which will then make the initial contact with the complainant;
- (3) taking appropriate measures to avoid a recurrence of the alleged misconduct;
- (4) contacting and advising the alleged harasser that a complaint has been filed and that an inquiry has been initiated;
- (5) advising the alleged harasser of the Department's sexual harassment policy and emphasizing the prohibition against retaliation; and,
- (6) monitoring to ensure that retaliation against the complainant or the alleged harasser does not occur.

## *4. Documentation of the Complaint*

All verbal complaints of harassment must, according to the Policy, be reduced to writing, either by the complainant or the person receiving the complaint. If the complainant is unwilling to sign the written statement, a second supervisor is to witness the refusal.

### *5. Time Frame for Responding to Complaint*

The Policy requires unit commanders and supervisors to respond to a complaint with “extreme priority.” Likewise, the OCRC is required to make initial contact with the complainant with “extreme priority.” We recommend that all responsible Department members respond to complaints with “extreme priority,” but in no case more than three (3) working days from the date the complaint is received.

### *6. Recording the Complaint*

Under the Policy, all reports of sexual harassment are to be recorded by the OCRC. Informal complaints are to be documented and tracked by the Ombudsperson, but no entry is made in the Personnel Performance Index (“PPI”).

In the case of formal complaints where the alleged harasser is known, an entry is to be made by the IAB into the PPI. If the alleged harasser is not known, an entry is made for the specific location or unit detailing the complaint. These reports are to be monitored, and the appropriate managerial personnel are to be notified when there is evidence of a pervasiveness of harassment or an indication of hostile environment in any one location or assignment.

We recommend that informal complaints documented by the OCRC also be monitored, regardless of the database or tracking mechanism that is used. While we recognize that not every complaint may warrant entry into the PPI, the implementation of a tracking mechanism for informal complaints, as well as formal ones, will help identify repeat Policy offenders and cases which may call for more than informal resolution.

At the time of this report, the OCRC is in the process of implementing an electronic mechanism for tracking complaints. Presently, however, the OCRC is limited to a manual compilation of data. We are hopeful that at the time of the next report the electronic tracking mechanism will be in place.

## *7. Investigating Complaints*

Pursuant to the Policy, the OCRC is to conduct the initial complaint assessment with respect to all sexual harassment complaints. Previously, we understand that the IAB was responsible for handling the initial screening interviews. A high ranking supervisor from the IAB believes that the Policy directive to have the OCRC conduct the initial screening interview is a positive change because complainants may be reluctant or fearful to lodge a complaint with the IAB.

Since August 1994, the OCRC has experienced a 137 percent increase in sexual harassment complaints. Both the IAB and the OCRC reported that this sharp increase in complaints was expected in light of the ongoing sexual harassment training and the dissemination of the Policy. As discussed below, the vast majority of complaints have been made by women complaining of hostile environment harassment.

### **a. OCRC personnel**

The OCRC has the authority to hire two operations assistants, one supervising operations assistant and one clerk to be responsible for the initial screening of sexual harassment complaints. We have learned that the OCRC will be conducting interviews for these positions in December 1994. Because these positions are not yet filled, the IAB is still conducting the initial screening interviews.

The OCRC made the decision to hire civilians to fill these new positions for a number of reasons. First, the OCRC believes that sworn personnel are not necessary at the initial screening stage because this is the preliminary assessment stage, not a formal investigation. Secondly, it is believed that civilian personnel will be longer term employees of the OCRC. Sworn personnel are more likely to move on to other assignments after a shorter period of time. It is the OCRC's desire to retain personnel who develop an expertise in this area. Finally, there is a perception that complainants will be more willing to confide in civilian interviewers. We concur with the rationale of the OCRC in selecting civilians for these positions.



**b. OCRC's screening interview**

In accordance with the OCRC's policy, female investigators conduct the initial screening interviews when the complainant is a female. We recommend a more flexible policy that includes asking the complainant whether he or she would rather speak to a male or female investigator.

As part of the initial screening interview, the complainant is asked how he or she believes the matter should be resolved. According to the OCRC and the IAB, in a majority of the cases, the complainant requests that the matter be handled informally. If appropriate, those cases will be resolved informally. Under the Policy, the alleged harasser's unit commander is then responsible for conducting the informal resolution or mediation.

In those instances where the complainant desires a formal investigation, the IAB will conduct a formal investigation. When charges made by the complainant are too egregious to be resolved informally, regardless of the wishes of the complainant, the matter is similarly turned over to the IAB for investigation.

We are concerned that the Department's Policy places too heavy a burden on the complainant as to the appropriate resolution to a charge of harassment. Allowing the complainant to decide how the matter should be resolved could result in inconsistent discipline being administered for similar conduct, depending upon the desires of the complainant. Further, the perceived responsibility of expressing how the matter should be resolved may cause some complainants to not come forward at all, or to come forward with improper motives.

*8. During the Investigation*

Under the Policy, if there is a situation which requires an immediate separation of the parties, the complainant should only be voluntarily transferred to a comparable position of equal hours, distance from home, etc. To maintain maximum confidentiality, any such voluntary transfer of a complainant is to be arranged directly by the Ombudsperson and

through a designated staff member who will coordinate the transfer.

If the severity of the complaint does not require that the alleged harasser be relieved of duty, then it is desirable to make only voluntary transfers or reassignments. If neither party voluntarily accepts a transfer or reassignment, the decision will be made by the Division Chief, who is to balance the rights of the parties, the situation, and the needs of the Department. In most cases, the alleged harasser should be transferred or reassigned, and not the complainant. Any non-voluntary transfers or reassignments are temporary pending the outcome of the investigation.

In future reports we will take a closer look at transfers during investigations, with specific emphasis on which party is being transferred, whether the transfers are voluntary and the effect of the transfers, if any, upon the parties, (i.e., retaliation).

#### *9. Resolution of Complaints*

Following completion of the investigation, the complainant and the alleged harasser are advised in writing of the Department's findings. If an investigation confirms that harassment occurred, corrective action is to be taken. Founded complaints or counselings are to be noted in the following performance evaluation of the harasser and are to be given consideration in all elective transfer or promotion decisions.

Most complaints of sexual harassment are resolved informally. Informal resolution may include a meeting between the complainant and the alleged harasser with the unit commander, or the unit commander may have a counseling session with the alleged harasser alone. The unit commander, in accordance with the Policy, is required to advise the alleged harasser of the complaint and the Policy provisions, including specifically the prohibition against retaliation.

We are aware of no guidelines for unit commanders regarding how informal resolution of sexual harassment complaints is to be conducted. Since all unit commanders are to have received sexual harassment training, and because each complaint is unique, we

are not suggesting the implementation of formal guidelines at this time.

The Policy requires the OCRC to maintain contact with all complainants until 90 days after the complaint investigation has been completed and adjudicated. The purpose is to provide an additional mechanism to safeguard against retaliation to complainants, retaliation that is prohibited by law. We commend this Policy directive and believe such follow-up is very important.

## B. OCRC Files Reviewed

The OCRC received no complaints of quid pro quo sexual harassment from April through September 1994. There were twenty-seven complaints of hostile environment harassment and four gender discrimination complaints made during that same time period. Of the nineteen hostile environment cases received by the OCRC in August and September, eight were resolved informally, and eleven were referred to the IAB for investigation. With regard to the four gender discrimination complaints received in the second and third quarters of 1994, three were resolved informally and one is under investigation by the IAB. All of these gender discrimination complaints were made by female deputies. No sexual orientation complaints were received by the OCRC from April to September. In the category of “other” discrimination, twelve complaints were made to the OCRC in the second and third quarters of 1994, ranging from religious discrimination to hazing to stalking to unfair promotion practices.

Types of Allegations Received by the OCRC April through September 1994	
Sexual Harassment/ Quid Pro Quo	0
Sexual Harassment/ Hostile Environment	27
Discrimination:	
Gender	4
Ethnic	2
Sexual Orientation	0
Age	0
ADA/Disability	2
Pregnancy	0
Other	12
Non-discrimination	9

We discussed eleven hostile environment cases with the OCRC, seven of which were resolved informally and four of which are currently under investigation by the IAB. Of the four cases that are being investigated by the IAB, one involves writings of a sexual nature and three involve offensive physical contact.

In future reports we hope to explore issues of retaliation complaints made to the OCRC, as well as the OCRC's timeliness in investigating and disposing of sexual harassment complaints.

### **C. Internal Affairs Bureau**

The IAB is charged with investigating all complaints of possible policy violations that are made against Department personnel. Those complaints include charges of discrimination and sexual harassment. Criminal complaints made against members of the Department are investigated by the ICIB.

The role of the IAB is to investigate the factual circumstances of an incident. The IAB does not make any conclusions as to whether a policy violation has in fact been committed. Upon receipt and review of IAB's fact-finding package, it is the unit commander who is responsible for determining whether a policy violation has occurred and, if so, what discipline should be imposed.

Presently, there are thirty investigators in the IAB, including five female investigators. All of the IAB investigators are sworn personnel and have received sexual harassment training. It is the IAB's policy to use a female investigator when a complainant of sexual harassment is a female. If the complainant is male, the investigator may be male or female. As with the OCRC, we recommend that the IAB investigators ask the complainant whether he or she would prefer to speak with a male or female investigator.

An IAB representative recalled one instance where a male subject complained of bias on the part of the female IAB investigator who investigated a complaint made against him by a female complainant. A review of the IAB investigation revealed no bias on the part of the investigator.

### *1. Investigation of Complaint*

The Policy requires the IAB to conduct and complete its sexual harassment investigations within 90 days of receipt. Following the conclusion of the IAB investigation, the information gathered is assembled in a fact-finding package and forwarded to the alleged harasser's unit commander. The unit commander then has 40 days to process the disposition.

When the fact-finding package goes to the unit commander, the IAB includes a list of possible policy violations. This list is then pulled from the package by the unit commander and replaced with his or her conclusions, including disposition and recommendation for discipline. The IAB reviews the unit commander's disposition and recommendation to ensure that the disposition is supported by the investigation.

According to the IAB, all of its cases are monitored on a monthly basis to ensure that they are handled in accordance with the time limits identified above. In future reports, we will also focus on the IAB's timeliness in investigating and disposing of sexual harassment complaints.

### *2. Disposition of Cases*

There are four possible dispositions of the IAB cases: (1) founded — the unit commander determines that the conduct occurred and discipline is imposed; (2) unresolved — the unit commander cannot determine whether the conduct occurred; (3) unfounded — the unit commander determines that the preponderance of the evidence indicates that there has been no policy violation; and (4) exonerated — the unit commander determines that the alleged conduct never occurred.

The IAB is advised of the disposition and discipline, if any, of all matters which it investigated. Once the IAB is informed, a Letter of Intent is sent by the IAB to the alleged harasser regarding the disposition. The alleged harasser then has the option to grieve the disposition through the Department's grievance procedures. After exhausting the grievance procedure, a Letter of Imposition of the findings and discipline is sent to the alleged harasser.

### *3. IAB Files Reviewed*

Our review of sexual harassment files was based upon an IAB summary report of the sexual harassment files it has opened. **In several instances, discrepancies were found between the summary report and the actual case file. We are, therefore, somewhat concerned about data accuracy. The thoroughness of the IAB's investigation into the cases we reviewed was, however, quite impressive.**

Since our last review, the IAB reports eight new sexual harassment investigations. Four of these cases were either under investigation at the unit for disposition at the time of our review, and the files were therefore unavailable to us. Of the remaining four new files, the IAB summary report indicated the dispositions as follows: one founded case, one unfounded case, one unresolved case, and one closed case. Upon review of these four files, however, one case designated as unresolved on the IAB's summary report was identified as unfounded in the actual case file.

The founded case involved a non-sworn female harasser and a non-sworn female victim. The complainant complained of sexually explicit comments, questions and remarks regarding sexual orientation.

The case identified as unresolved on the IAB's summary report, but unfounded in the case file, involved a female non-sworn harasser and a non-sworn male victim. The victim complained of sexually inappropriate comments. No discipline was imposed.

Thus, of the two new cases we reviewed, the alleged harassers and victims were all civilians. The conduct in both cases involved verbal comments of a sexual nature. One case involved a male victim, and both cases involved female subjects.

Of the previously unavailable or incomplete files that we were able to review for this report, two were unfounded, four were founded, two were unresolved, and two are shown on the IAB's summary report to be pending. Of these two pending cases, one was unavailable and, the other, upon review of the case file, was closed. The alleged harassers in these cases included one female supervisor, eight male deputies, three male

sergeants, and one unidentified male sworn officer. Some of the cases involved more than one harasser. The victims included five female deputies, one unidentified female sworn officer, and three female civilians. Of these cases, all involved verbal conduct, and one involved both verbal conduct and physical contact.

One of the founded cases involved a female civilian complainant and a male deputy subject. The complainant complained of sexually explicit questions, comments and physical contact of a sexual nature. The disposition was twofold: as to the sexual harassment claims, the unit commander determined that those charges were unresolved. However, during the course of the investigation the IAB learned that the harasser had made several false statements and obstructed the investigation. The unit commander determined that the claims of false statements and obstruction of the investigation were founded.

One file we reviewed was not included in the previous **Semiannual Report**, but, based on the case number and the date it was open, the matter should have appeared on the IAB summary report. This case involved a male deputy harasser and a female civilian complainant who alleged she had been sexually assaulted. The matter was unresolved because, following the criminal investigation by the ICIB, the complainant requested that the investigation be terminated, and the IAB's investigation was inconclusive as to the voluntary nature of the complainant's participation.

Based upon our review, it appears that cases are termed "unresolved" when the allegations involve one individual's word against another's, and there are no witnesses. We generally believe that the discipline, or lack of discipline, imposed by the Department was appropriate and consistent based on the conduct alleged and the evidence revealed during the IAB's investigation. Discipline was in the twenty- to thirty-day suspension range.

#### **D. Perceptions of Female Department Members Regarding Sexual Harassment in the Department**

Women in the Department have a wide range of views regarding the subject of sexual

harassment and the effect of the current Policy. In general, some women believe that sexual harassment is ongoing and will continue to be an issue. Many women believe that harassment occurs in the Department because men do not believe that women are as competent or capable as men. Some women simply tolerate the harassment, viewing it as part of the job, while other women take matters into their own hands by confronting the harasser and the harassment. Still other women are believed to file what may be frivolous claims, either to get rich or to get ahead in the Department.

### *1. Management and Supervisors*

Harassment is seen as a product of the “ol’ boy” environment. It is also viewed as a generational issue, with the more senior female personnel seeming to have less tolerance for sexual harassment concerns of younger female personnel. This is a concern for two reasons. First, management and supervisory level personnel have legal obligations to report harassment and to ensure that the Department’s policy is enforced. Managers and supervisors are responsible for maintaining a workplace free of harassment. Secondly, if more senior females in the Department have little tolerance for sexual harassment concerns of lower ranking females, these junior women have few avenues for support or guidance.

Lower ranking women view upper management, which is predominately male, as not caring deeply about the Department’s sexual harassment Policy. The perception is that when the more senior personnel joined the Department, they did not expect to work with women on an equal footing and, therefore, do not appreciate or seem concerned with the problems that women have. Furthermore, women with more seniority are viewed as more accepting or more willing to condone certain behavior, whereas the younger, less experienced females are less accepting of similar behavior.

There is a higher expectation for a harassment-free work environment with younger, lower level females. Older and more experienced women seem more troubled by the



increased awareness of sexual harassment issues. These women believe that one must have thick skin to work in the Department. If anyone, especially a woman, is oversensitive about anything, it is viewed as a weakness.

With respect to supervisory issues, it is the perception of some lower ranking females that there are issues that male supervisors are hesitant to handle with female subordinates because of the fear of sexual harassment complaints. Male supervisors want female supervisors to handle what they perceive to be “female issues.” Thus, female supervisors are left handling situations involving male *and* female issues, while male supervisors tend to shy away from issues involving subordinate females. The more progressive male supervisors, on the other hand, will ask female supervisors to sit in on discussions they have with their female subordinates.

## *2. Other Sexual Harassment Concerns*

Many female officers have a fear of false or frivolous sexual harassment complaints, as well as abuse of the Policy. Higher ranking females are concerned that women may take advantage of the Policy and use it as a weapon to get ahead. According to some higher ranking females, the increased awareness of sexual harassment in the Department is creating more problems for women than it is helping. Others believe that the increased awareness plays into the “male agenda” by casting women as victims who must be protected.

One high ranking female commented that as a result of the increased awareness and mandatory sexual harassment training, half of the men in the Department are afraid to talk to women, and the other half simply believe that the sexual harassment rules do not apply to them. For example, some male supervisors, who have an obligation to report sexual harassment, will do so when their subordinates are involved, yet they are alleged to regularly violate the Policy themselves. There is a perception by some lower ranking females that there is little, if any, accountability regarding supervisors who violate the Policy.

### *3. Repercussions for Reporting Harassment*

Some women see harassment as a workplace hazard. They believe that complaining of sexual harassment creates a potential barrier to promotion because it is viewed as a sign of weakness. If a woman complains of harassment, her supervisor will view her as less capable than other personnel in that she cannot handle the job or the pressures associated with it. More notably, women perceive that a man's promotion is not impacted by a complaint of sexual harassment against him, but a woman's promotion is negatively affected by making a complaint of harassment.

A high ranking female stated that there are problems with retaliation against complainants of sexual harassment. She knows of at least one instance in which a female complainant confided that she would not come forward again with a sexual harassment complaint because of the retaliation she feared she would endure. This same female officer recognized that retaliation can be subtle and difficult to detect. She noted retaliation could be in the form of harm to one's reputation, and reputation is very important in the Department.

### *4. The Handling of Complaints*

A high ranking female stated that there is a disagreement in the Department as to whether all sexual harassment complaints should be reported directly to the OCRC. The perception is that the unit commander is removed from dealing with the issue directly. Thus, some personnel do not report complaints to the OCRC because they believe that the matter will be taken out of their hands. They perceive that by formalizing the complaint process, decisions are left outside of the unit which could and should be resolved within the unit. It was this woman's opinion that many of the issues could more easily and efficiently be resolved in the unit, without outside interference. She further stated that formalizing the Policy has resulted in polarization.

This information is certainly disturbing. In essence, we have learned that some units

do not follow the Department's established Policy by reporting complaints to the OCRC because they want to handle the matter themselves. Choosing to ignore the Department's Policy can have significant ramifications. Sexual harassment policies are carefully drafted to comply with specific and numerous legal requirements, and units that make their own rules do so to the detriment of the entire Department. A lower ranking female also expressed concern with the channeling of complaints to the OCRC. She noted that the location of the OCRC, in the lobby of Department headquarters, is seen as a potential barrier to making a complaint. These appear to be valid concerns.

#### *5. Sexual Harassment Training*

A higher ranking female commented that the Department is simply tired of mandatory training. She also asserted that the men resent mandatory training sessions. As a result, this female believes that relationships between men and women in the Department have become strained.

The general perception is that individuals who understand what sexual harassment is about do not need the training, and those who do need it, miss the point. Some persons believe that the latter individuals, regardless of the amount of mandatory training, will not change their behavior.

### **E. Accountability**

#### *1. The OCRC*

As required by the **Bouman** Consent Decree, the OCRC provides executive personnel with a quarterly report that describes the types of cases that have been handled, as well as the number of complaints made. We highly recommend that the OCRC continue to provide these reports to executive personnel, even beyond the time limits of the Consent Decree.

## *2. The IAB*

The IAB provides statistical analysis of its caseload to the Executive Office for the Department's Annual Statistical Report. The analysis is a breakdown of the number, the types, and the resolutions of cases for a given time frame. IAB does not prepare any interim reports, unless members of the Executive Office specifically request such information.

## **F. Sexual Harassment Training**

Sexual harassment training of Department personnel is ongoing. During the third quarter of 1994, the Department reports that sixty deputies, forty-five sergeants, seventeen lieutenants and one civilian were trained. All Department executives have now received sexual harassment training.

We reviewed the sexual harassment/discrimination workbook that is distributed to supervisors as part of the mandated training. We are generally impressed with the Department's thorough coverage of the subject matter, particularly the sections of the workbook that focus on supervisors' duties and liabilities with respect to sexual harassment.

We agree with the statements of The Women's Advisory Council to the Los Angeles Police Commission as stated in its report, "A Blueprint For Implementing Gender Equity in the Los Angeles Police Department." Department personnel, particularly supervisory staff who are responsible for receiving complaints of sexual harassment and for providing a harassment-free work environment, must be exposed to training on this issue in a range of professional contexts. A single, isolated training session on sexual harassment is not likely to change attitudes and behavior. As suggested by The Women's Advisory Council, training versions should be designed in modules, for example, twenty minutes, one hour and two hour versions for various contexts in which staff convene throughout the year. Continuous training will serve to reinforce the Department's commitment to eradicate sexual harassment.

## Affirmative Action

### A. Current Departmental Demographics

As of October 27, 1994, 12.7 percent of all sworn Departmental personnel were women. This represents a slight increase, up from 12.3 percent, since our **Second Semiannual Report**. Table 2 compares departmental gender demographics in March 1994 and October 1994.

A comparison of percentages of women by rank, also set out in Table 2, similarly reveals only slight changes. Minor increases occurred in the Sergeant rank, due to action taken by the Department pursuant to the **Bouman** Consent Decree, and in the Deputy rank.

**We note, however, that this Table antedates a very recent announcement of significant promotions, including the elevation of commander Helena Ashby to chief. Additionally, there are exams currently taking place that will offer the Department an opportunity to promote more women and minorities.**

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#### Breakdown of Sworn Personnel By Rank and Sex

	October 27, 1994				March 29, 1994		
	Total	# of Women	% of Women	Numerical Change	Total	# of Women	% of Women
Sheriff	1	0	0		1	0	0
Undersheriff	1	0	0		1	0	0
Asst. Sheriff	2	0	0		2	0	0
Chief	8	0	0		7	0	0
Commander	20	3	15.0	+ 1	16	2	12.5
Captain	54	5	9.3	- 1	50	6	12.0
Lieutenant	305	21	6.9	- 1	290	22	7.6
Sergeant	933	86	9.2	+ 5	896	81	9.0
Deputy IV	100	5	5.0	- 1	97	6	6.2
Deputy	6421	873	13.6	+ 85	5945	788	13.3
Deputy Trainee	141	18	12.8	+ 16	40	2	5.0
<b>Total</b>	<b>7986</b>	<b>1011</b>	<b>12.7</b>	<b>+104</b>	<b>7345</b>	<b>907</b>	<b>12.3</b>
Bonus Deputy I *							
All	1279	140	10.9				
FTO **	81	1	1.2	- 8	198	9	4.6
Bonus Deputy II *	133	19	14.3				

\* Included in Deputy Totals above.

\*\* As of November 9, 1994.

The most disturbing change since March is the reduction in FTO ranks **from ten women** (4.6 percent of all FTOs) **to one woman** (1.2 percent of all FTOs).

Departmental representatives point out that FTO assignments last only as long as an FTO has a trainee, so that, for example, one is no longer an FTO when one's trainee transfers to a different unit, completes field training, or leaves the Department. They also point out that women are well-represented in other Bonus I positions which are permanent and as helpful to upward mobility as are the FTO positions. We are very concerned, however, that trainees are not having the opportunity to be trained by FTOs who represent even existing gender diversity within the Department.

## B. Comparison to Los Angeles Police Department

The Department believes that it is recruiting and promoting women aggressively. Furthermore, given its long history of utilizing women officers in custody functions and its relatively early use of women on patrol, it is reasonable to expect that the Department would have a higher proportion of women officers than large police departments.

3

**Comparison of Gender Make-Up of Los Angeles Police Department and Los Angeles County Sheriff's Department**

	Total % of Women	% of Women Line Officers	% of Women at Command Level	Total Size of Department
L.A. County Sheriff's Department	12.4	13.1	8.8	7305
L.A. Police Department	15.3	18.5	8.7	7687

Source: American Civil Liberties Union of Southern California, "Of the Community and for the Community: Racial and Gender Integration in Southern California Police and Fire Departments" (October 1994).

It is useful, therefore, to compare the gender composition of the Department to that of a similar law enforcement agency. In this comparison, the Department does not fare well. A recent report comparing the Department to the agency closest in size and geography, the Los Angeles Police Department, found the overall Departmental percentage of women, at **12.4 percent**, to be **significantly lower than the LAPD percentage of 15.3 percent**. See Table 3.

The comparison of the Department to the Los Angeles Police Department is particularly useful, for the two departments are similar in size and compete for hiring in the same geographic area. When the two departments are compared **by participation of women in similar functions**, the Sheriff's Department fares even less well. The LAPD does not provide the custody and court services functions provided by the Sheriff's Department. When these two unique functions are excluded from the gender statistics of the Sheriff's Department, the percentage of women in the Department **drops to only 10.3 percent** (429 women out of 4155 sworn officers), as compared to LAPD's percentage of **15.3 percent**. See Table 4 for gender breakdown by Departmental Division.

**Although the Department compares unfavorably with the LAPD on the overall percentage of women, the Department should be commended for promoting more women into high positions than has the LAPD.** Although the overall percentage of women in command positions of sergeant and above in the Department and the LAPD set out in Table 3 would appear to be identical (8.8 percent and 8.7 percent, respectively), this figure is not broken out by rank. As of this date, the LAPD's highest ranking woman officer is one woman at the captain level. The Sheriff's Department, by contrast, has five woman captains, two woman commanders, and a chief.

### **C. Gender Breakdown by Division and Bureau**

Women are not evenly distributed throughout the Sheriff's Department. To the contrary, they are substantially under-represented in patrol and certain other functions. The overall percentage of women in the three Field Operations Regions is **only 8.4 percent** (271 women out of 3223 officers). The percentages of women in patrol are even lower in Field Operations Region I (7.5 percent) and Region III (7.9 percent). Table 4 sets out a breakdown of each Departmental Division by gender.

Within Divisions, there are ten bureaus of significant size which have less than 7 percent women officers. These bureaus are set out in Table 5.

Of particular concern are three bureaus which have **no women officers**: Metrolink, Aero, and the prestigious Special Enforcement Bureau. Three patrol stations also have severe under- representation of women: Antelope Valley, Lennox and Industry.

This low representation of women on patrol assignment results in very small numbers of women at each patrol station. The numbers of women of color are far lower yet. These very small numbers likely make recruitment of women to patrol stations much more difficult than it should be. Table 6 sets out the actual number of women at each patrol station, broken down by ethnic group.

When asked about the uneven distribution of women throughout the Department, representatives cite several factors. Most often cited is the preference of many women officers for assignments with regular hours which are more compatible with child-rearing

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**Breakdown of Sworn Personnel By Division and Gender As Of November 7, 1994**

Division	Total #	# of Women	% of Women
Executive	61	13	21.3
Office of Administrative Services	33	4	12.1
Court Services	1418	247	17.4
Custody	2358	331	14.0
Detective	491	67	13.6
Technical Services	85	19	22.4
Field Operations:			
Region I	1051	79	7.5
Region II	1082	106	9.8
Region III	1090	86	7.9
Professional Standards & Training	262	55	21.0
<b>Total</b>	<b>7931</b>	<b>1007</b>	<b>12.7</b>

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**Representation of Women in Selected Bureaus As Of November 7, 1994**

	Total #	# of Women	% of Women
Court Services			
Administrative			
Court Services	40	1	2.5
Custody			
Central Jail	626	29	4.6
East Facility	135	4	3.0
Field Operations Region I			
Antelope Valley	237	13	5.5
Metrolink	29	0	0
Field Operations Region II			
Lennox	247	15	6.1
Safe Streets	129	7	5.4
Field Operations Region III			
Industry	195	10	5.1
Special Enforcement	79	0	0
Aero	25	0	0

Note: Includes bureaus with 25 or more sworn officers which have less than 7% women officers.



responsibilities than are patrol functions. Another factor cited is the lack of recent hiring, which has inhibited movement within the Department and prevented positions in coveted units from becoming vacant. Another is that there are women who choose for a variety of reasons not to go into or remain in patrol.

We are puzzled about the apparent under-representation of women in patrol and certain elite functions. In future reports we will seek to determine the causes. We are also interested in the question whether women generate fewer investigations for possible use of excessive force. We know that between January 1, 1991 and November 22, 1994, 38 female officers have been investigated for the improper use of force or firearms. The allegations were sustained against four of them. We intend to investigate this area further.

#### **D. Recruitment and Hiring**

We are pleased that the Department's targeted recruitment of women and minorities, as described in our Chapter on hiring and recruiting, has become much more aggressive. In particular, we are pleased that these more aggressive efforts have resulted in bringing up to 20.5 percent the female proportion of applicants who have passed the written test and pre-screening in June through August 1994, and are now in background investigations. We are also pleased that women constitute 31.7 percent of contacts made at September 1994 recruiting events, and that women filed 26.5 percent of all application interest cards filed in September 1994.

The first tangible results of these efforts are reflected in the composition of Academy Class 285, due to graduate in November 1994. Of the 95 members in this class, 20 percent are women. This percentage compares favorably to the total percentage of women entering Academy Classes 283 and 284 of 14.8 percent (23 of 155).

It remains to be seen, however, whether the more aggressive recruiting efforts will have a tangible, sustained effect upon the number of women actually hired and upon the Department's overall percentage of sworn female officers. In future reports, we will

### Sworn Women at Patrol Stations Broken Down by Ethnicity

	Total # Women	# of White	# of African/ American	# of Hispanic	# of Asian Pacific/Islander
<b>Region I</b>					
Antelope Valley	13	13	0	0	0
La Crescenta	8	6	1	1	0
ELA	13	6	0	7	0
Malibu/Lost Hills	11	9	1	0	1
Metrolink	1	1	0	0	0
Santa Clarita	11	9	1	1	0
Temple	13	7	0	6	0
<b>Region II</b>					
Administration	4	2	1	1	0
Carson	13	4	8	1	0
Century	20	10	6	4	0
Lennox	17	6	8	3	0
Lomita	8	8	0	0	0
Safe Streets	7	4	0	3	0
SANE	19	10	6	3	0
West Hollywood	12	9	2	1	0
<b>Region III</b>					
Administration	2	1	1	0	0
Avalon	2	2	0	0	0
Industry	10	7	2	1	0
Lakewood	27	19	5	3	0
Norwalk	28	19	2	7	0
Walnut	16	11	1	2	2
<b>Total</b>	<b>255</b>	<b>163</b>	<b>45</b>	<b>44</b>	<b>3</b>

closely track the number of women who are hired and retained.

We are also concerned about a possible double standard in the conduct of background investigations. We were advised of a recent incident in which a background investigator recommended that a female applicant be eliminated because she was considered a “slut,” whereas a man engaging in the same behavior would have been considered a “lover” and would not have been eliminated.

Fortunately, this recommenda-

tion was made to a supervisor sensitive to the danger of a double standard, and the female applicant was not eliminated on that basis.

## E. Promotions

The Department has no formal system to assist women or minorities to obtain promotions. Officers interested in seeking promotions may obtain information about available positions and job requirements at the Career Resources Center. They may also request higher-ranking officers to be a part of their “study group” to assist them to prepare for the selection process and examination. The use of a study group is widely viewed as critical to obtaining promotions.

A number of women expressed concern about the promotion process within the Department. There is a widespread view that if it had not been forced to do so by the **Bouman** case, the Department would not be promoting as many women.

Moreover, a number of women we spoke with share the view that for a given set of vacancies, there is an unspoken quota on the number of women or minorities who may be selected. This has the effect of pitting women and minorities against **each other rather than against all of the applicants of the same rank and promotional rating** for scarce promotional opportunities.

For example, if there are three African American women applicants (or five women applicants) for a particular position, there is a widespread perception that only one of them, at most, will be selected, regardless of qualifications. One woman reported that another female in her promotional band told her that “I hadn’t done my time” to qualify for the position. Another reported that when there were only three females of a particular ethnic group applying for a high-level promotion, it was common for an applicant to be approached and asked, “Will it be you, [applicant B] or [applicant C]?”

A somewhat different slant to the promotion issue was noted by a woman who commented that supervisors are sometimes hesitant to allow a woman to move to more desired assignments or positions unless there is another woman or minority available to replace her when she takes the new assignment. Thus, according to many women in the Department, individuals are assessing their promotability differently than they did in the past, especially in light of **Bouman**. Minority needs are a primary consideration.

We are also concerned about a possible double standard in the evaluation of reputations, which can affect promotability. In an example similar to one previously cited regarding background checks, we were told that a woman officer’s “reputation is on the line if she is with one too many guys,” while a man who engages in the same conduct is considered a “Casanova,” “quite a guy.”

## F. Women of Color

Women of color in the Department bear the double burden of dual minority status. This is particularly acute for women on patrol assignments. For all women on patrol, the average number of women at each station is small enough — approximately twelve. But for African American and Hispanic women on patrol, each station has an average of **only two women** of each ethnic group, and the **total** number of Asian American women on patrol is **only three**. Four patrol stations have **no women officers of color** (Antelope Valley, Metrolink, Lomita, and Avalon). An additional six patrol stations have only one to three women of color (La Crescenta, Malibu/Lost Hills, Santa Clarita, Safe Streets, West Hollywood, and Industry).

### *Departmental Accountability on Gender Issues*

The Department currently has three major efforts underway to improve the status and number of women in the Department — the Gender Equity Committee, chaired by Commander Carole -Freeman; the Ombudsperson/Career Resources Center, chaired by Lieutenant Irene McReynolds; and the effort to oversee all Department activities related to the **Bouman** Consent Decree, headed by Commander Carol Painter.

Despite the good intentions of officials involved in these efforts, we are concerned that they are likely to fail to achieve the reforms necessary to create true gender equity within the Department in the absence of high-level management accountability for the entire subject. The Department's efforts at this time are piecemeal and reactive to outside pressure, rather than proactive, comprehensive and integral to overall Departmental management.

At this time, there is no one executive who is held accountable for success or failure in increasing the number of women in the Department or in promoting substantially more women. To the contrary, there appears to be very little accountability on these issues at the highest levels or even at the level of individual managers. Although revised evaluation forms for managers continue to be under consideration, managers are still not evaluated on whether

or not they achieve success in nurturing and promoting women and minorities. While some managers appear to be genuinely committed to success in these areas, others appear not to be, and there are no consequences for those who are not.

In our next **Semiannual Report**, we will review the extent to which upper management is held accountable for increasing hiring, promotions, and favorable assignments for women and minorities, as well as for changing a still largely white male culture to one in which women and minorities may fully participate in the life of the Department.



## 7 . Data Integrity and Reporting

*“Why would we keep track of that stuff? No one asks for it except for you guys.”*

— LASD officer, October, 1994

In the **Kolts Report** of July 1992, we observed that the LASD had put itself at a disadvantage by failing to provide its captains and senior executives with the reports and data needed to manage risk, to deal with incipient problems at stations or among personnel, and to plan strategically. That situation is changing. Data is becoming available that was not possible a couple of years ago. In its wake, however, we have noted three problems. First, the data relating to risk is not currently being entered onto databases in a way calculated to permit easy manipulation and extraction of information. Second, there are substantial disparities in the quality and quantity of information that is available, and quality control and centralized auditing are needed. Third, managers and executives are not yet adept at calling for and utilizing the data that is available.

We recognize that delays in the introduction of the Personnel Performance Index, or PPI, has compromised the Department’s ability to provide its managers with some basic information that is essential to fulfillment of the Department’s risk management strategy. In the interim, interested managers and executives either are unable to get the information, or must rely upon interim and possibly unreliable or incomplete Departmental databases, or construct stand-alone databases for use by individual stations or bureaus, or do analyses by hand.

During this audit, as with previous audits, we asked the following questions: How many citizen’s complaints of excessive force are there? Which stations are getting the most complaints? The most commendations? Which stations are reporting the more serious or high-risk uses of force? What portion of force-related investigations result in a finding of misconduct? Has the amount of discipline for excessive force gone up or down over time? We were surprised at the difficulty of getting complete or reasonably documented answers. It was evident to us that the information was not currently being collected in a way to permit rapid and easy answers to these basic inquiries. After substan-

tial delays, we would receive what purported to be answers. Once we probed the surface of the data the Department provided, we were dismayed by its unreliability and the lack of quality control.

Examples of the difficulties we encountered include:

- Although IAB maintains a weekly handwritten log of the calls it receives from stations and custody units following a serious or high-risk use of force, the Department has not had the information input into either a simple database or spreadsheet. As a result, IAB could not tell us (1) how many calls IAB has received, (2) which stations call most (or least) often, or (3) what sorts of serious or high-risk force incidents are being reported. IAB officers responsible for the weekly log said that we were the first to ask for that information. As a result, we devoted our own resources to create our own database to analyze the raw data.
- Requests for computer reports typically drew slow responses from the Department and often contained mistakes which had to be corrected by hand or cryptic data that could not be explained.
- “Data experts” designated by the Department to provide basic statistical information often could not interpret the very information they had provided to us.
- As discussed in our Chapter on documenting citizen’s complaints and use of force, LASD managers have, since 1993, received a quarterly report containing complaint- and force-related information collected by station and custody units. When we looked at the quarterly reports in detail, we noted serious under-reporting of force. For example, we found that about 20 percent of citizen’s complaints were not showing up on the system.



We found the mistakes because we were sufficiently interested in the information to sift it carefully. It is not good that we are finding errors that managers and executives should have found first. The sad result has been a growing body of inconsistent and inaccurate data.

We have alerted the Department in the past to issues of data integrity and reliability in our **First** and **Second Semiannual Reports**. We must reiterate that **the Department should make the collection of uniform and sound data a top priority.**

We were disturbed that we were the only ones who seemed to be asking for data relating to citizen's complaints and use of force. For example, during our last audit we asked the LASD to produce for us a unit-by-unit breakdown of Service Comment Reports (SCRs) to gauge which stations tended to generate (1) complaints about the Department's delivery of services, (2) complaints of deputy misconduct, or (3) commendations for exemplary public service. We then took the data to meetings with commanders responsible for overseeing the stations in question. To our surprise, the commanders had never seen the data or had even asked the Department to produce it for them. They treated it as if we had sprung a surprise on them, and they were caught flat-footed. They were unable to comment about how their stations were doing in these areas. We left the meeting with the hope that the commanders would begin to request the data because they had now seen that it was available and useful as a management tool. We followed up this time to see which commanders had begun to ask for the data on a regular basis. Based on the response we received from the Data Systems Bureau, it seems only one commander — Helena Ashby — appears to be sufficiently interested in the data to have asked for such a report.

The current draft of proposed revisions to the Manual of Policy and Procedures, if adopted, is a useful first step in alerting executives of a new obligation to request and use data and to be responsible and accountable for it if it is not used properly for management and strategic planning. For example, the current draft for commanders states that commanders "should be proactive and vigilant in ensuring that subordinate units are

operating: within budget; within appropriate discipline and non-discrimination guidelines; within appropriate qualitative and quantitative performance levels; within an adequate information flow upward and downward; within given requirements for internal inspection; with appropriate management oversight of force, liability, and other areas of risk; and with appropriate care and maintenance of physical plant assets.” Division Chiefs will be required to process “information thoroughly and promptly for relevance and significance” and must productively use “information to communicate constructively with Department members, other agencies, and the community.”

We hope that standards like these are adopted for all managers and executives. They will encourage attention to the availability, quality, and reliability of data. We hope that the Evaluation task force will include as an element of performance evaluation the skill of the manager or executive in going to the reservoir of information that is and will become available and in using it wisely.

## 8 . A c c o u n t a b i l i t y

In the last **Semiannual Report**, we considered at length proposed revisions to the LASD's Policy Manual on the topic of accountability. We devoted time to a close analysis of the document because it carried the imprimatur of an important committee and seemed to speak authoritatively regarding job descriptions and how to allocate responsibility and accountability throughout the LASD. We were informed at the time that the proposed revisions were ready to be formally approved by the LASD's Executive Planning Committee, composed of the Chiefs, Assistant Sheriffs, Undersheriff, and Sheriff. Our analysis questioned some of the assumptions in the draft regarding apportionment of responsibility and accountability.

If our analysis was seen within the Department as specific criticism of the drafters of the document or of the committee or its leadership, our views were misinterpreted. Our efforts, rather, were directed at the Department as a whole to encourage it better to come to grips with the difficult issue of how best to allocate personal and collective accountability and responsibility for circumstances leading to liability or to the erosion of trust in the Department.

As we noted in the **Kolts Report** and later, at least with respect to risk control, force reduction, and community-based policing, there did not seem to be a consistent practice within the Department to evaluate supervisors, managers, and executives and to hold them accountable to specific, well-articulated standards in these areas. Management seemed to be largely crisis or incident-driven and reactive.

Our general sense in our last review was that the Department, to its credit, was beginning to consider the issue but had not yet completely solved the problem of the differing responsibilities of the various ranks within the LASD. Upper management still tended to push responsibility down the chain of command to captains, lieutenants, sergeants, and deputies. As reflected in the proposed accountability revisions to the Policy Manual, the duties were more and more detailed the farther down the ranks one went.

Although what is stated about accountability in a Policy Manual will not necessarily be

reflected in organizational behavior, it does serve as a good indicator of the Department's goals and desires. Our comments on accountability in our last **Semiannual Report**, therefore, were intended less to criticize than to stimulate further thought.

The current draft is substantially improved and contains some very good ideas. Good minds have spent well-invested time thinking through many of the issues. Although the version of the document we reviewed lacked consistency with respect to presentation and description of job responsibilities, we understand that the committee plans to deal with those issues.

With respect to some job descriptions, but not all, thought has been well-focused on where accountability should be personal and where and how it should be vicarious or attributable and where and how it should be shared. For many of the ranks within the Department, the authors of the current accountability draft consciously thought about, planned, and defined the responsibilities of the position in a more rigorous way. Importantly, the drafters sought to articulate with greater precision the scope of varying responsibilities for each rank.

A particularly good example is how the job of Assistant Sheriff is conceptualized. The Assistant Sheriff will be held personally accountable, among other instances, where the acts or omissions of subordinates "was the result of behavior which could have been reasonably anticipated and corrected by early intervention through frequent review and use of the information contained within both manual and automated personnel performance reports/systems available to them." The Assistant Sheriff is personally accountable for "maximizing the reverence for human life by critical oversight of the reporting, review and training of the use of force." The Assistant Sheriff is charged with responsibility for "knowing the strengths, weaknesses and special skills of their immediate subordinates, and where reasonably possible, those of the other subordinates in their areas of responsibility."

He or she is accountable for "ensuring that the personnel assigned to their areas of

responsibility receive the appropriate training required for their position” and for keeping the Sheriff and Undersheriff apprised of “any problems, issues or significant activities within their areas of responsibility.” The Assistant Sheriff must minimize “the risk of litigation to the County, Department and its employees by monitoring, reviewing, documenting, disciplining and rewarding employee performance.” He or she must keep “the public trust by demanding a high degree of personal integrity from all command personnel and, in turn, requiring that they do the same with their subordinates.” The Assistant Sheriff must demand “nothing less than lawful behavior from subordinate command personnel and, in turn, requiring that they do the same with their subordinates.”

In many vital particulars, this job description requires action whereas previous descriptions only set a standard for appropriate reaction. There are affirmative, positive duties and obligations to move in advance and look forward as contrasted to what heretofore seemed a duty simply to move around ballast when the ship had already started to list.

In describing the duties of the Assistant Sheriff in this draft, the author, in our view, has made a marked breakthrough. There are concepts that are introduced for the first time that we believe are appropriate to all supervisory, managerial, and executive ranks. The most important of these is responsibility for failure to act when a supervisor knew or should have known something was amiss. It is expressed succinctly when it is stated that the Assistant Sheriff is accountable for the acts and omissions of subordinates where that act or omission “followed similar personally observed behavior wherein they had failed to take appropriate corrective measures” or “was the result of behavior which could have been reasonably anticipated and corrected by early intervention through the frequent review and use of information . . . available to them.”

In this short passage, the author captured what it took over three hundred pages to say in the **Kolts Report**. **We recommend that this language be incorporated in the job description of every rank because it is applicable to all.** It means the difference between passivity and the kind of active, accountable management that the LASD needs.

We note that the document we reviewed is still in draft form and that the key breakthroughs in thinking are not part of the proposed job descriptions of all supervisors, managers, and executives. We will watch with interest as this draft is revised. We will also be very interested in observing how the precepts set forth in the accountability sections of the Policy Manual are translated into the standards to be recommended by the Evaluations task force.

## 9 . T h e O m b u d s m a n a n d J u d g e ' s P a n e l

Based upon evidence that the LASD had at times intimidated complainants and discouraged them from filing complaints, and statistical proof that the 96 percent of citizen's complaints of excessive force were dismissed by the Department as meritless, we concluded in the **Kolts Report** that it was necessary to include persons outside the Department in the handling of citizen's complaints in order to give the process greater integrity and to engender greater trust. To that end, we recommended the creation of an independent Ombudsman and a panel of judges to perform important roles regarding citizen's complaints.

Rudolph V. De Leon was appointed as Ombudsman by the Board of Supervisors, and we noted in our last **Semiannual Report** that he appeared to meet our requirements of integrity and independence. Mr. De Leon, who has a fluent command of Spanish, has a distinguished record of public service and professional experience in law enforcement.

His responsibilities are substantial. He must make the process for filing complaints easier and less intimidating. He has to report to the citizen about the progress of an investigation of a complaint and its results to the extent permitted by law. He has the obligation to try to resolve dissatisfaction by the citizen with the investigatory process or its results. If he is unable to resolve the matter informally, he must review the thoroughness of the investigation and the reasonableness of the conclusions reached. In serious force cases, he is to arrange for a review of the case by a member of the panel of judges.

The Ombudsman took office in May 1994 and shortly thereafter moved to permanent offices at 24340 South Narbonne Avenue in Lomita. His telephone number is (310) 534-6290 and his toll-free number is (800) 801-0030. According to the Ombudsman, his office has received approximately 650 requests for information from the opening of the office in May through September 30, 1994. During the same time period, he has referred 68 individuals to the LASD for the purpose of filing citizen's complaints. Mr. De Leon has been asked to ascertain the status of approximately 100 investigations, and has made 520 separate inquiries in connection therewith.

The Ombudsman reports that he has been asked to review 88 completed investigations in the May- September period. Of these, he states that he has reviewed 40 informal investigations based upon Service Comment Reports and 48 formal investigations, 45 of which were performed at the unit level and 3 of which were conducted by IAB. Of those 88 completed investigations, the Ombudsman reports that he has closed 80 cases. In 19 of those cases, the citizen reported complete satisfaction. In 14 of those cases, the citizen appreciated the work of the Ombudsman but remained unsatisfied with the result. In the remainder of cases, the complainant accepted the Ombudsman's work without affirmatively expressing satisfaction or dissatisfaction.

In connection with the completed investigations, the Ombudsman states that he **informally** recommended further investigation to captains in nine instances. The captains accepted his informal recommendations in all nine cases and performed additional investigation. In five instances, the Ombudsman states that he **informally** disagreed with adjudications by captains as to whether a complaint was or was not substantiated. He reports that in none of those instances did the captain change his mind. The Ombudsman states, however, that in several of those instances the captain did initiate some corrective action.

The Ombudsman has not had occasion **formally** to write the Sheriff recommending further investigation or re-adjudication of a citizens' complaint. Nor has the Ombudsman yet had an occasion to refer a matter to a member of the panel of judges.

The Ombudsman reports that in eight or nine instances where he referred a possible complainant to the LASD, the complainant later reported some difficulties in getting the complaint filed. Among the difficulties reported were the purported absence of anyone at the station to take a complaint; excuses given at the station that the complainant must come back or call back because the person charged with taking the complaint was too busy; the absence of a Spanish speaker on the Department's 800 number, requiring a man who only spoke Spanish to have to call back on three different occasions to reach a



Spanish-speaking Department representative; and a refusal at one station to take a written complaint on an unauthorized form.

The Ombudsman cited two instances at a particular station where an individual was allegedly given the run-around when trying to make a complaint. In the first instance, a woman apparently was rebuffed twice as she was trying to give a complaint to two different two deputies and later reportedly was met with reluctance and argumentation from the watch commander. In another instance, the complainant was assertedly bounced back and forth between the watch commander and some detectives when he tried to file a complaint and was assertedly argued with and harassed. The Ombudsman reports also that there were a handful of incidents when the complainant said the person who responded to the 800 number was rude or abrupt.

In general, the Ombudsman reports satisfactory cooperation from the different stations within the Department, citing some four or five stations as exemplary in terms of extending themselves to cooperate with the Ombudsman and a smaller number of other stations where the captains have appeared somewhat inflexible and defensive.

Mr. De Leon cited at least one instance where in his judgment the Department acted in a particularly praiseworthy manner. In that case, an African American complained that he was stopped, treated roughly, and slammed against the police car by Sheriff's deputies. The complainant called the Ombudsman the same day, saying that although he was neither arrested nor cited but was sent home, he felt humiliated and had wept about the treatment he received. Mr. De Leon called the captain at the involved station who immediately called the complainant and invited the man to come to the station. The captain sat down with the individual, listened to what had occurred, explained the circumstances to the man, and resolved the matter on the spot. The man was satisfied with the resolution and called to thank the Ombudsman and to praise the captain.

In our capacity as Special Counsel to the County of Los Angeles and with the Ombudsman's permission, we reviewed several of his files. We were impressed with the

thoroughness and care with which Mr. De Leon and his capable staff approach their job. Our only concern upon review of certain files was not with the Ombudsman but rather with the LASD. On one occasion, the files contained evidence that the investigator transmitting the file was trying to pre-dispose Mr. De Leon to view the deputy sympathetically by attaching a note to the file saying that the deputy had an excellent reputation and would have owned up to the incident if the complainant's allegations were true. Mr. De Leon overlooked this shoddy attempt to influence the outcome, reviewed the file with care, and concluded that the Department's decision not to uphold the citizen's complaint was not supported by the record. On another occasion, an investigator appeared to be attempting to dissuade Mr. De Leon from reviewing a file, saying everything had been done. Mr. De Leon appropriately insisted on getting the file. Attempts by the LASD to bulldoze Mr. De Leon must stop.

We also note that the statistics provided by the Ombudsman do not necessarily square with statistics kept by the Department with respect to numbers of cases reviewed. We recommend that the Ombudsman and the Department agree on a common methodology for reporting so that reasons for apparent inconsistencies can be eliminated or explained. With the exceptions noted above, the Department appears to be acting competently and professionally in its dealings with the Ombudsman.

The opening of the Ombudsman's office has necessitated changes in procedures within the LASD with respect to the handling of citizen's complaints. All captains are responsible for ensuring that every member of the public who files a complaint is given or mailed both a receipt from a Service Comment Report and a copy of a form entitled "Procedures for Public Complaints." The latter is available in English and in Spanish. Among other things, it informs the complainant to call or write the Ombudsman if the complainant believes the complaint was not handled correctly or the decision was wrong.

In addition to sending the receipt and a copy of the procedures, the captain is also responsible for ensuring that a letter is sent to every member of the public who files a

complaint or makes a commendation after the matter has been reviewed. One version of the letter acknowledges receipt of the complaint and recites and describes how the complaint was resolved to the satisfaction of the complainant. Another version of the letter acknowledges receipt of the complaint, describes its allegations in summary form, and states that the complaint's allegations were held to be unsubstantiated. The letter goes on to inform the complainant that if he remains dissatisfied, he may contact either the captain or the Ombudsman within ten days. The captain is obliged to attempt to resolve the dissatisfaction if possible. These new procedures are not yet adhered to uniformly within the Department. In particular, letters are not sent and in other cases they do not inform the complainant about the Ombudsman. We anticipate that these lapses will be corrected.

In sum, we are satisfied that the Ombudsman is off to a good start and that the LASD is adjusting reasonably well to his presence on the scene. It would be useful for the Ombudsman and the Department to agree on a common method of reporting.

We are disturbed by the Ombudsman's reports of possible isolated instances of discourtesy or of minor harassment of members of the public who try to file a complaint. If these instances in fact occurred, they must stop. We are also troubled about the rigidity of certain captains with respect to the Ombudsman's suggestions. **We will keep a careful watch on certain stations to make sure that the process is working as it should.**

We also note an apparent inconsistency by watch commanders with respect to receipt of written complaints. Some apparently refuse to accept a written statement over the counter. It is true that all complaints must be recorded on a Service Comment Report. But it is not the case that the citizen cannot present a complaint in written form. If the complainant hands over a complaint in writing or sends one in, the Department is obliged to receive it and fill out a Service Comment Report. Moreover, the complainant need not go to the station to lodge a complaint. Complaint forms should be available at other County facilities and in the contract cities. We will continue to monitor the process for receipt and adjudication of citizen's complaints.



The progress we have noted in the **First** and **Second Semiannual Reports** with respect to the LASD's practices on canines continues. During the past review period, there were no unannounced searches by canines although, as discussed later in this Chapter, the policy on unannounced searches still does not comply with the Kolts recommendations. The bite ratio remains below the 30 percent figure experts agree should not be exceeded. Controversy about the calculation of the bite ratio still exists, however, and thus later in this Chapter, we discuss a claim by some that the LASD understates the bite ratio.

### *Announcements*

By way of background, issues related to the Department's use of canines were studied extensively in our preparation of the **Kolts Report** in 1992. There, we examined lawsuits filed against the LASD accusing the canine unit and certain deputies of excessive force in the use of dogs. Plaintiffs complained of being attacked and mauled by the LASD's dogs without justification. We concluded that the LASD could reduce its exposure without compromise of officer safety by adopting a policy always to provide an announcement in advance in English and Spanish that the dogs were about to be deployed.

The rationale for that recommendation was that if afforded an opportunity to do so, a suspect may well prefer to surrender rather than risk a dog bite. Encouraging suspects to surrender reduces risks of harm to deputies and suspects, and, further, the fewer the bites, the lower the liability risk. Also, the fact that an announcement was made and was ignored by the suspect might influence a trier of fact who is assessing whether the suspect somehow assumed the risk or brought about his own misfortune by failing to give himself up. Conversely, a surprise attack and a mauling by a dog without an opportunity to surrender is harder for the Department to explain and defend to a trier of fact.

We also recommended in the **Kolts Report** that the Department adopt and follow a policy that the dog be ordered to release the bite immediately after it was determined that

the suspect was unarmed, regardless of whether the suspect was struggling with the dog. The previous practice was apparently to permit the dogs to continue biting until the suspects followed the handlers' instructions to stop resisting the dog and to become completely passive. The previous practice exposed suspects to needless injury, which, in turn, exposed the LASD to greater liability risk.

Our **First** and **Second Semiannual Reports** noted that the LASD had implemented the recommendation with respect to earliest possible release of the bite, and our examination of the LASD data from the current review period reveals that the new policy is in force and continues to be followed. As noted earlier, we are pleased to report that during the period reviewed this time, from March 1994 through August 1994, there were no unannounced searches leading to apprehensions by dog bite. This is as it should be, and we have no quarrel with the LASD as regards its current performance regarding unannounced searches.

On the other hand, the policy remains out of compliance and should be immediately corrected. As we have indicated in those two prior **Semiannual Reports**, the LASD has generally agreed with our recommendation with regard to canine announcements. At the same time, however, the LASD has persisted in its view that limited discretion to waive the announcement must be afforded deputies where making the announcement would pose an unacceptably high level of risk to the officers in question.

We considered that issue in the **Second Semiannual Report of Special Counsel**, and came to an agreement with the Department that there may be very narrow circumstances in which a prior announcement could be dispensed with. In particular, and based on our review of the limited number of unannounced searches during that audit period, we found those circumstances to include **(i) the foreknowledge that there were likely to be multiple suspects armed with guns (ii) in a contained location where an officer ambush was likely, combined with (iii) a tactical demand for stealth or surprise based upon strong considerations of officer safety, (iv) for which no**

**reasonable alternative sufficed to extract the suspects, including sending in the Special Weapons team.**

Nevertheless, we expressed our concern that, absent stringent safeguards, in the future, the exception could be allowed to swallow the rule requiring canine announcements. As a result, and in order to minimize that risk, we recommended that the LASD revise its canine policy to require that any unannounced searches be approved **in advance** by the highest ranking officer present at the search location, preferably by the SEB captain or a commander, and **in no instance by someone holding a rank below that of lieutenant**. We recommended further that this requirement be in addition to, and not in lieu of, the present requirements that, among other things, (i) the handler articulate the reasons for the unannounced search on a canine activation form and supplemental reports, and (ii) that such memoranda be reviewed by the Captain of the SEB and the Canine Review Committee.

In response to that recommendation, the LASD revised its policy further, but it still falls far short of compliance with our agreement. The policy now states:

*Prior to deploying a canine team, an announcement shall be made. This announcement is intended to notify persons within the containment area of our intent to utilize a canine team and to afford suspect(s) the opportunity to surrender to deputy personnel. The announcement shall be clear, loud and audible to all personnel at the operation and shall be in English and Spanish. The utilization of radio car and helicopter public address systems will increase the likelihood that the canine announcement is heard. Containment personnel shall confirm hearing the canine announcements prior to initiating a search. Any exception to this policy must be fully justified by conditions and circumstances inherent in a specific incident which create officer or public safety concerns exceeding those that may typically be associated with canine deployment operations.*

*A recommendation to not make a canine deployment announcement must be approved*

*by the ranking Department supervisor in command at the scene of the incident. A decision not to make a deployment announcement should be made by a lieutenant or higher.*

*When conducting area searches for suspects believed to be armed, concerns for the safety of search personnel may dictate that an announcement **not** be made. In these instances, the canine handler will advise the on-scene supervisory of the reasons for precluding an announcement and abide by subsequent direction. Individual handlers shall articulate the justification for not making canine announcements on a canine activation form and supplemental report. These reports shall be reviewed by the S.E.B. captain and the Canine Review Committee.*

Field Operations Directive 86-37 (Revised May 16, 1994) (emphasis in original).

**The revised policy falls short of our recommendation. The circumstances possibly justifying an exception to the announcement rule are far too broad. The exception needs to be more narrowly tailored to the four-part test articulated in our Second Semiannual Report and bold-faced above.**

Moreover, while the policy does require a handler to secure advance approval before making an unannounced search, it does not require that the supervisor from whom approval is sought have the rank of lieutenant or higher; it says only that such supervisor **"should"** have that rank. The LASD defends its use of this contingent verb form by pointing out that (i) handlers **may** encounter exigent circumstances that require them to initiate an unannounced search immediately, before a lieutenant or higher ranking officer arrives on the scene, and, (ii) the other requirements for an unannounced search (e.g., the handler must articulate the reasons for the unannounced search on the canine activation form and supplemental reports, which are reviewed by the Captain of SEB and Canine Review Committee) must still be satisfied, which, taken together, are adequate safeguards to prevent the exception from swallowing the rule requiring canine announcements.



We respectfully disagree that these safeguards are adequate and reaffirm the recommendation that unannounced searches must have the approval of a lieutenant or higher ranking officer. The circumstances in which there may be a possible delay awaiting the arrival of the lieutenant or more senior officer will be very rare. Those extremely rare exceptions do not justify any departure from the rule.

It is not enough to have the approval of a sergeant on the scene. The decision to forego an announcement should be extremely infrequent, and the person making the decision should do so fully aware that he or she will be held accountable for the increased liability risk if he or she decides to do it. In our view, it is insufficient to put the decision in the hands of a sergeant. The balance that may need to be struck between enhanced risk of liability and issues of officer safety should be made by a more seasoned officer. Thus, we intend that the onus be on a lieutenant or captain for a decision to allow any unannounced deployment. We will continue monitoring this area very carefully, and we will revisit this issue until the policy is modified.

### *Bite Ratios*

We examined LASD statistical data to determine whether the LASD's bite ratio has remained below 30 percent during this review period, that being the ratio that experts generally agree should not be exceeded. According to the LASD's figures, during the period March 1994 through August 1994, canines were deployed in 458 searches leading to the apprehension of 94 suspects. Twenty-two of those suspects received dog bites — a bite ratio of 23 percent. The bite ratio during the last review period of September 1993 through February 1994 was higher, 27 percent.

During this last review period, an amended class action complaint was filed against the LASD with respect to bites that occurred before the **Kolts Report** was issued in July 1992. One of the complaint's allegations is that the LASD calculates its bite ratio in a manner that

understates the true bite ratio, which the complaint alleges is higher than 30 percent.

We found the allegations in the amended class action complaint to be of interest, and we wanted to come to a better understanding of the basis for plaintiffs' counsel's belief that the "true" bite ratio was greater than 30 percent. The LASD calculates its bite ratio by calculating the percentage of apprehensions in which a bite was received to the total number of apprehensions in which a dog was involved.

Plaintiffs' counsel believe that the "true" bite ratio should be at least 10 to 15 percent higher. First, plaintiffs' counsel argue that the denominator of the ratio — apprehensions — is a loose term that can be manipulated in order to keep ratios low. The LASD determines an apprehension based upon the filing by the handler of a Canine Activation Form, or CAF. If the form is filed, and an apprehension takes place, it is counted as an apprehension for purposes of the bite ratio. But some might argue that the filing of a CAF may not necessarily mean that the dog was specifically involved in the arrest: For example, the dog might be on leash searching for a suspect on the seventh floor of a building at the moment the suspect is located and arrested by deputies on the sixth floor. The dog has been activated, there was an apprehension, but the dog was not specifically involved in the apprehension. Plaintiffs' counsel assert that this kind of apprehension should not be counted for purposes of calculating the bite ratio.

Plaintiffs believe a more accurate count would be made if, instead of measuring apprehensions by the filing of a CAF, the Department measured apprehensions by counting the number of times that arrest reports reveal that a dog was specifically involved in the arrest.

We believe, however, that the LASD calculates its bite ratio in the same manner as the LAPD and other law enforcement departments with canine units. Thus, we conclude that, at present, there is no basis for concluding that the LASD's ratio is understated as compared with other departments or that the Department should change to some other method of calculating the bite ratio. In future reports, we intend, however, to test

whether the bite ratio may be watered down by the inadvertent inclusion of some apprehensions.

In any event, we believe that the best way to deal with the canine issues as a whole is that the LASD should continue to insist upon vigorous implementation of the **Kolts Report's** recommendations, including those calling for (i) mandatory announcements, in English and Spanish, both before and, where feasible, during canine searches, and (ii) release of bites at the earliest possible moment after determining that the suspect is unarmed. We believe that these practices have resulted in, and will continue to result in, a decrease in both the number and severity of bites and in reduced litigation costs and potential exposure in force suits involving dogs. We will, of course, continue to monitor each of these areas, including the bite ratio and the manner in which it is calculated.

In conclusion, while we recognize that no unannounced searches occurred in the last review period, we are disappointed that the Department's policy still fails to articulate the agreement that we believe we had reached with the Department.



## 11. Civil Service Commission

In recent months, the LASD has begun to reorganize its investigative, disciplinary, and advocacy functions to give them greater consistency, forethought, and quality. This reorganization is at least in part in response to Kolts recommendations that the Department undertake a serious assessment of why the LASD was not having greater success in its efforts to convince the Civil Service Commission to uphold its decisions to discharge officers or impose substantial discipline for misuse of force. Because of the importance to the Department's risk management strategy that the LASD make sound decisions to impose discipline and that those decisions be sustained, we are pleased that the reorganization has occurred.

In particular, we approve of the LASD's decision to ask County Counsel to retain Cecil Marr and assign him to the LASD as the Department's full-time legal advisor on Civil Service and labor-management issues. Mr. Marr has been practicing law for over twenty years and enjoys an outstanding reputation in the Los Angeles legal community. For the past fifteen years, he has primarily represented public sectors unions, in particular those representing peace officers. We are encouraged by Mr. Marr's retention and by the restructuring and reforms he has initiated. We look forward to evaluating the results of these reforms in coming Reports.

In the **Kolts Report** and the previous **Semiannual Reports** we expressed concern about many features of the disciplinary process, including that:

- it often takes far too long to complete investigations and Civil Service proceedings (an observation confirmed by the Department's own review that found the average Civil Service appeal filed in 1992 and 1993 takes over fifteen months to resolve on top of what can be a lengthy investigative and case review period);
- IAB's investigations and findings have not been coordinated with the Advocacy Unit;
- IAB has not made clear recommendations to the responsible supervisor of the potential grounds for discipline and the specific facts supporting and refuting potential disciplinary actions;

- the Department has not made discipline consistent between stations and facilities for similar policy violations; and
- the Department's non-attorney advocates often seemed to be at a disadvantage competing in Civil Service proceedings against attorneys representing individuals appealing Department discipline.

In November 1994, the Department adopted both structural and procedural reforms to address many of the concerns we have expressed. Specifically, the Department adopted the following changes:

- IAB investigations for all disciplinary actions involving the removal of an officer from duty will now be forwarded to the subject's commander only after it has been reviewed by an advocate from within the Advocacy Unit. The advocate will develop with the IAB investigator potential charges and the facts supporting or refuting the charges.
- The advocate assigned to a disciplinary matter will actively follow his or her case from the investigation through the Civil Commission.
- The Department will try to consolidate its advice function so that supervisors will have only one point of contact to get advice on the appropriate level of discipline for violations of Department policy.
- The Advocacy Unit and the Department's labor relations function will be merged into a combined unit. Hopefully, with this merger the Department will be able to enhance its ability to communicate and negotiate with ALADS and other unions.
- The Advocacy Unit will focus its efforts on more significant disciplinary matters and work to ensure that matters are considered promptly by the Commission.

These reforms respond to many of the concerns we have expressed and we look forward to assessing how effective they are in the coming months and years. While the Department is not now acting upon the recommendation in the **Kolts Report** that attorneys serve as advocates for the Department in Civil Service proceedings, Cecil Marr

will train and monitor the advocates. We recognize that budgetary constraints do not allow the Department's advocates all to be attorneys. We look forward to examining the success of the Advocacy Unit in the coming months.

As we have done in each **Semiannual Report**, we present information about the results of Commission actions from 1992 through October 15, 1994. The results, with our footnoted caveats and qualifications, are reproduced at Table 1. We again caution against overreading the statistics because the relatively small numbers create large swings in percentages. **We are, however, concerned that 44 percent of force-related discharges have been reversed by the Commission.** This figure, taken with the LASD's failure to prevail in almost all of the force-related disciplinary actions that were acted on by the Civil Service Commission in the last six months, underscores the wisdom of the LASD in engaging Cecil Marr to review and further professionalize its disciplinary, investigative, and advocacy procedures.

In particular, since the **Second Semiannual Report of Special Counsel**, the Commission reversed the Department in part in the high-profile "Pursuit from Hell" case involving force-related discharges of six deputies for an incident that occurred in 1990. The Department was also reversed on other force-related suspensions. The LASD agreed to settle other suspensions by significantly reducing the discipline because of the assertedly inconsistent discipline that deputies had received at the station-level for the same incident and actions.

The reluctance of the Commission to uphold almost half of the LASD's force-related discharges in the past two years underscores the concerns we have expressed in the **Kolts Report** and in the **Semiannual Reports**. We are hopeful that the newly instituted reforms will address some of the shortfalls and help reestablish the credibility of the Department's disciplinary process.

During our investigations, the Department had consistently raised the theory that bias against the Department by certain Hearing Officers may be contributing to the relatively

high reversal rate for force-related discharges. In the past months, rather than investing time to determine whether particular Hearing Officers are indeed biased, the Department has wisely concentrated on reforming its internal procedures on IAB investigations, imposition of discipline, and advocacy. We support the Department’s current focus.

We nonetheless continue to believe that it also is prudent for the Advocacy Unit to monitor particular Hearing Officers’ reversal rates to determine if they should be routinely excused from cases involving the Department.

Pursuant to Civil Service rules, both the Department and the appealing individual have the power to strike one of the three proposed Hearing Officers on its case.

In our last report, we stated our strong belief that the complexity of all LASD labor-management issues, and not merely those involving the Civil Service Commission, demands competent and sophisticated counsel. We said that the Department needs such a lawyer in-house to plan and help execute strategy with respect to labor-management issues and to think proactively

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1992 - 1994 LASD Employee Civil Service Commission Appeals			
Basis of Discipline <sup>1</sup>	All Appeals <sup>2</sup> of LASD Discipline	Final Resolutions of LASD Discharges <sup>4</sup>	
		LASD Discharge Actions	Commission Reversals <sup>5</sup>
Total	166 (100%)	36	22 (26%)
Force Related	48 (22%)	27	12 (44%)
Fraternization	22 (13%)	15	0 (0%)
Performance	24 (14%)	12	4 (33%)
Off-Duty Conduct	15 (9%)	10	2 (20%)
Exam Appeals	13 (8%)	n/a <sup>6</sup>	2 of 10 (20%)
False Reporting	10 (6%)	4	2 (50%)
Theft	6 (4%)	6	2 (33%)
Sexual Harassment <sup>3</sup>	8 (5%)	6	0 (0%)
Miscellaneous	21 (13%)	6	0 (0%)

<sup>1</sup> While there is potentially some cross-over between categories, this summary characterizes matters on one basis of discipline. For example, some disciplinary actions based on off-duty conduct related to use or theft.

<sup>2</sup> The number and percentage relates to all disciplinary actions-- exam appeals, suspensions over five days and discharges-- that reached the Civil Service Commission from 1992 through 10/15/94. These figures include some actions initiated in 1991 and pending actions that are either awaiting hearing or Commission consideration of Hearing Officer recommendations. Not included are 10 cases in which prosecution of deputies for criminal conduct is ongoing (two of these are for on-duty use of force). In these cases any appeals are held in abeyance pending resolution of the criminal case and the deputy is placed on leave without pay.

<sup>3</sup> Sexual harassment includes on-duty sexual misconduct towards civilians.

<sup>4</sup> The right two columns look only at discharge actions for which the Commission has made final or proposed findings.

<sup>5</sup> Actions include proposed Commission findings, which could conceivably be changed. Where the Commission reduced a discharge to a suspension, it is counted as a reversal. Actions "settled" based on a deputy's forced resignation are counted as sustained. Where the result of "settled" is unclear, the case is not counted.

<sup>6</sup> "Discharge" is not applicable in the case of exam appeals.



and affirmatively to fashion proper strategies to achieve management's legitimate goals. Department executives have for too long accepted advice that a given management objective is not possible or is an uphill battle or is precluded for one reason or another. The LASD deserves and needs very sophisticated advice on labor-management issues, and we are pleased that the Department has given a well-qualified and experienced attorney the opportunity to provide it.



Field training is the most critical way in which the Department teaches young deputies how to be a good patrol officer. As we observed in the **Kolts Report**,

*We were told time and again that the first six months of patrol duty is the most crucial time of all; it is the critical period when a recruit is actually functioning for the first time in the field as a police officer. It is where the young deputy is imprinted: The attitudes and habits formed during the tour of duty with the FTO will stay with that deputy for the rest of his or her career. Indeed, many FTO's reported explicitly modeling their own training philosophy and practices on those they had learned from their training officer.*

Our experience during subsequent audits have reinforced our belief that meaningful and lasting changes in the day-to-day operations of patrol deputies depends upon the care with which FTOs are selected or deselected. In this Chapter, we will discuss how the Department has responded to our recommendations in this area.

### *FTO Selection and De-Selection*

In our **Second Semiannual Report**, we gave our strong support to proposals we were told were under final review and which provided for automatic disqualification or de-selection of an FTO for any of the following during the past 24 months, or after selection:

Founded Investigations involving:

- Unnecessary or Excessive Use of Force
- Dishonesty
- Breach of Integrity
- Two or more Preventable Traffic Collisions
- Sexual Harassment
- Discrimination on the basis of race, ethnicity, gender, or concerning sexual orientation.

**We were extremely disappointed to learn that these proposals, rather than being implemented by now, were stalled at the level of the Employee Relations Bureau on the theory that implementation may require negotiation with ALADS. We strongly recommend immediate and, if necessary, unilateral implementation of these standards.** Shortly, there will be the need to provide FTOs to a substantial number of new patrol deputies. It is imperative that the FTOs who are selected meet the criteria described above. **We intend to research carefully the background and qualifications of every individual selected to be an FTO or field sergeant to determine if inappropriate choices have been made.**

#### **FTO Signed Information Sheets**

During our last audit, we reported that the LASD had implemented policies to provide all FTOs with clear written instructions about how to treat trainees and to clarify the Department's position on hazing and discrimination. They stated that all FTOs, upon completing the FTO course at the Academy, were required to read and sign a "Training Officers Information Sheet" which, among other things, encouraged professionalism and a "service attitude," and strongly underscored the Department's prohibition of hazing. In our last report, we stated that we were favorably impressed with the content and tenor of the document. We believed that it emphasized and reinforced proper attitudes on the part of FTOs.

LASD Academy Training Staff and Field Operations personnel stated that this signed document was placed in each FTO's file and could be invoked if their performance proved unsatisfactory, as required by the FTO Manual. We reported in our last audit, however, that this requirement was not being followed uniformly throughout the Department. We discovered, to our concern, that some FTOs were not being required to sign the document and that, even if signed, the document was not being maintained in their file. It was also suggested that FTOs at one station resisted signing. We recommended a quick audit by the LASD to determine the extent of non-compliance

and immediate action to achieve full compliance. We strongly believe that any deputy who is unwilling or reluctant to sign this important document should not be allowed to participate in field training.

Since our last audit, the LASD added the signed Field Training Officers Information Sheet to the annual Command Inspection review of training records conducted at each station by Field Operations Support Services. Field Ops personnel also informed us that the importance of the document holding FTOs accountable will be stressed during meetings with patrol station training sergeants.

### *FTO Mentoring Program*

The **Kolts Report** recommended that trainees receive regular evaluations of their performance, independent of those provided by FTOs, as a further check on the content and quality of training of new patrol deputies. In our last **Semiannual Report**, we noted that the Core Values Task Force on FTOs responded with a recommendation to form a small cadre of highly-skilled, specially qualified individuals who would be given Bonus II positions, the compensation for which is approximately the same as a sergeant's pay. They would ride with trainees to assess the skill of the trainee's FTO, remedy deficiencies in the trainee's performance, and oversee and act as mentors for newly-appointed FTOs. As good as this recommendation was, we were disappointed to learn that, due to budgetary constraints, the creation of new Bonus II positions had little chance of being approved. We encouraged the Department to see if there was a way to implement it.

The Department did revisit the FTO/Bonus II proposal. In mid-October, the Department concluded that implementation was not fiscally possible, although the recommendation remains under consideration at the Department executive level.

At the same time, however, the Department devised an alternative -- an FTO Mentoring Program which will shortly be implemented. Certain veteran deputies will be

chosen to act as mentors to new FTOs. The standard to be used for selection of the mentors is that “the Unit Commander at each station shall review the current and past FTOs to determine which FTOs most accurately reflect the Department’s model of an ideal training officer.” The ideal is not defined. **We urge similar criteria for selection of mentors as for FTOs. The same disqualifying criteria should be rigorously applied. We will investigate the backgrounds of individuals selected.**

Under the guidelines of the FTO Mentoring Program, station training sergeants are required to “make every attempt” to assign a new FTO only to a trainee who has completed the first three months of training with a veteran FTO and who is experiencing no significant learning difficulties. This practice is intended to reduce the pressure and stress on a new FTO and to limit the damage of any mistakes made by a neophyte FTO.

Although the Department has found that routine evaluation of each trainee by a training sergeant is fiscally not possible at this time, the LASD is moving to implement a requirement that the training sergeant independently evaluate any trainees who have been identified as deficient and in need of remedial training. Thus, the Department proposes to expand the formal list of responsibilities of LASD training sergeants by requiring that a training sergeant do the following:

*“Rides a minimum of one eight hour shift with trainees that are experiencing above normal difficulties. Makes a recommendation to put trainee on remedial program or to remove from field duties if deficiencies are grave in nature (severe officer survival problems, etc.). If placed on a remedial, the sergeant shall ride with trainee just prior to completion of the remedial program. He/she will recommend to either remove from remedial program or extend trainee for one additional month. If the trainee’s training is extended the sergeant will ride with the trainee, just prior to the end of the extension period, to determine if trainee has successfully corrected their*

*deficiencies. Depending upon the outcome of this evaluatory ride, the sergeant will either recommend the trainee be released from training status, returned to a custody assignment, or be terminated. Whenever a training sergeant rides with a trainee as a result of their deficiencies on training, the sergeant shall complete and submit an evaluation of the trainees performance to the training lieutenant. The evaluation shall be in memorandum form. The evaluation should minimally contain the strengths and weaknesses of the trainee and a recommendation of what action should be taken (i.e., placed on remedial program, removal from remedial program, etc.). A copy of these evaluations shall be retained in the trainee's training folder."*

We believe that the FTO Mentoring Program is a promising one and we will monitor it as well as the implementation of new procedures for remedial training.

### *FTO School Curriculum*

We were pleased to observe continuing ongoing discussions in the LASD over the organization, sequence, and constitution of the FTO School Curriculum. During this audit, we continued to be favorably impressed with the quality of classroom training in the Department. We were especially impressed with the efforts of some training staff members to develop creative methods to "get through" to the deputies in their classrooms, even if it meant an occasional confrontation over an "attitude," whether that of an isolated deputy or one widely shared in a class. We were less impressed, however, with occasional remarks by an instructors which, rather than explaining or conscientiously defending current reforms or new policies, would more or less subtly signal to members of a class that the instructor's primary reason for presenting such information was that they were "required to by the Department brass."

On the basis of our observations of classes taught at the Academy and discussions

about the character and quality of resource materials made available to trainers when first assigned to teach specific courses, we further recommend that the Training Bureau establish an instructional library at the Academy. The proposed library would make available to all trainers a systematic and regularly-updated collection of reading materials which are relevant to the content of specific courses, as well as teaching materials which have been found particularly useful by current and former instructors in their development of improved teaching skills and training techniques. Any effort on the part of the Training Bureau to collect, organize, and make such materials routinely available would benefit instructors who are newly assigned to the Academy or even seasoned instructors who are assigned responsibility for new courses.



## 13. Psychological Services

Since our last Report, the Psychological Services Unit has made strides in its data generation, and management appears to have made some progress in making better use of the information generated by the Unit.

The Unit has hired two additional psychologists, bringing its total up to two in Palmdale and four at the Downtown location. The hiring of two psychologists to train unit managers in the identification of early warning signs of stress has been delayed in order to allow additional recruitment of applicants.

The Psychological Services Unit has assumed responsibility for the Wellness Program and is operating a pilot program at several units. This program offers voluntary health assessments.

In May 1994, the Psychological Services Unit resumed issuance of monthly memoranda and statistical reports to the Executive Planning Council (EPC). There are separate monthly statistical reports for non-emergency and emergency cases. Problems are broken down into 25 useful categories such as Anger Management, Depression, Force, Suicidal Ideation, and Suicidal Risk.

Following experimentation with the format, the monthly memoranda to the EPC now summarize cases seen and identify issues which management should consider. This information is provided in a manner which protects the confidentiality of the deputies' identities. At an early EPC meeting, members stated that they did not need to see the examples presented, so the report was reworked into more of a statistical format.

The monthly reports are presented orally to the EPC by Dr. Audrey Honig. One executive acknowledged that the response of members of the EPC to these reports varies. It is a challenge to educate management sufficiently so that they can make appropriate use of the information presented. One problem identified in the response of management is frustration that there is often no "quick fix" to the problems presented. Another executive stated that the statistical information presented provides important baseline information to management to assess the need for additional funding and the effectiveness of new programs such as the training program on the early identification and treatment of psychological stress.

In our last Report, we expressed concern that management lacked the tools to assess whether

unit commanders were making sufficient use of the Psychological Services Unit. The Unit now plans to generate reports for the EPC on the following information every six months: (1) any units which have made **no** referrals to Psych Services; (2) the number of supervisor-suggested and supervisor-mandated referrals by unit; and (3) the number of hours of counseling by unit.

Psych Services has improved its ability to generate the data it needs and has demonstrated the capability to produce other reports necessary for appropriate management oversight and program formulation on psychological issues.

In our last **Semiannual Report**, we noted that the absence of such data and reports precluded meaningful evaluation of the work of the Psychological Services Unit. It was not possible to assess whether the energies expended in the Unit bore a significant relationship to those risks to the Department that may be amenable to control or management by psychologists. We could not tell, and still cannot say, whether Psych Service's resources are properly and efficiently directed to the provision of psychological services to counteract conduct which poses the great danger to officers themselves or the people they come into contact with.

The improvements by Psych Services in the collection and reporting of data should help. But in our view it is still very much an open question whether the resources and energies of the Unit are properly deployed. It also remains to be seen whether management will provide appropriate oversight over the Unit's efforts to reduce stress and help control the use of excessive force.









