

# Office of Independent Review *Fifth* Annual Report



Michael J. Gennaco  
*Chief Attorney*

Robert S. Miller  
Benjamin Jones, Jr.  
*Deputy Chief Attorneys*

Julie Ruhlin  
Ilana B.R. Rosenzweig  
Stephen J. Connolly  
*Attorneys*

Angie Calderon  
Caroline Espinoza  
*Professional Staff*

4900 South Eastern Ave.  
Suite 204  
City of Commerce  
California 90040  
Telephone: 323-890-5425  
Fax: 323-869-0715  
[www.LAOIR.COM](http://www.LAOIR.COM)

NOVEMBER 2006

# Contents

---

	Foreword	<i>i</i>
<hr/>		
PART ONE	Force and Shootings: The Year's Developments	1
	Introduction: OIR and the Executive Force Review Committee	1
	Force Review Briefing	2
	EFRC: A Case Study	5
	A Tragic Case Comes to EFRC	10
	High Round Shootings: A Preliminary Assessment	11
	Shooting at Moving Vehicles	16
	Shooting Through Windshields	18
	Anti-Huddling Reforms	19
<hr/>		
PART TWO	Inmate Security and Care Issues	23
	A Violent Death at Men's Central Jail	23
	Inmate Deaths: The Riots	29
	A Death at NCCF	30
	A Second Death from the Riots	31
	Inmate Death Protocol for IAB	32
	The LASD Inmate Death Review Process	34
	Medical Services Bureau Update	36
<hr/>		
PART THREE	The Discipline Process and Deputy Misconduct	43
	Pre-Disposition Settlement Agreements	43
	Delay in Disciplinary Decisions	46
	Use of the Apology to Address Disciplinary Issues	48
	Criminal Conviction (Rape Under Color of Authority)	49
	Summary of An Off-Duty Conduct Incident	50
	DUI Update	52
	K-11 Strip Search Case: Troubling Allegations and a Thorough Response	53
	Quarterly Discipline Report: Tracking Trends in Misconduct	56
	OIR and Internal Affairs	59
<hr/>		
PART FOUR	Updates and Initiatives	61
	WCSCRs	61
	Use of Commendations as a Change Agent	63
	Overdetentions and Erroneous Releases	65
	Community Outreach	67
	Reform in the TARP Policy	69
	Policy to Address Obstructing Investigations	71
	Aero Bureau	71
	Tactical Policy	74
	LASD Patrol Initiatives	75
	OIR's Protocols with LASD: Reinforcing the Oversight Model	78
	LASD Fundraising Issue	82
	Legal Changes in the Complaint Process	83
	Union Issues: Correcting the Record	85
<hr/>		
APPENDIX A	<i>LASD/OIR Working to Achieve Systemic Change—Year Five</i>	89

# Foreword

by **Michael J. Gennaco**

Chief Attorney, Office of Independent Review

For school reunions, anniversaries, and the commemoration of historical events, special attention often arrives at five-year intervals. The publication of the latest Annual Report from the Office of Independent Review marks the completion of OIR's fifth year as the full-time oversight entity for the Los Angeles County Sheriff's Department, and certainly provides for me an opportunity to take stock. Like most people in similar circumstances, I'm both amazed at the rapid passage of time and struck by everything that's occurred since OIR officially began in October of 2001.

Sheriff Lee Baca has been re-elected twice in these five years, and the Board of Supervisors continues to be run by Supervisors Molina, Burke, Yaroslavsky, Knabe, and Antonovich — all of whom held office when we first started. The support of the Sheriff and the Board was crucial to the original formation of OIR. Over time, the continuation of that support has allowed us to establish ourselves in keeping with their original vision: an independent, outside entity that has the access and the voice to review the Sheriff's Department's discipline system in a meaningful way.

The growing pains associated with developing our role are not completely a thing of the past. Miscommunication or misunderstanding still occasionally interferes with our ability to be heard or to track the Department's handling of individual misconduct cases or other critical events. In many respects, though, we have become a familiar part of the landscape within the Sheriff's Department. Most of today's LASD captains, for example, received their promotions in an era that already included consultation with OIR as a required part of the job.

Five years allows time for themes to recur and patterns to develop. One of these is the Department's ongoing struggle to balance competing priorities in a large and complex agency. The budget crises of 2002 have now given birth to serious shortages in staff that the Department is scrambling to fill through aggressive recruiting. In 2004, the highest profile controversy to face the Department was a string of inmate-on-inmate murders that revealed serious problems in policy and procedure within the jails. In 2005, however, the Compton SUV shooting, with 120 rounds

fired on a residential street, dominated the headlines and brought increased attention to training, tactics, and equipment issues confronting many patrol stations. And with the Department moving to address those situations with its resources and attention, it was faced in 2006 with days of rioting in the jails and deepening concerns about the safety and structural adequacy of Men's Central Jail downtown.

When a critical event such as a shooting or inmate death occurs, we have found that the Department's initial response is sincere and holistic in seeking to determine what happened and what can or should be learned. In a large bureaucracy, though, change comes slowly. It's easy for other, newer issues to create a distraction or compete for limited attention and resources before reforms are completed and implementation occurs. One advantage of OIR's presence "within the perimeter" of the Department is its ability to discern when LASD's attention to particular responsibilities may have lapsed.

As much as the Department would like to plan for the future rather than reacting to the biggest problems of the day, the scope of its challenges makes this difficult. We recognize how and why this occurs, but, too often, needed reforms are abandoned in midstream when a new crisis takes precedence. Accordingly, one responsibility of any permanent oversight entity is to do its best to ensure that yesterday's challenges and the lessons they produce are not forgotten by the organization.

With this in mind, OIR spends a significant part of its time not only working with the Department to address each of these critical events through holding persons accountable, ensuring clear policies, providing the requisite training, and developing other remedial procedures, but also ensuring follow-through on each of these programs. For example, the Department has a responsibility to ensure that citizen complaints are timely addressed, inmate deaths are suitably reviewed, and over detentions or early releases of prisoners are carefully studied. This year, as reported in these pages, OIR has found potential incomplete attention to these responsibilities by the Department, and in each case, has stepped in and alerted the Department to its discovery so that it can remain vigilant with regard to these ongoing responsibilities.

In those instances, OIR not only can bring those lapses to the attention of LASD, but also can modify its review functions so that it is not as reliant on the efficacy of LASD's work until the problem is fixed. For example, as reported in these pages when OIR learned that "death reviews" were not being conducted on a timely basis, it re-designed its own review process in order to get answers to questions that LASD was not providing during the death reviews. Again, the access that we have enjoyed since the beginning of our tenure has helped us immeasurably in this regard, and remains central to our effectiveness.

\* \* \*

The OIR model of full access and “cradle to grave” monitoring of cases was somewhat new and experimental when we got started five years ago. We believed, though, that LASD’s willingness to open its doors, and to allow for outside scrutiny and input, could be a benefit to the Department as well as a noble burden. We leave it for the Department to speak for itself and for others to measure the public’s confidence. But we can say that the Department has largely and consistently held up its end of the bargain by accepting our presence, hearing us out, and working with us to achieve consensus on particular outcomes.

I have been heartened by the Board of Supervisors and the Department of Children and Family Services’ decision to implement the OIR model in another County Department. While still under development, the plan is for me to oversee a team of two additional attorneys — “OIR DCFS” — who will be responsible for monitoring child deaths in order to assure accountability and offer systemic reform. It is of course true that different agencies have different systems, needs, and resources, but we believe that the core principles of access and real-time monitoring can be usefully adapted by another County Department, and we are honored to play a part in that new project.

\* \* \*

As much as experience has taught us about LASD trends and tendencies that we must monitor on an ongoing basis, each year contains distinct controversies and challenges as well. We, of course, attempt to understand and respond to these as they arise, in conjunction with the Department. This summer brought one of the highest-profile incidents of our five years: a drunk-driving arrest that blew up into an international news story. Obviously, the engine behind the media fascination was the identity of the celebrity arrestee and the tenor of his alleged statements while in custody. However, in the midst of the intense scrutiny and coverage, LASD’s actions became a brief focal point. Allegations emerged that the celebrity arrestee had been given preferential treatment — in particular that the original arrest report had been altered to suppress embarrassing details.

The media turned to OIR in full force during its quest for information, and after fielding a barrage of inquiries from around the country, I decided to hold a press conference to clarify the information known at that time from the Department’s review of this matter. I explained that, while the arrest report had been reformatted in an attempt to keep some of the more salacious details of the arrestee’s comments from initial public purview, the Department’s station command did preserve all of those comments and present them to the District Attorney’s Office for purposes of its filing decision regarding prosecution.

Soon, the “bright lights” moved on to other aspects of the story. It was tempting for me to be bemused by the intensity of interest in an actor’s arrest case for a misdemeanor offense. But, at the same time, it served as a reminder that law enforcement’s fairness and objectivity matter to people in fundamental ways – and that the tests of those principles can come from a variety of directions. The full inquiry into the Department’s involvement in that case is still underway, questions regarding allegations of preferential treatment still need to be answered, and OIR is monitoring it in keeping with our usual protocols.

\* \* \*

OIR’s “lineup” of six full-time attorneys underwent its first modification this year, when Governor Schwarzenegger appointed our colleague Ray Jurado to the state judiciary. Ray’s passion for fairness and his vigilance against the abuse of power certainly helped to define OIR in its first years. We know those same attributes will serve him well on the bench, and we take this public opportunity to congratulate him and to thank him again for his time with us.

Julie Ruhlin became the first new attorney in OIR’s short history when she took Ray’s place in August of this year. She brought several years of experience in private practice and, more recently, had worked closely with Merrick Bobb on Mr. Bobb’s Semi-Annual Reports concerning the Los Angeles Sheriff’s Department. Julie’s built-in familiarity with LASD and her time with one of the leading national figures in police oversight were certainly assets in our view. As we had hoped, she got up to speed very quickly; we’re pleased to be working with her.

The other four attorneys on the staff are, like me, “charter members” of the office: Ben Jones, Rob Miller, Ilana Rosenzweig and Stephen Connolly. Information about their respective backgrounds is available in previous Annual Reports as well as on our website, [www.LAOIR.com](http://www.LAOIR.com), so in this space I simply wish to thank them for their continued efforts. In five years’ time, they have added to their previous credentials by gaining experience in this unique field. Their ongoing presence provides the foundation as OIR moves into Year Six, and I am confident that their experience and good judgment will serve us in good stead as we face tomorrow’s challenges.

# PART ONE Force and Shootings: The Year's Developments

## **Introduction: OIR and the Executive Force Review Committee**

Shooting a firearm at a suspect is the most consequential police use of force. Consequently, deputy-involved shootings are among OIR's core concerns. OIR attorneys roll out to the scene of each LASD shooting (whether a suspect is struck by LASD bullets or not) in order to view the location and to confer with Homicide and Internal Affairs detectives as they are beginning their investigations. We monitor each case individually through the Executive Force Review process — a preliminary investigation and evaluation to determine whether the shooting indicated any apparent violations of Department policy or significant tactical shortcomings.

We also track cumulative trends in shootings. 2004 represented the peak of a five year upward trend in the total number of deputy-involved shootings. In 2005 there was a slight reduction with 28 "hit" shootings where a suspect is killed or wounded, and 20 non-hit shootings. If the remainder of 2006 is consistent with January through September, we can anticipate virtually the exact same total deputy-involved shootings in 2006 as in 2005.

A number of variables influence this statistic, and the Department controls only some of them; the use or threatened use of guns by suspects is a clear example of behavior outside the control of the deputy. Accordingly, analysis of broad trends, while worthwhile, must go hand in hand with the careful assessment of each individual case.

The Executive Force Review Committee ("EFRC") is a panel of commanders that meets twice a month to assess all deputy-involved shootings and uses of force that result in significant injury to the suspect. Over the years, we have observed — and tried to help shape — an approach to this review that is both thorough and holistic. The process has, in our view, evolved in positive ways. The panel routinely goes beyond the important but narrow question of whether

the shooting or force itself was justified, and delves into a broader analysis of tactics, training, and policy in conjunction with each incident as a whole.

After rolling to the scene of deputy-involved shootings, OIR monitors the subsequent investigations. OIR then has the ability to offer input before and during the EFRC meetings, and is often impressed with the liveliness of the panel discussions and the insights they produce. Dangerous encounters with uncooperative suspects are inevitable for the deputies, but the commanders look for ways to promote the efficiency and safety of those encounters by requiring adherence to the Department's standards in policy and practices. It is a constructive process and one that rightly puts learning and reform on the same plane as accountability.

Many of the cases addressed by the EFRC are straightforward in terms of facts and analysis. Often, though, the events are more complex, and the available evidence less conclusive or coherent. The panel relies heavily on the statements of the involved deputies, not only in terms of reconstructing the events but also to understand the thought processes and decision-making that shaped their actions.

### **Force Review Briefing**

OIR has long believed the fruits of the EFRC review process should be disseminated and understood by the Department as widely as possible. In recent months, the Department has taken one step in that direction. To further the Committee's emphasis on training, the sergeant responsible for coordinating EFRC recently proposed that the Committee devise and distribute a bulletin that would discuss and highlight lessons learned from its incident reviews. The resulting "Force Review Briefing" is designed to focus on actual incidents and call to deputies' attention the tactical issues the involved deputies encountered. The bulletin is also designed to remind deputies of LASD policies and

"best practices" in this critical area. Before the bulletin is disseminated, personnel from training, Internal Affairs, Legal, the Executive Force Review Committee and the OIR review the draft in order to offer their input. Included on the next page is an example of these bulletins distributed to Department members. OIR encouraged this idea at its inception and is pleased to offer its review and input as new editions are prepared. The responsible parties, however, deserve the lion's share of the credit for their initiative. The Force Review Briefings are another example of LASD's willingness to recognize the importance of candidly assessing the past for the sake of future effectiveness and provide a feedback loop so that the Department can learn from critical incidents and be better prepared for future ones.

---

Los Angeles County Sheriff's Department

## ***HOT TOPICS BULLETIN***

Executive Force Review Committee (323) 890-5407

---



**Hot Sheet #06-01**

**Date: July 26, 2006**

The Executive Force Review Committee, which consists of three area commanders, evaluates each force or shooting incident that the Force/Shooting Response Team investigates. The Committee determines whether the actions of the involved personnel were consistent with training, tactics, proper use of equipment, and Department policy.

During the Committee's evaluation of each incident, issues are identified and discussed. This Hot Topics Bulletin was created as a vehicle to disseminate the information in hopes that it will generate discussion during briefings and field training.

The following is a brief, edited summary of a factual incident. The issues of concern are discussed on page two.

### **INCIDENT**

Deputies received a family disturbance call. While en route, the call was upgraded to a fight in progress. The deputies arrived to see two male adults arguing in front of the corner-house location. As they parked in front of the house, they noticed people gathering in the street, near the house, watching the disturbance. An aero unit was orbiting overhead. Quickly assessing the situation, the deputies learned the involved parties were brothers fighting with each other. While talking to one party, the disturbing party walked back toward the house. Deputies attempted to approach the disturbing party, but were rebuffed as the party entered the house while making abrasive comments and alluding to possessing a handgun. Deputies then tried to formulate a plan to handle the situation when they noticed the

gathering in the street was starting to grow and the people were becoming more boisterous.

Assisting deputies arrived to deal with the growing crowd control problem. While dealing with the crowd, deputies heard a loud noise coming from within the house, which sounded like a possible gunshot. Deputies took positions of concealment behind patrol cars, broadcasted the information to responding units, and requested a field sergeant. Several deputies took positions of concealment east of the house, while the remaining deputies stayed in their original positions of concealment. Believing they had an active shooter, deputies deployed two AR-15 rifles, one to the east containment location and one to its southeast.

The field sergeant arrived to find a large crowd of unruly neighbors, deputies parked in front of the disturbance location in the middle of the street, different types of weapons deployed, an aero unit in a low orbit with its loud rotors drowning out any chance for normal communication, and a handcuffed person, who got out of the back seat of a patrol car twice and was walking around requesting that the handcuffs be removed. Then a loud noise, which sounded like a gunshot coming from within the house, was reported. At the same time, the south livingroom window shattered, sending shards of flying glass outward. The deputies saw what appeared to be a muzzle flash and a silhouette at the south window. Deputies, believing the disturbing party was shooting at them, opened fire. Several minutes later, the disturbing party, uninjured, surrendered and was taken into custody without further incident. No firearm was recovered from the house.

**ISSUES OF CONCERN****Approaching the Location**

Initial responding and assisting deputies parked in the street directly in front of the location. This placed the deputies in a potential danger zone and at a tactical disadvantage. The incident went "hot" within moments and positions of concealment were limited to patrol cars. Tactically, patrol cars are not the best choice for cover because they offer very little protection from bullets.

**Aero Unit in Low Orbit**

If an aero unit's orbit is so loud that it interferes with ground units from communicating with each other, and the aero unit's assistance is not a necessity, request the aero unit to either alter its orbit or ascend to a higher altitude so clearer communication can be reestablished among the patrol units. Orbital changes can be made without compromising the tactical benefits an aero unit provides.

**Weapons**

Remember, only qualified AR-15 trained deputies can deploy an AR-15 rifle during an incident. In addition, you need to announce its deployment via the radio.

Also, deputies cannot carry in a patrol unit a shotgun which is loaded with a rifled slug(s), either in the barrel chamber or in the magazine tube. Deputies can, however, carry rifled slugs in a separate pouch and load them in their shotgun when necessary.

**Handcuffed Person**

The handcuffed person was able to escape twice from the back seat of a patrol car with the probable assistance of the unruly neighbors. This obvious officer's safety hazard creates not just liability for the deputies, but now your attention is divided between your escaped prisoner and the escalating incident. If a person

is detained in the back seat of your patrol car, you are responsible for monitoring their security as well as their safety.

**Target Acquisition**

Target acquisition is identifying a specific threat and placing that threat within a point of aim or sight alignment. Target acquisition was a concern because some deputies fired from a position where it was impossible to see the suspect or his actions. Others attempted to fire through an exterior stucco wall. The Department's authorized ammunition (9mm or .223) is not designed to penetrate this type of material. This less than effective tactic should be reserved only for close range and when compelling reasons exist.

Remember, each deputy must have independent reasoning for using deadly force. The fact that other deputies are firing their weapons is not by itself sufficient to justify the decision to shoot.

**Fire Discipline**

Fire discipline is a controlled and measured rate of gunfire, usually in two or three round bursts. Maximum accuracy and efficiency are achieved through constant reassessment and target reacquisition.

**Incident Management**

All situations are fluid and constantly evolve. Therefore, any situation can get worse without notice. At the onset, there was an immediate need to adjust inadequate positions of cover, to expand the containment, to control personnel, and to remedy poor communications. Remember, it is imperative to continuously reassess and quickly adapt to rapidly changing circumstances.

Questions regarding this Bulletin may be directed to the Executive Force Review Committee at (323) 890-5407.

## EFRC: A Case Study

The following shooting case, in which a seemingly unstable suspect confronted deputies, attempted to drive off in one of their radio cars, and was ultimately killed, offered a good example from the past year as to how the process works — and what some of its inevitable limitations might be.

### C A S E

---

*In their separate radio cars, two deputies were assisting another unit in looking for a suspect wanted in connection with a hit-and-run accident that had occurred at a nearby intersection. The deputies had received a physical description of the suspect. While searching the parking lots behind businesses in the area, the deputies saw a man matching the suspect's description. As the deputies drove their radio cars toward the suspect, they noticed that he was carrying a three-foot long piece of lumber in one of his hands. At the same time, the deputies received a radio transmission of a "burglary in progress" at their location.*

*When both deputies exited their radio cars, they encountered several employees of the business who directed the deputies' attention to the man holding the lumber. He soon charged at the deputies, while swearing and screaming and swinging the piece of lumber in their direction. Although the deputies had drawn their service weapons and ordered the suspect to drop the wood, the suspect refused to comply. Instead, he responded by slamming the lumber on the hood of Deputy A's parked radio car.*

*With Deputy A providing cover for Deputy B, Deputy B used pepper spray on the suspect; however, the pepper spray had no apparent effect. The suspect continued to swear and scream at the deputies and made attempts to charge at them. The suspect then stopped short of the deputies and slammed the lumber on the pavement, causing it to break in half. The suspect then walked backwards away from the deputies and toward Deputy B's radio car, which was parked with its engine running.*

*Both deputies continued to follow the suspect, with their service weapons drawn, and issued commands for him to stay away from the radio car. However, in a deliberate fashion, the suspect disregarded those commands, entered the driver's seat of the radio car and placed it in drive. The car lurched forward. Deputy B was standing three to four feet in front of and on the driver's side of the vehicle. Deputy A was also a few feet away and offset to the passenger side.*

*Deputy B fired approximately five rounds at the suspect at this point, in response to the movement of the car. The suspect then stopped, put the car into reverse and accelerated backwards. As the suspect began accelerating in reverse and away from the deputies, Deputy A reached into the radio car. Both deputies then shot at the suspect. Deputy A fired a single round and Deputy B fired approximately five rounds. The suspect crashed the radio car into a parked truck and stopped.*

*The suspect received six gunshot wounds to his upper torso and died at the scene.*

## The Evidence

What distinguished this case from the majority of shootings reviewed by the Department was the abundance of evidence available to investigators. The shooting occurred at night in front of a handful of civilian witnesses. Investigators recovered a significant amount of physical evidence (including shell casings from the deputies' weapons, tire marks from the suspect's driving, and a surveillance videotape that captured much of the action — albeit in blurry form). As usual, the deputies offered detailed statements about their actions and state of mind during the event.

## The Analysis

In their initial encounter with the suspect, the deputies exhibited both sound tactics and praiseworthy restraint. The evidence indicates that the deputies would have been justified in using deadly force at an earlier point — the initial brandishing of the lumber by the suspect — than they actually did. They first tried retreating and creating a safe distance as they continued to monitor the suspect's actions and gave unheeded commands. Then, when the suspect came toward the deputies and swung the lumber, hitting the patrol car, Deputy B's use of pepper spray was certainly reasonable and justified. The suspect was acting in a threatening manner and refused to comply with the deputies' commands to put down the lumber.

The issues became more complex — in terms of both tactics and policy — when the suspect entered the radio car and began driving it. The shooting took place in two phases: first, Deputy B firing alone, then both deputies firing together a few seconds later. Under the relevant legal and policy analysis, a deputy must provide justification for each pull of the trigger. Analysis of the incident required detailed understanding of the movements of the radio car and deputies, both separately and in relation to each other.

The key question was whether the suspect created a threat of serious harm to one or both deputies through his maneuvering of the radio car. Under Department policy, the shooting would be out of policy if the car's movement did not imperil the deputies at the moment they fired, or if the deputies had a reasonable alternative course of action to remove themselves from peril. In addition, the Department evaluates the tactics of the deputies to see whether their handling of the situation met the standards of expected performance and attention to sound tactical principles.

In this case, the analysis of the deadly force became complicated by significant clashes in the evidence. The involved deputies told essentially the same story as to where, when, and why the shots had been fired. Some of the civilian witnesses, however, had perceived events differently from the deputies — and in some instances from each other. The physical evidence also contradicted some of the eyewitness accounts. The expended shell casings and the entry points of the bullets into the patrol car and the suspect, for example, were not consistent with the deputies' statements.

Interestingly, the physical evidence, including a videotape of part of the event, made for a stronger case in support of the shooting's justification than did the deputies' own recollections — it suggested positions that more clearly showed imminent danger to the deputies from the suspect's actions in the car.

## Findings

The totality of the circumstances demonstrate that once the suspect began to use the radio car as a deadly weapon, the deputies were justified in using deadly force to protect themselves. When the suspect entered Deputy A's patrol car and caused it to lurch forward in the direction of Deputy B, Deputy B was justified in protecting himself from an immediate threat of danger by firing his service weapon at the suspect.

In addition, when the suspect placed the radio car in reverse, the front end of the radio car moved in the direction of Deputy B. Deputy B was a few feet in front of the radio car and offset slightly on the driver side. While it was unclear whether the suspect was intentionally attempting to hit Deputy B with the radio car, it is clear that the suspect's movement of the radio car represented an immediate physical danger to Deputy B. Therefore, it was reasonable for both deputies to use deadly force and shoot at the suspect to protect Deputy B from injury.

After closely reviewing the relevant evidence and parsing the credible facts regarding the uses of force, the Committee concluded that the use of pepper

spray and shootings by each deputy were reasonable uses of force and within the Department's policy. OIR concurred with the Committee's conclusion on the use of force issues.

The Committee's conclusion that the use of deadly force was within Department policy resulted from a close examination of the physical evidence, the videotape recording and credible witness statements. Based on the physical evidence, the videotape recording and credible witness statements, the Committee rejected the versions of the shooting incident which were inconsistent with that evidence. The Committee concluded that Deputy B was barely able to move out of the way of when the suspect drove the patrol car in Deputy B's direction and that because the suspect in the patrol car represented an immediate and physical threat to Deputy B when the shooting occurred, the firing of rounds by Deputies A and B was within Department policy. The Committee also determined that while there was no evidence that the involved deputies intentionally made false statements about the shooting, the deputies' statements with respect to Deputy B's second volley of shots were clearly contradicted by the physical evidence.

With the use of force issues resolved, the Committee continued its analysis of this shooting with a focus on the deputies' tactics. When the suspect approached and entered Deputy A's patrol car and caused the car to lurch forward, there was an issue of whether the deputies were in tactically unsound positions. Deputy A was at the least a few feet in front of and to the driver side of his patrol car and near parked trucks or vans. Deputy A was at the least a few feet away from the patrol car and offset to the side of the passenger side. The Committee evaluated the evidence to determine: (1) whether the suspect's movements and entry into the patrol car were sudden or deliberate; (2) whether and how both deputies followed the suspect toward the patrol car and whether they had sufficient time to issue orders to the suspect to not enter the radio car; (3) whether each deputy had time to split in different directions and maintain visual contact with each other and the suspect; (4) whether each deputy had time to ensure he was not positioned in front of the occupied patrol car; and (5) whether either deputy created a crossfire scenario. The Committee concluded that an administrative investigation was warranted to determine whether the deputies' tactics constituted a performance to standards policy violation. From this perspective, the Committee reconsidered the evidence presented to it.

The Committee determined that Deputy A's tactics were sound; however, it had some issues with Deputy B's tactics. When Deputy B fired either his initial five rounds or second five rounds, the evidence indicated that Deputy A was on the passenger side of the patrol car and possibly reaching for or into the passenger door. With Deputy B on the driver side of the patrol car, a crossfire scenario

existed which endangered Deputy A's life. The totality of the evidence indicated that Deputy B should have had greater regard for his shooting backdrop, including Deputy A's position. The Committee recommended a written reprimand for Deputy B's unsound tactics. While OIR agreed with the Committee's determination that Deputy B's tactics were unsound and constituted a performance to standards policy violation, it disagreed with the recommended discipline level, believing that the violation warranted a short-term suspension.

## Conclusions

This investigation began as a Homicide case for presentation to the District Attorney's Office, which found that the shooting had been lawful. On top of the extensive forensic work and interviews that occurred in that phase, the handling sergeant from Internal Affairs spent considerable time engaging in further interviews and other investigative efforts. And the Force Review Committee itself devoted substantial time and energy to its analysis — first in reading the investigation file, then in an animated and lengthy discussion of the evidence when the case was presented at a meeting.

OIR commends the care and thoroughness of the assessment, and considers the result to be a fair and appropriate one. Still, the details of the case are cautionary in some respects. No one who reviewed the materials — including the handling attorney for OIR — believed that the deputies were intentionally seeking to misrepresent the facts in order to justify their actions. However, the physical evidence plainly appeared to clash with the deputies' version in key respects.<sup>1</sup> After considerable discussion, the panel acknowledged the existence of this conflict. But it understandably struggled in deciding how to reconcile it for purposes of their findings.

OIR believes that the dual goals of the review process — accountability and remediation — were met in the final determinations of the Committee for this case. The investigation certainly forced the deputies to scrutinize their actions and find ways to increase officer safety and emphasize sound tactics in the future. In the end, the most interesting revelations relate to the lessons that emerge from the unique circumstances of this case.

---

<sup>1</sup> Again, it is worth noting that the deputies' version was, in some ways, more problematic to them from a policy perspective than the "truth" as reflected in the physical evidence. Had they been inclined to massage the facts intentionally, they presumably would have done so in a more self-serving way.

Because many of the deputy-involved shootings that occur each year lack the presence of third-party witnesses and do not occur on videotape, the statements of the deputies carry significant weight. (This may also be a function of the authority they possess in the field, and the trust that is a corollary of it.) While this is appropriate to an important extent, this case illustrates that those statements must also be assessed with the recognition that perception, adrenaline, and emotion can easily create obstacles to accuracy when deputies recount critical incidents.

### **A Tragic Case Comes to EFRC**

The Executive Force Review Committee has continued to show a robust willingness to scrutinize the entire tactical context of a shooting as well as the actual decision to shoot at the moment the trigger was pulled. Even where it deems the actual shooting is fully justified, the EFRC has continued to recommend discipline in such areas as splitting from a partner during a foot pursuit or failure by supervisors to communicate a tactical plan. This has been especially true where the tactical lapse has compromised officer safety. In addition to or as an alternative to discipline, the Committee has recommended training focused on the perceived skills in question or has tried to devise some other way for the Department to benefit from these sometimes frightening or tragic shooting incidents.

### **C A S E**

---

*Deputies were called to a motel where guests had complained that a man had for several hours been coming out of his room with a pellet gun threatening and shooting toward people at random, then going back in. Four deputies assembled in the narrow balcony walkway outside the suspect's door, knocked and asked him to come out of the room. The door suddenly opened and the suspect emerged with what appeared to be a handgun and immediately started shooting. The deputies shot back and simultaneously tried to take cover. In the sudden movement of these few seconds, one of the deputies was hit by one of his partners' bullets. He died from the wound. The suspect was also killed. His handgun proved to be a pellet pistol that was an exact replica of a standard firearm.*

This was a wrenching incident for the Executive Force Review Committee to grapple with. Any death of a deputy in the course of duty is tragic. A friendly fire death is all the more traumatic because the tragedy cannot be attributed entirely to the actions of the suspect. There is the inevitable temptation to move quickly past the incident and look to the future. Nevertheless, the Committee conscientiously worked through the significant issues of planning, communica-

tion, tactical approach and reasonable alternatives. There were no easy answers or obvious uncomplicated mistakes that emerged from the analysis. The Committee agreed however, that many aspects of the incident could serve a valuable cautionary purpose. The Committee tasked the Video Production Unit to work with Internal Affairs and Field Operations Support Services to develop a training video to address a wide variety of potential friendly fire situations. These units have consulted with OIR during the development process. The video and accompanying training module is still in production, but we anticipate that this will be a powerful teaching tool.

### **High Round Shootings: A Preliminary Assessment**

On May 9, 2005, ten LASD deputies fired one hundred and twenty rounds at an SUV that had led deputies on a long pursuit through a residential neighborhood in Compton. Two of the rounds struck the driver, while another grazed a fellow deputy; other bullets hit one of the radio cars and entered nearby houses. This incident was featured prominently in our Fourth Annual Report. It resulted in discipline for the involved officers, and caused the Department to consider a number of issues relating to training, policy, tactics, and the equipment used by deputies in the field.

Certainly, one of the central concerns was the number of rounds that the deputies fired. Each pull of the trigger implicates the Department's deadly force policy along with collateral concerns about target acquisition, an awareness of backdrop, crossfire, tactical planning, and the value of controlled fire. This year, at least two additional incidents have reinforced the importance of the Department's continuing attention to multiple rounds cases.

*Incident One: Early in 2006, ten deputies fired a total of fifty-two rounds during a standoff. In reacting to what some of them perceived as a muzzle flash, deputies fired handguns, shotguns, and AR-15 rifles into the residence. The suspect inside the home was not struck with any of the shots. He was ultimately arrested that night, and the subsequent search and investigation revealed that he had not been armed.*

The Executive Force Review Committee reviewed this matter and found numerous policy violations. Three deputies were disciplined for failure to move to positions of tactical safety prior to the shooting, two deputies were disciplined for failure to acquire an appropriate target, one deputy was disciplined for using an AR-15 when not qualified to do so, one deputy was disciplined for failure to follow the shotgun loading policy, and the sergeant was disciplined for failure to reposition deputies to positions of tactical safety. The Committee concluded

that the initial responding deputies deployed in a tactically unsafe position relative to the house. The responding sergeant, while admitting that some of the deputies were not deployed in a tactically safe manner, took no steps to order them to move to adequate cover. As a result, when a sound or flash emanated from the house, the deputies reacted by firing numerous rounds indiscriminately into the house with little concern for controlled fire. The sergeant himself believed that some of the rounds were caused by “contagious fire” a phenomenon whereby a deputy fires because he observes his fellow deputies firing.

*Incident Two: Later in 2006, six deputies fired a total of seventy-six rounds at a moving vehicle, killing the driver. This shooting took place at the end of a high-speed pursuit in which the suspect struck two radio cars in his attempts to escape, harm the deputies, or both.*

That case is still under investigation; the Department has not made final determinations about the propriety of the deputies’ tactical decisions. However, one of the background facts that has already emerged is that five out of the six deputies had not had tactical training in the past two years, a gap that is out of line with professional standards and Departmental expectations. The blame for this situation ultimately lies with the Department, not the individual deputies. The Department is quick to explain the difficulties in freeing their deputies from ongoing responsibilities in order to attend training — particularly in busy stations and with the current shortage of personnel — but it is incumbent on LASD to ensure that its people are trained regularly, particularly in the most active stations where deputies will more often encounter dangerous situations.

## The Department’s Internal Study

These most recent high volume shooting incidents and the media interest surrounding them created the perception that such incidents were on the rise. In response, LASD initiated a study to examine these shooting cases in an effort to understand possible causes and potential reforms. Because the Department has a well-developed tracking system for shootings, it is relatively easy to gather and evaluate data on shooting incidents. LASD examined all 223 hit and non-hit shootings for the five-year period from 2001 to 2005. Because the average number of rounds fired in these shootings was six, it defined “high-round shooter incidents” as cases in which at least one shooter fired more than six rounds. Sixty-six of the shooting incidents qualified as high round shooter incidents. Of the deputies who fired more than six rounds during an incident, the average number of shots fired by those deputies was approximately nine.

The study found that one patrol station accounted for one-third of the high-round shooter incidents.

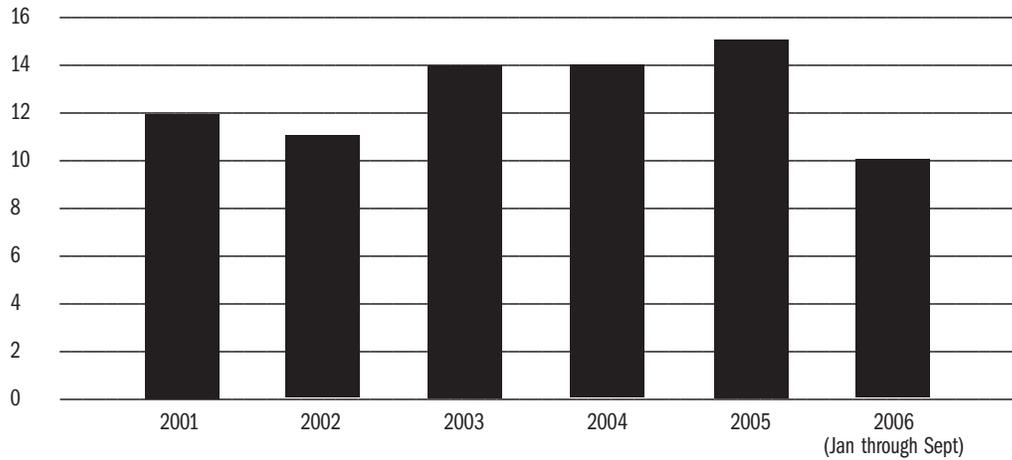
The study further found that 11 of the 66 high volume shooting incidents entailed shots fired at vehicles. The Department also discovered the shooting at vehicles incidents usually involved multiple deputy shooters. The study found that two patrol stations were responsible for the majority of the shooting at vehicle incidents.

Our own review of the data suggests that, contrary to the perceived spike in high round shootings, these incidents have occurred in fairly regular numbers over the years. From 2001 to 2005, the number of high round incidents ranged from 11 to 15. Indeed, even when the overall number of shootings has increased, the number of high round incidents has remained stable. Therefore, while it may be true that a few recent shootings involved an extra-ordinary number of rounds, generating more media attention than usual, the high round shooter incident is not a new phenomenon.

Nonetheless, the Department realized it could do more to prevent or minimize the impact of these inherently dangerous high round shootings. As the Department's experts evaluated the data around these incidents, one question was whether the Department's weapon of choice, the Beretta handgun, played a role in the high volume phenomenon. The theory was that more rounds might be fired from a Beretta because its trigger becomes physically easier to pull for each shot after the first in a given firing sequence. While the study did not eliminate this theory as a possible explanation, so far the Department has given at least as much credence to other potential factors. Among these are inconsistent tactics, infrequent firearms training, the absence of a designated shooter, unassertive supervision, peer influences, contagious fire, failure to coordinate, poor target acquisition, and limited field experience.

To address these factors, the study group recommended that more realism be introduced into the mandated pistol qualification program. The study group also recommended that all field sergeants and lieutenants attend a tactical command and leadership training course. Finally, the group recommended that the tactics class for deputies include discussion and practical application of the following tactical principles: the seven C's of all tactical operations (*command, contain, control, communicate, coordinate, contingency, critique*), as well as fire discipline, target acquisition, cover, tactical position of advantage, designated shooter, fields of fire/sectors of fire/shooting background, and deputy crossfire.

## High Round Shooter Incidents, 2001-2006



## High Round Shooter Incidents,\* 2001-2006

	Total High Round Incidents**	Total Shootings	High Round Incidents to Total Shootings
2001	12	33	36%
2002	11	38	29%
2003	14	46	30%
2004	14	57	25%
2005	15	49	31%
2006***	10	37	27%

\* Includes hit and non-hit shootings.

\*\* Defines by LASD as a shooting in which a shooter fired more than six rounds.

\*\*\* January – September

The study was a good first step in addressing the Department's perceived problem of too many high volume shootings. Rather than rely on anecdotal data or perceptions among supervisory personnel, the Department took advantage of the wealth of data available to it and actually ran the numbers. The Department should be commended for addressing the issue and using its data in order to see whether there is a way to identify solutions that might reduce the number of rounds fired in shooting incidents. In addition, the initial recommendations from the study group are well grounded and a positive step toward addressing the high rounds situations.

### The Department's Response

Before the analysis had been completed, and in direct response to the second shooting described above, the Sheriff personally ordered his command staff to place shooting qualification trailers running the recently-developed combat shooting experience course in three of the busiest stations in the southern part of the County, as well as one for the north part of the County. The Sheriff's intent was to ensure that tactical training was readily available to his patrol deputies, particularly in the patrol areas that had most frequently experienced high round shootings. It was a well-considered recognition and response to the challenges faced by station personnel in getting their people to the Department's training centers. Taking tactical training to the stations makes good common sense and has the added virtues of practicality and attainability — traits that can be elusive when systemic reform is at issue in the Department. The Department has taken steps toward achieving this goal by ordering additional trailers. Unfortunately, the usual bureaucratic processes have slowed these efforts, and the trailers have not yet been permanently located at the intended stations.

Indeed, after the thoughtful work of the study group, LASD's continuing challenge is to find ways to ensure implementation of the many worthy recommendations that emerged from the group. One troubling trend we have occasionally observed is a disappointing turnout by Department members when worthwhile tactical training is offered. For example, the Tactics and Survival Training Unit recently developed and initiated the tactical training exercise for supervisors recommended by the study group. The training provides valuable skills to sergeants and lieutenants regarding tactical decision-making that may reduce the need for deputies to engage in the use of deadly force. We attended one recent session of the new course for supervisors about tactical decision-making, and were disappointed that, while the content seemed excellent, there were more trainers than attendees at the class.

This is hardly a function of indifference or neglect — resources are strained throughout LASD, and supervisors are understandably busy with other responsi-

bilities. However, in the battle over competing priorities, the effective management of critical incidents certainly merits great emphasis.

The Department needs to continue its resolve to find ways to reduce the high volume shooting incidents and to ensure implementation of the suggestions offered by the study group. Unfortunately, there have already been signs of slippage: in the several months between its last meeting and this writing, the study group has failed to reconvene as planned. As with many things in a Department entrusted with varied responsibilities and crises, it is easy for issues to be pushed aside to deal with today's crisis. However, it is OIR's view that an issue as important as the one identified by the Department must continue to receive its sustained attention — and not just wait until another high round shooting incident occurs.

### **Shooting at Moving Vehicles**

In our last report we discussed LASD's new policy to provide additional guidance to deputies about shooting at a moving vehicle in response to a threat posed by that vehicle. (See Fourth Annual Report, at pp. 7-9.) The policy has two major attributes. First, it emphasizes that when the sole deadly threat is from the manner in which the vehicle is being driven, as opposed, for example, to an occupant firing a weapon from the vehicle, the deputies should not shoot unless there is no reasonable alternative. This means deputies should first try to get out of the way of the vehicle. Second, the policy identifies tactical principles that would be used to evaluate the conduct of all deputies involved in an encounter when shots are fired at a moving vehicle. That is, the tactical decisions made by the non-shooters will be scrutinized along with the actions of the deputies who shoot.

As we mentioned in our previous report, LASD recognized the importance of training deputies on this new policy. To that end, the Department rapidly created a training curriculum, including a video, and commenced training. OIR has followed up with individual units within the Department to monitor whether the training is actually reaching the deputies. OIR asked for training rosters showing attendance at the training and compared these to the unit rosters. As a result, OIR has confirmed that the training has reached most members of the Department who are likely to encounter these situations.

Over the past year, the Department already has had opportunities to apply its new policy to shootings involving threats posed by vehicles. In one instance, the shooting complied with the policy. The deputy fired only when there was no reasonable alternative, and the tactics of the deputies before, during, and after the shooting were consistent with the principles set forth in the policy.

## C A S E

---

*Two deputies approached two suspects painting graffiti. Unbeknownst to the deputies, one of the cars parked on the street was occupied by a third suspect whom they did not see. The deputies drove up to the two suspects and one deputy immediately exited the car to address them. Within seconds of the initial encounter, as the deputy stood next to the car, keeping it between himself and the suspects, they started running away on foot and the third suspect drove his car towards the deputy. The deputy could not move out of the path of the suspect vehicle because he had his car on one side of him, and the suspect vehicle was driving towards the other side. The deputy fired two rounds at the vehicle, hitting the front and front passenger side. The suspect continued driving past the deputy without striking him. He was later apprehended and had not been shot.*

The Executive Force Review Committee reviewed this shooting. With OIR's concurrence, the Committee found that the shooting complied with the Department's new policy. The deputy had no alternative other than to shoot in response to the threat posed by the vehicle. In addition, the tactics of both deputies prior to and during the shooting were consistent with their training. They had not needlessly placed themselves in vulnerable positions relative to a known threat from a vehicle; and the shooter deputy displayed controlled fire, he considered his backdrop, and he did not continue shooting after the threat had passed.

In another situation, described below, the Department enforced the policy where the conduct of the deputy did not comply with the policy's requirements.

## C A S E

---

*An off-duty deputy exited his vehicle, leaving the engine running as he said goodbye to a friend. A suspect jumped in the vehicle and drove off, attempting to steal it. As the vehicle backed up, the deputy ran out into the street, leaving cover and placing himself in the path of the vehicle. As the car came forward, the deputy fired two rounds at the vehicle. The rounds entered the side of the vehicle as the driver drove away.*

In this instance, the Executive Force Review Committee determined that that shooting violated the new shooting at vehicles policy and disciplined the deputy. Unlike the first scenario, the Committee found that it was the deputy who placed himself in the path of the vehicle and left his safe position of cover to do so. The Committee concluded that the deputy's tactically unsafe actions created a chain of events that put the deputy in a position where he felt he needed to use deadly force. OIR concurred in this result.

Other relevant incidents have occurred in this past year that have not yet reached the Executive Force Review Committee for evaluation. OIR is monitoring the reviews of those incidents with special interest and with the goal of ensuring that the Department continues to apply its new policy consistently. Because the LASD policy is not intended to prohibit all shootings in response to threats posed by vehicles, OIR is not inherently concerned that some of these incidents continue to arise. However, should further review of incidents reveal that multiple violations are occurring (or that a clear understanding of the new policy is an issue), then OIR will recommend that LASD assess the need for additional training or emphasis.

### **Shooting Through Windshields**

The Department has for years recognized that discharging firearms through patrol car windshields presents significant tactical and safety concerns. Just as OIR was getting started five years ago, we noted that the Department's video production unit had recently issued a video entitled "Shooting Through Windshields: Tactical and Safety Considerations." The video speaks candidly about the technique and the associated tactical and safety considerations. For example, shooting through the windshield keeps the deputy in the suspect's direct line of fire, it does not provide cover for the deputy, it may result in glass fragments getting in the deputy's eyes or other sensitive areas, it may affect a deputy's vision or hearing ability, and the curvature of the windshield causes the bullets' paths to be altered, making it unlikely it will find its target. The video concludes that deputies should fire through a windshield only in extraordinary circumstances and presents other reasonable alternative actions that may be tactically superior and safer. Unfortunately, the Department's training efforts on this point have not always reached the intended audience.

#### **C A S E**

---

*After firing through the windshield of his patrol car, to no effect, a deputy explained that it was his belief that shooting through windshields was a Departmentally preferred tactic. LASD requested that the unit commander disabuse the deputy of this notion.*

#### **C A S E**

---

*Three deputies were following a suspect vehicle when an occupant of the vehicle began to fire at the patrol vehicle. The passenger deputy returned fire by shooting several rounds through the windshield of the patrol vehicle. None of the rounds struck the intended target and the suspect shooter stopped his vehicle and ran from the deputies. All of the*

*deputies reported that the firing by the passenger deputy disoriented them as a result of the noise of the gun being discharged in the closed area and the shattering of their windshield. While LASD concluded that the shooting was within policy (and OIR concurred), it requested that the unit commander reiterate to the deputies the issues surrounding the discharge of firearms through radio cars' windshields. It also agreed with OIR's recommendation that the training unit be requested to reissue the five-year-old video to Department members.*

Since the discussion after the second incident, the Department's Tactics and Survival Training Unit reissued the training video and created an effective poster highlighting the drawbacks of this technique and distributed the poster to all LASD patrol stations.

OIR applauds the work done by Training in order to reinforce the notion that shooting through windshields has inherent drawbacks to the well-being of the deputy. It also commends the Department for using the feedback loop from recent shootings as a learning tool and a way to reinforce important tactical and safety concepts to deputies in the field.

Because OIR is personally involved in reviewing every deputy-involved shooting it is well-equipped to continue to monitor those situations in which deputies fire through their own windshields and to recommend whether additional actions should be taken to ensure that deputies are aware of the potential pitfalls to this tactic, which, the Department acknowledges, should only be used as a last resort.

### **Anti-Huddling Reforms**

Since the group's inception, OIR attorneys have engaged the Department in dialogue about its practice of allowing deputies to "huddle" — meet in a group as opposed to individually — with legal counsel prior to formal interviews by Homicide detectives or Internal Affairs investigators in shooting cases. The main problem with the practice is that, in a worst case scenario, it would facilitate the cover up of a bad shooting by allowing deputies to "get their stories straight" prior to making an official statement. Even in a best-case scenario, when the deputies' actions have been completely justified and their accounts completely honest, the toleration of huddling goes against customary investigative practices and erodes the public's trust. The mere opportunity to "compare notes," even if not needed or exploited, fuels the skepticism of those who doubt the police and inherently lessens the value of the statements that follow.

The issue is not an easy one: the fact that deputies have the authority — and sometimes the responsibility — to use deadly force obviously shapes the frame-

work of the investigations in distinct ways. That is, deputies' status as peace officers distinguishes them from ordinary homicide suspects, and appropriately so. It is also true that shootings can be traumatic for the involved personnel, and the Department's inclination to be supportive rather than accusatory in such a context seems hard to dispute. Finally, deputies involved in a hit shooting have a Fifth Amendment right not to give a voluntary statement about what happened, and the Department is understandably hesitant to tamper with deputies' long tradition of cooperation by changing its protocols.

While recognizing these realities, OIR has consistently asserted that huddling throws off the balance of competing values to an unacceptable extent. It has raised its concerns on numerous occasions not only with several members and units within the Department but also with potentially impacted non-Department parties, including the District Attorney's office. These discussions have been occurring in some form or another for most of OIR's five years of existence. While huddling was not necessarily a regular or notorious occurrence during this time, there were shooting incidents in which such pre-interview gatherings did happen and did create concern. Eventually, within the last year, OIR reached consensus with Department executives about the need for reform.

The creation of new policy then began in earnest, with regular input from OIR as to both the goals and the specific means of achieving them. After numerous drafts and occasional losses of momentum, the Department finally crafted extensive new language that it was willing to present to the unions as part of its obligation to discuss significant new developments in policy. The discussions took place over several sessions and led to revisions that theoretically brought the two sides closer together. In the end though, the deputies' union did not accede to the change in policy.

Though the union's refusal to accept the policy changes was disappointing, it has not impeded the Department. Instead, LASD is adopting its new "anti-huddling protocol" as of November 1.

While the adopted policy specifies a clear prohibition on involved-deputies discussing the shooting en masse with their representatives or legal counsel, OIR has some remaining concerns about the ways in which the policy will be monitored or enforced. For example, the policy does not instruct supervisors on how involved deputies are to be transported to the station and where they are to be located to ensure compliance with the policy. The policy is also silent on the way supervisors are to document compliance with the new policy. While the Department has indicated that it will specially train its supervisors on implementa-

tion of the policy, OIR believes that such training may need to be supplemented with an instructional memorandum that sets out the Department's expectations of supervisors. OIR intends to further discuss this issue with Department executives to ensure that, once and for all, the huddling practice will be eliminated.



**5-09/431.50 PRELIMINARY RESPONSIBILITIES**

Deputy-involved shootings are likely the most critical incidents in which Department personnel become involved; therefore, they appropriately warrant an in-depth and objective analysis. A central component in this process is the collection of statements from every identifiable witness. The investigative process must be undertaken promptly and with the highest level of investigatory integrity, while at the same time, honoring the rights and needs of Department members.

The following investigative protocols have been established by the Department in order to ensure these objectives:

Personnel, either involved in, or a witness to, the event, shall not discuss the circumstances of the incident among themselves or with uninvolved persons prior to being interviewed by assigned Departmental investigators.

**NOTE:** The provisions of this policy regarding witness' statements shall not affect communications required for tactical needs or subsequent suspect apprehension.

Members who were either involved in or witnessed the incident may consult individually with legal counsel or labor representatives telephonically or in person before providing an interview with Departmental investigators. Members who were either involved in or witnessed the incident shall not consult with legal counsel and or labor representatives collectively or in groups (e.g. two or more members consulting at the same time with the same legal counsel/labor representative).

The Watch Commander and all supervisors shall take reasonable steps to ensure that the provisions of this policy are followed. Whenever practical, Watch Commanders or their designee shall attempt to have involved personnel and witness personnel gather in the company of a supervisor until they have provided a statement to Departmental investigators. This practice shall in no way interfere with the member's individual access to legal/labor counsel, spiritual counsel, or otherwise impede access or availability to family members.

**Revised 11/01/06**



# PART TWO Inmate Security and Care Issues

## **A Violent Death at Men's Central Jail**

Late in 2005, an inmate was murdered at Men's Central Jail during the evening meal period. The victim was brutally assaulted by other inmates as a number of others looked on, and while the attention of deputies was diverted. It was the first murder since a highly publicized cluster of killings that took place in 2003 and 2004 and led to several systemic reforms.

Pursuant to established protocols, an OIR attorney rolled to the murder scene and monitored LASD's investigation of the incident. At the scene, the attorney spoke with LASD executives and investigators regarding OIR's initial concerns and raised several issues about which investigators should question witnesses and Department personnel. On the morning following the murder, OIR discussed both the murder and follow-up issues with Department executives and investigators. As Homicide investigators gathered evidence for murder charges against the assailants, LASD officials ordered an immediate administrative investigation into the actions of jail personnel responsible for inmate safety. OIR continued to monitor the Department's investigation until its conclusion.

The facts that emerged about the assault were troubling on a few levels. Not only was the level of violence startling, but several procedural matters raised questions as to whether the attack could have and should have been prevented.

When the attack occurred between 5:00 p.m. and 5:20 p.m., two inmates identified as the primary aggressors took turns jumping from a bench onto the victim inmate's head. It was the victim's first day in general population; in the initial days after his arrest, he had been classified as a "K-10" or "special handle" inmate who was isolated from others because of early concerns about his mental health.

Witnesses to the murder indicated that there were screams and loud noises during the inmate altercation in the television room where — in a break from normal procedures — some 30 inmates had been gathered to eat. While the two inmates assaulted the victim, Department personnel were neither in the television room nor stationed immediately outside. Indeed, even a window into the room had

been painted over, meaning that passing Department personnel were unable to observe anything through it.<sup>1</sup> The subsequent investigation revealed a number of reasons for the lack of supervision, as described below, and demonstrated that limited deputy resources had unfortunately been pulled in too many directions. Nonetheless, the public was understandably concerned and perplexed about this lack of supervision and security.

In early meetings with Internal Affairs investigators, OIR discussed with them the appropriate scope of the administrative investigation. Some differences in perspective came to the surface fairly quickly. IAB noted that no specific employees had been named as subjects with regard to particular allegations of misconduct or culpability in the death, and knew also that the Department's executives expected a prompt assessment of relevant systemic issues. This may have contributed to the investigators' reluctance to pursue certain leads, and the result was a preference for a more narrowly focused investigation. OIR, on the other hand, took the position that a full understanding of what had occurred was necessary before LASD could appropriately frame the boundaries of relevant conduct and procedures that ultimately led to the murder. OIR also wanted the actions of all involved employees to receive careful scrutiny, even if their conduct was not directly linked to the death itself. This tension between a focused inquiry and one that aimed more broadly at a host of possible issues underscored the investigation throughout the months of its duration. While this was frustrating to OIR at times (and surely to IAB as well), the Department's executives responded favorably to OIR's urgings every time further investigation was at issue, and the ultimate product was thorough and comprehensive.

Homicide's investigation ultimately led to murder charges for those inmates allegedly involved in the attack. While their precise motive remains unclear, a number of facts about the victim's final hours raised concerns that warranted further scrutiny from the Department. One of these was the failure to change the victim's identification card from red to blue after he was declassified from K-10 status and assigned to general population. Because he still possessed a red card in error, the inmates who attacked him may have mistakenly believed he was an informant or had testified against another inmate, reasons for which inmates frequently are classified K-10.

Shortly before the attack, the victim had been on the rooftop of the jail in an exercise period with other inmates. Department personnel assigned to that area ended the session earlier than scheduled because of an inmate threat of violence on the

---

<sup>1</sup> The wall common to the adjacent day room — another place for gathering or containing groups of inmates at a time — also had a window through which the television room was visible, but only other inmates were inside the day room at the time of the attack.

roof (unrelated to the victim). For the same reason, other personnel were conducting a search of inmate cells at that time.<sup>2</sup> Because the module of cells had not yet been cleared, Department personnel decided to bring the group of inmates from the roof to the television room, and to distribute their dinners to them there.

Based on these events and the attendant facts that the investigation revealed, OIR made several recommendations. These were made with the clear understanding that nothing in the evidence indicated that any Department personnel performed or failed to perform any task with the intent to cause harm to the victim or any other inmate. However, the evidence suggested that certain Department personnel failed to perform to a degree that was or should have been expected of them.

Several of the recommendations involved formally naming certain individuals as subjects, based on OIR's belief that allegations of policy violations were substantive enough to warrant documentation — even if the final conclusion turned out to be that the charges were not founded. These recommended subjects included the following personnel:

- The employees who failed to ensure that the victim's blue wristband, which was appropriate for general population status, matched his identification card, which incorrectly continued to show K-10 status.
- The personnel who were responsible for escorting the victim to the rooftop, who knew the importance of matching cards and wristbands, and who either may have failed to conduct the appropriate inspection or may have conducted the inspection negligently.
- The personnel who were responsible for placing the victim and the other inmates in the television room and closing the door on them with no direct way to monitor their behavior, especially given the threat of violence that had prompted the break from regular protocols.
- The supervisor who was involved in the cell search and had primary responsibility for deploying personnel in a way that maximized the safety and security of inmates under admittedly difficult circumstances.

LASD executives met with OIR and discussed its recommendations — and the possibility of discipline for one of more of the above parties — at the conclusion

---

<sup>2</sup> That cell search did yield several homemade weapons that, according to informants, were to be used in another inmate murder.

of the investigation. Ultimately, the Department decided against OIR's recommendations about individual accountability. The executives cited several systemic reasons for this decision. The relevant wristband/identification card protocols, for example, had only been in existence for a matter of weeks, and there had been no unit-wide training regarding them. Moreover, there was a lack of clear policy and procedures regarding the use of television rooms to temporarily hold inmates in transition.

The informal practice of placing inmates in television rooms was well established, if misguided, and this made it difficult to hold people accountable for following it. Finally, the supervisor and the Department personnel involved in the cell search were attempting to avoid a serious threat by removing weapons from inmate cells; unfortunately, there were insufficient resources to cover all the potential threats at one time.

OIR did not uniformly share the Department's view on all of these issues as they related to possible discipline, but it respected the arguments and the careful and thorough analysis that informed them. In the end, OIR accepted the Department's position without appealing it to the Sheriff, particularly given the Department's willingness to conduct a detailed briefing with involved personnel and to follow through on specific remedial measures.

LASD revised its inmate wristband and identification card policy and procedures for Men's Central Jail. Under the revised policy and procedures, clear protocols are set forth identifying who is responsible for ensuring that each inmate has a matching wristband and identification card, including at the reclassification stage, and establishing the responsibility of the inspecting deputy when there is a discrepancy in an inmate's wristbands and identification cards

In addition, LASD has inspected all television rooms and comparable holding areas within its custody facilities to ensure that Department members can at least make a visual inspection of those inmates temporarily held within them. The door to the television room in which the victim's murder occurred no longer has a painted window but has a mesh material that permits visual inspection.

## Los Angeles County Sheriff's Department

<b>CUSTODY DIVISION MEN'S CENTRAL JAIL</b>	<b>Unit Order:</b> 3-10-030
	<b>Effective Date:</b> 01-29-98 <b>Revision Date:</b> 11-22-05
<b>Subject:</b> Maintenance of Inmate Wristbands and ID Cards	
<b>Reference:</b> TITLE 15, Section 1029(a)(5); MPP 5-03/175.15; CDM 3-09/000.00; CDM 5-01/030.00	

**PURPOSE OF ORDER:**

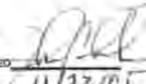
The purpose of this order is to establish formal procedures for systematic maintenance of damaged, missing, or illegible inmate wristbands and ID cards.

**SCOPE OF ORDER:**

This order shall apply to all personnel assigned to Men's Central Jail. It shall apply to all lost, damaged or illegible inmate wristbands and ID cards and their maintenance and replacement thereof.

**ORDER:**

It is the responsibility of all personnel to ensure all inmates have a legible, secure wristband attached to their left wrist, and a serviceable, legible, and unaltered ID card on their left shirt pocket when out of their housing area. The color of the ID card shall correspond with the inmate's wristband color. Custody personnel shall be cognizant of inmate ID cards by continually examining inmate photographs, ID colors, and identifying inmates that are not properly displaying ID cards. Inmates who are not in possession of their ID card, or wearing another inmate's ID card, and/or fail to properly display their ID card shall be immediately detained by custody personnel. Inmates who do not have their ID card properly displayed shall not be allowed a visit, commissary, outdoor recreation, or any other activity that takes place outside of their housing unit except emergent medical care, pill call and attorney room visits. During the P.M. inmate count, each inmate's wristband and ID card shall be checked for legibility and security. Inmates who have wristbands or ID cards that are not legible, not secure, damaged or missing, shall be processed according to the following procedures.

  
APPROVED \_\_\_\_\_  
DATE 11/22/05

#### **Wristband Replacement**

When a wristband is not legible, secured, damaged, or missing, the inmate's identity shall be verified by fingerprints. **A question and answer session from information on the J.D.S. may not be used for identification, nor shall a picture comparison from a LACRIS photo be used for positive ID.** The inmate shall be escorted to the Men's Central Jail FAS office for positive identification via the Identix Livescan system. Once positive identification has been verified, a copy of the Livescan positive ID print out shall be taken to the Watch Sergeant or Watch Commander. The Watch Sergeant or Watch Commander will review the positive ID printout and then authorize the production of a new wristband. A new wristband shall not be issued without positive ID through the Livescan system. If the MCJ Livescan system is not operational, the inmate shall be escorted to IRC where a positive ID can be obtained from a working Livescan system.

Upon completion of the positive identification process, the wristband shall be secured to the inmate's left wrist. A log entry shall then be made in the wristband / ID card maintenance log. At the end of every shift, the wristband / ID card maintenance log and all approved Livescan positive ID print outs shall be submitted to Operations along with the facility log.

#### **Identification Card Replacement**

When an inmate ID card is lost, damaged, altered, or not legible the inmate shall be issued a replacement card. If the inmate has affixed to his wrist a legible wristband where the inmates identity can be verified, a positive ID via the Livescan system is not necessary. A new ID card can be printed from the LACRIS ID card printing system located in the Watch Sergeant's Office. Once the ID card has been printed, an entry in to the Wristband / ID Card Maintenance Log shall be made. At the end of every shift, the wristband / ID card maintenance log and all approved Livescan positive ID print outs shall be submitted to Operations along with the facility log. Additionally, an Inmate Discipline Report on the Inmate Report Tracking System (IRTS) and, if applicable, a Complaint Report (SH-R-49) shall be written. If the inmate needs both a wristband and an ID card, the Wristband Replacement section of this order shall apply. If the Inmate ID Card system is not operational, the inmate shall be escorted to the Inmate Reception Center (IRC), Booking Front, where an ID card can be printed.

#### **Inmate Identification Replacement Fee Form**

The deputy assigned to assist the D.R.B., will be responsible for completing the "Inmate Identification Replacement Fee Form". At the completion of the D.R.B. hearing, the completed forms will be forwarded to the Men's Central Jail Legal Office.

**Note: Whenever a wristband and/or ID card are replaced, it is the deputy or custody assistant's responsibility to ensure that the wristband and ID card match (red wristband with red ID card, white wristband with white ID card, blue wristband with a blue ID card...)**

## **Inmate Deaths: The Riots**

On a Saturday afternoon in early February of this year, a riot erupted in the North County Correctional Facility, one of three main jail facilities that comprise the Pitchess Detention Center. The fighting revolved around ongoing tensions between African-American and Hispanic inmates. While those tensions were not a new development, the intensity and organization of the violence certainly was: it rolled from dormitory to dormitory in an orchestrated series of attacks and counterattacks that lasted for the next several days.

Though the violence was not directed at LASD personnel, the need to intervene in the fighting put a tremendous strain on the Department's resources, and posed a number of tactical and strategic challenges. Many dorms full of inmates were eventually segregated on an emergency basis for their own safety. Gradually, the Department's stringent lockdown of the different facilities (no visiting, outside communications, commissary, etc.) and redistribution of problematic individuals also helped bring the disturbances to a close.<sup>3</sup>

The scope of the fighting, and the Department's struggle to rein it in, commanded public attention for several weeks. Certainly, the news was not all bad: the deputies on the front line of the response handled their assignments with professionalism and skill over the course of several trying, physically demanding days. (Only one administrative investigation resulted from an allegation of improper force; it is pending.)

Nonetheless, the riots highlighted structural problems that the Department has grappled with for several years. The dorm settings at Pitchess Detention Center — with sixty to seventy inmates in each — were built in contemplation of a less violent and “hardcore” criminal population, and before gang issues began overwhelming the County's criminal justice system. While the United States Supreme Court has deemed segregating inmates by race unconstitutional, the shared living spaces that are common at PDC create obvious opportunities for friction and wide scale fighting. That reality is combined with a jail culture that effectively forces inmates to take sides and participate in the violence, or risk being attacked by members of their own race in retaliation for disloyalty.

---

<sup>3</sup> At one point, Department executives authorized the removal of all clothing from the inmates in selected dorms; this occurred at one facility where the fighting had been especially persistent and lesser measures had failed to have an effect. Like several of the Department's decision-makers, OIR found it difficult to balance the undisputed need for emergency measures against the obvious issues of inmate rights and inmate dignity. When hours turned into days, that balance shifted in favor of ending the tactic. OIR consulted with the Sheriff, who agreed that it should be stopped and directed his command staff to obtain his personal authorization before employing that measure in the future.

The fighting in February ultimately abated, but a second (though lesser) wave of rioting occurred in July. The problems are far from resolved, and seem in many respects intractable because of structural and budgetary limitations. Still, the Department recognizes its obligation to meet current and future needs and adapt its facilities to the changing population that is housed there. In the meantime, individual incidents and cases remain a vehicle for making smaller, more particular adjustments and improvements. The two inmate deaths that resulted from the rioting received this type of scrutiny, with OIR's participation.

### **A Death at NCCF**

The fatal attack on an African-American inmate in a dorm at NCCF was the event that started the waves of fighting that followed at PDC. Although the issues related to dorm housing for violent inmates are themselves numerous and overarching, two specific details emerged from the particular circumstances of this case:

- The inmate who was killed was significantly older than the general inmate population.
- The inmate was apparently killed when a bunk was repeatedly slammed against his head.

OIR has had discussions with LASD regarding these two facts. In response, the Department has considered designating additional separate housing for older inmates at the PDC facilities. In one jail facility in the northern complex, there already exists a dormitory set aside for older inmates, but this one dorm does not provide sufficient space for all the older inmates who potentially could be housed there. While the Department agreed in principle to create such "old man" housing units at each of the jails, other intervening events such as the directive to reduce the population at Men's Central jail have apparently put this initiative on hold.

OIR has also had discussions regarding the use of the bunk as a murder weapon. Most jails and prisons have their bunks secured. However, the PDC bunks are not secured; this of course enhances the likelihood that they can cause damage or be rearranged for "strategic" purposes (such as a crude barricade) during a disturbance.

There is no apparent state-imposed requirement that the bunks at PDC be secured, because of the age of the facility and the "lower level" (in terms of offense category and propensity for violence) inmate population that it was

originally intended to house. Moreover, the ability to move the bunks facilitates cleaning, which has also been a priority in recent years because of widespread problems with bacterial infections at the jails.<sup>4</sup> Securing the bunks would also reduce the jails' flexibility in adjusting housing to the needs faced by the daily influx of inmates. OIR intends to monitor this issue and work with the Department in determining whether future incidents or trends should change the current assessment of the problem.

## **A Second Death from the Riots**

The fighting that exploded in the north county facilities was far less widespread in the downtown jails, primarily because of basic physical realities in the respective layouts. Unlike the dorm settings that predominate at PDC, the downtown jails are configured with more traditional cells, which give jail administrators greater ability to lock down and control inmates. Nonetheless, the downtown inmates were very aware of the disturbances, and racial tensions were high. A few days after the riots began, a fight at Men's Central Jail resulted in a second death.

The incident itself was straightforward; deputies were conducting a routine cell row check on the upper tier of a two-tier module. They heard the sounds of fighting from below and rushed down to the lower tier. In a six-man cell, the deputies found two African-American inmates squared off with four Hispanics. The inmates were separated immediately.

Investigators later learned that the fight had started over which bunk the older black inmate would occupy. The younger black inmate joined the fray. Both black inmates received what appeared to be superficial injuries and were escorted to the jail clinic. On the way, however, the younger black inmate suddenly collapsed. He was taken to the clinic on a gurney and died shortly thereafter. According to the autopsy report, the inmate had pre-existing asthma and a blood condition that appeared to have been triggered by the fight and resulted in his death.

The District Attorney's office has reviewed the killing and recently filed murder charges and hate crime allegations against all four Hispanic inmates. The demographic balance within the 6-man cell was in fact within the norms long established

---

<sup>4</sup> This problem is a microcosm of the jails' constant tension between competing values. The greatest example, of course, is the need for safe and tolerable conditions versus the public's dismay over early release for convicted criminals. The county jails simply lack the space and resources to house safely the thousands of criminals in the justice system. Accordingly, many lower level offenders serve minimal or no jail time – and often violate the law again.

within the entire jail system. Nevertheless, this fatal fight raised three areas of concern for OIR:

- The security level spectrum within the cell. Upon entry into the jail system, inmates are given a security level number of 1 (lowest) through 9 (highest) reflecting their criminal history, arrest charge and past jail behavior. Three of the Hispanic inmates had a security level of 8. The deceased black inmate was a level 6. This mixture of security levels was normal at the time throughout the County jail system. However, the Department had been working on a broad-based rearrangement of inmates in combination with the formation of the Centralized Housing Unit. The disturbances of early 2006 accelerated that process. All security level 9 and 8 inmates were extracted from the rest of the general population and housed in one or two-man cells. While not a panacea, OIR applauds this separation of the highest security level inmates as an important step in improving staff and inmate safety. In fact, OIR evaluated the jail killings of the last several years and determined that the killers were disproportionately “8”s and “9”s and that the victims were disproportionately from lower security levels. We also note that LASD has contracted with a consultant to do a system wide security audit of the jails, to include an in-depth look at the Department’s system for classifying inmates. This much-needed process has just commenced, and we look forward to its results.
- The age spectrum within the cell. The older black inmate was in his sixties. The Hispanic inmates were considerably younger than both of the black inmates. In response to this incident, LASD has revisited the notion of an “old man” module as an official placement option for inmates over 35 years old.
- The prior medical care the deceased inmate had received for his pre-existing conditions. These issues are currently under review by the Medical Services Bureau of LASD. OIR will continue to monitor this review.

### **Inmate Death Protocol for IAB**

Of the approximately 190,000 inmates that are processed through the Los Angeles County jail system annually, an average of 37 inmates die per year.<sup>5</sup> The great majority of these deaths are from natural causes. Several each year, however, are from suicide, accident or death at the hands of another inmate. These latter causes must be viewed as potentially preventable by LASD, and are therefore of greatest interest to OIR.

---

<sup>5</sup> This is based on data compiled between 1997 and 2005.

COUNTY OF LOS ANGELES  
**SHERIFF'S DEPARTMENT**

"A Tradition of Service"

OFFICE CORRESPONDENCE

DATE: September 26, 2005

FILE NO.:

**FROM:** KARYN MANNIS, CAPTAIN                      **TO:** ALL SWORN PERSONNEL  
INTERNAL AFFAIRS BUREAU                              INTERNAL AFFAIRS BUREAU

**SUBJECT: MANAGEMENT DIRECTIVE #50  
ROLL OUTS INVOLVING INMATE DEATHS**

Purpose

This directive establishes procedures for Internal Affairs Bureau Roll-Out Team Investigators to follow regarding an Inmate Death (natural, accidental, homicide, or suicide).

Policy

When the Internal Affairs Bureau On-Call Lieutenant is notified of an inmate's death, he shall confirm that Homicide Bureau is responding. IAB personnel will only respond if Homicide responds. The IAB Lieutenant shall evaluate the information, determine the appropriate makeup of the responding team, and ensure that those personnel are notified.

Note: If the inmate death occurred during or after physical contact with a Department member, the DIS Hit Shooting protocol shall be followed.

Homicide Bureau is the primary investigating unit and is responsible for the criminal and/or death investigation of those inmate deaths to which they respond. At the scene, Homicide Bureau is responsible for sharing preliminary information with the Internal Affairs Bureau team in the forum of an informational briefing, including a walk through of the scene.

Internal Affairs Bureau is responsible for conducting a preliminary administrative review of those inmate deaths to which they respond.

If it is determined that there are potential policy violations, the IAB Lieutenant will confer with the concerned Unit Commander about initiating an immediate administrative investigation. If the concerned Unit Commander requests an immediate administrative investigation, the IAB Lieutenant will consult with the Homicide Lieutenant about the investigation and the need for IAB investigators to interview witnesses, and/or involved employees. Any interviews conducted by the IAB investigators shall be conducted separately after Homicide Bureau's interviews. Based on the Homicide Lieutenant's decision, if interviewing a witness or involved employee by the IAB investigator would jeopardize the criminal/death investigation, that interview will be deferred until a later date. IAB investigators shall confer with the Homicide investigators before conducting the later interview(s).

Note: If there is a need for the scene to be maintained for the IAB investigators after the Homicide investigators have completed processing the scene for their investigation, the IAB Lieutenant shall consult with the Homicide Lieutenant about turning the scene over to the IAB investigators when Homicide is done.

If an immediate administrative investigation is initiated, the handling IAB investigator will be responsible for obtaining an IV number and ensuring that the Request for an IAB Investigation memo is obtained from the concerned Division Chief. All administrative investigations shall include Homicide Bureau's completed investigation.

If no potential policy violations are identified, the IAB Lieutenant shall notify the concerned Unit Commander, who will be advised that no policy issues were identified and an administrative investigation is not warranted at this time. If documents were collected and/or interviews conducted during the administrative review, the entire package shall be forwarded to Custody Support Services for their disposition.

Until recently, Internal Affairs Bureau (“IAB”) investigators only rolled out to the scene of jail homicides and those suicides where there was likely misconduct on the part of jail personnel. In reviewing the full spectrum of jail deaths however, OIR found that many raised questions about the performance of LASD personnel even if that issue had no direct causal link to the death. Even if Homicide Bureau had investigated the death, these issues usually fell outside the purview of their appropriate concerns and therefore went uninvestigated.

OIR concluded that many jail deaths revealed a systems failure that might be corrected or avoided in the future. These systems failures could include inadequate row checks, problems with delivery of medication or other health care, faulty psychological screening, faulty security measures, or simply confusing or non-existent record keeping. We raised the issue with Internal Affairs of modifying their roll out protocol to encompass more jail deaths. They were receptive to this modest but significant change in roll out criteria. The resulting procedure provides for IAB personnel to roll immediately to the scene of any jail death to which Homicide rolls out. This is likely to include any suicide, homicide, accidental death or “natural causes” death with unusual circumstances. IAB will also notify OIR of every roll out, so that OIR also will have the opportunity to see the scene and confer with the investigators at the outset.

Thus far, this new procedure is working well. OIR is optimistic that it will continue to result in greater scrutiny of the circumstances surrounding many inmate deaths.

### **The LASD Inmate Death Review Process**

When an inmate dies in jail, from natural causes or otherwise, state law requires that an investigation be done into the circumstances. The LASD fulfills this requirement by assigning a Custody Support Services deputy to collect and review the Department’s arrest records, custody history and medical documents relating to the inmate and present a synopsis at a meeting of Custody managers called Death Review.

OIR has attended these reviews regularly with a growing apprehension that they were of insufficient depth or detail to allow managers to pinpoint systems failures potentially revealed by the inmate death. Such system failures could relate to a host of significant issues, including: proper diagnosis of physical or mental illnesses, delivery of medications, inattention by custody personnel at the time of death, incorrect security classification or special handling designations of inmates, scene and evidence preservation after suicides and accidents, and inaccurate documentation. Death Reviews sometimes simply missed the opportunity for

such self-examination. The reviews seemed unlikely to enhance accountability of Department personnel or to point toward constructive reform of procedures.

On top of these shortcomings, Death Reviews seemed to be extremely slow in coming to presentation. OIR did an audit of Death Reviews over the last four years and found that the average lag time between the inmate death and the presentation of the results of the investigation at the Death Review was very long indeed, and growing. For inmate deaths that took place in 2003, the average time span until Death Review was 234 days. For inmates dying in 2004, the average rose to 252 days. For deaths in the first three quarters of 2005, the average delay until Death Review shot up to over 370 days, with many deaths taking over 500 or even 600 days before their reviews were completed and presented. A delay of this magnitude defeats most of the purposes of the reviews and, because of the one-year statute of limitations on administrative discipline, cuts off the possibility for accountability if a policy violation should come to light as a result of the review. Long delays render constructive feedback and corrective action almost meaningless and have the potential to thwart timely discovery of systemic defects that could or should be addressed by the Department.

OIR took these concerns and the result of our audit to the executives of Correctional Services Division. They were receptive to our critique and agreed to take action on diminishing the backlog immediately. Despite our concerns, OIR is encouraged that the Death Review process is amenable to improvement and that jail administrators are able and motivated to make the Death Review process produce accountability and constructive action. Three initiatives show LASD's engagement with OIR over the past year to promote these goals.

- OIR has embarked on a program of proactive monitoring to identify significant issues or questions relating to an inmate death much earlier in the process so that there is ample time to evaluate gaps in knowledge before the Death Review. In furtherance of this objective, OIR has arranged to be notified of each inmate death the day it happens, then opens a case tracking log on the death. The assigned OIR attorney then meets with the Custody Support Services deputy who will present the case at the Death Review and evaluates the reports and custody records from which the review will be drawn. We have also begun to include all inmate deaths on our Quarterly Oversight Report of case status published on our web site.
- Custody Support Services has readily agreed to cooperate with OIR's initiative and has offered to convene a special small group review of any death where OIR has identified a problem that might not be adequately analyzed in the standard Death Review format.

- Custody Support Services has been making a concentrated effort to reduce the backlog of overdue Death Reviews and to radically reduce the turnaround time between death and review. Death Reviews are now scheduled two to three times per month instead of once every few months as in the past. The average turnaround time for the next 21 deaths currently scheduled for reviews over the next two months will be 317 days and should continue to drop significantly once the Department has worked through the backlog of old cases.

OIR currently is working with LASD to introduce additional measures and broad-based reforms to better ensure that the Department more thoroughly and promptly investigates inmate deaths.

### **Medical Services Bureau Update**

The Medical Services Bureau is responsible for providing medical treatment and care to the tens of thousands of inmates that move in and out of LASD custody each year. As the average daily inmate population in the County's jails continues to hover around 20,000, the demand for services has not changed significantly since we reported on this issue last year. Though Medical Services Bureau is headed by a captain and operates within LASD's chain of command, it is unique because its employees are mainly civilians — doctors, nurses, pharmacists, and other health care professionals.

Through both their patients and practitioners, the jail's medical care system and the broader County public healthcare system are closely related. In recruiting and hiring nurses and doctors, LASD competes with County hospitals, which are also chronically short staffed and operating under considerable pressure to serve a growing population with shrinking funds. The jail's Medical Services Bureau also is tied to the County healthcare system through its patients. Inmates generally require more health care than the average citizen because they are more likely to abuse drugs and alcohol and come from economically impoverished communities without regular access to basic preventive health services. As a result, many inmates arrive at the County jail with serious health problems. At the same time, a large number of inmates leave the jails every day, released back into their communities. This reality presents both a challenge and an opportunity. Medical Services Bureau is challenged to provide constitutionally mandated health care to all inmates and to prevent the spread of communicable diseases within the jails. At the same time, the jail provides a unique opportunity to improve overall public health by treating inmates before they are released back into their communities.

**LASD Title 15 Death Review Schedule January 2003 – January 2004**

**2003 Inmate Deaths**

	<b>Death Date</b>	<b>Review</b>	<b>Days</b>
1	01/24/03	03/30/04	432
2	01/25/03	06/29/04	521
3	02/12/03	03/30/04	413
4	02/17/03	06/29/04	499
5	03/23/03	05/27/03	66
6	03/30/03	06/29/04	458
7	04/30/03	05/27/03	28
8	01/24/03	03/30/04	432
9	05/06/03	07/22/03	78
10	05/07/03	06/29/04	420
11	06/11/03	07/22/03	42
12	06/18/03	02/22/05	616
13	06/30/03	08/26/03	58
14	07/01/03	08/26/03	57
15	07/15/03	08/26/03	43
16	07/29/03	03/28/06	974
17	09/22/03	12/09/03	79
18	10/02/03	12/09/03	32
19	10/14/03	02/22/05	498
20	10/21/03	02/24/04	127
21	10/21/03	01/15/04	26
22	10/23/03	12/09/03	48
23	11/02/03	02/24/04	115
24	12/07/03	02/24/04	80
25	12/09/03	07/27/04	234
26	12/08/03	01/15/04	39
27	12/09/03	01/15/04	38
28	12/30/03	03/30/04	92

**2004 Inmate Deaths**

	<b>Death Date</b>	<b>Review</b>	<b>Days</b>
1	01/12/04	02/24/04	43
2	01/22/04	01/22/04	187
3	01/29/04	03/30/04	61
4	02/06/04	06/29/04	144
5	02/09/04	03/30/04	50
6	02/13/04	07/27/04	165
7	02/25/04	07/27/04	153
8	02/26/04	07/27/04	152
9	02/27/04	03/30/04	32
10	02/28/04	07/27/04	150
11	04/20/04	08/31/04	133
12	05/06/04	11/29/04	572
13	05/07/04	10/26/04	172
14	06/03/04	08/31/04	89
15	08/02/06	10/25/05	449
16	08/02/06	09/27/05	421
17	08/06/04	06/28/05	326
18	08/17/04	04/25/06	617
19	06/26/04	09/27/05	397
20	09/07/04	06/28/05	294
21	11/04/04	11/29/05	340
22	11/13/04	04/25/06	529
23	11/13/04	09/27/05	318

## LASD Title 15 Death Review Schedule January 2005 – August 2006

### 2005 Inmate Deaths

	<b>Death Date</b>	<b>Review</b>	<b>Days</b>
1	01/10/05	10/17/06	645
2	01/12/05	06/28/05	177
3	01/14/05	02/28/06	420
4	01/21/05	10/25/05	287
5	02/12/05	11/07/06	634
6	02/18/05	05/30/06	466
7	12/07/04	Not Yet Convened	>693
8	03/14/05	01/31/06	322
9	03/16/05	10/31/06	594
10	04/10/05	10/17/06	555
11	04/27/05	Not Yet Convened	>551
12	05/03/05	11/29/05	210
13	05/24/05	06/29/06	401
14	06/10/05	06/29/06	384
15	07/29/05	10/25/05	88
16	08/03/05	Not Yet Convened	>454
17	08/11/05	01/31/06	173
18	08/15/05	Not Yet Convened	>442
19	08/28/05	01/31/06	156
20	08/28/05	11/07/06	436
21	08/30/05	08/29/06	364
22	09/02/05	05/30/06	270
23	09/05/05	05/30/06	267
24	09/10/05	01/31/06	143
25	09/22/05	Not Yet Convened	>404
26	09/27/05	Not Yet Convened	>399
27	10/06/05	Not Yet Convened	>390
28	10/06/05	Not Yet Convened	>390
29	10/12/05	08/10/06	302
30	11/06/05	06/29/06	235
31	11/16/05	07/25/06	251
32	11/18/05	07/25/06	249
33	11/18/05	Not Yet Convened	>346
34	11/25/05	Not Yet Convened	>340
35	12/09/05	Not Yet Convened	>326

36	12/07/05	Not Yet Convened	>328
37	12/12/05	10/17/06	309
38	12/17/05	Not Yet Convened	>318
39	12/22/05	06/29/06	158
40	12/28/05	08/10/06	225
41	12/28/05	08/10/06	225
42	12/31/05	08/10/06	222
43	12/30/05	07/25/06	207

### 2006 Inmate Deaths

	<b>Death Date</b>	<b>Review</b>	<b>Days</b>
1	01/03/06	Not Yet Convened	>301
2	01/10/06	Not Yet Convened	>294
3	01/14/06	Not Yet Convened	>290
4	01/21/06	Not Yet Convened	>283
5	02/04/06	Not Yet Convened	>269
6	02/12/06	Not Yet Convened	>261
7	02/18/06	Not Yet Convened	>255
8	02/23/06	Not Yet Convened	>250
9	02/25/06	Not Yet Convened	>248
10	03/11/06	Not Yet Convened	>234
11	03/31/06	07/25/06	116
12	04/16/06	Not Yet Convened	>198
13	04/20/06	06/10/06	51
14	04/21/06	06/29/06	69
15	05/05/06	10/17/06	165
16	06/12/06	07/25/06	43
17	07/04/06	Not Yet Convened	>119
18	07/16/06	Not Yet Convened	>107
19	07/22/06	10/17/06	87
20	07/27/06	Not Yet Convened	>94
21	07/29/06	Not Yet Convened	>92
22	08/12/06	Not Yet Convened	>80
23	08/13/06	Not Yet Convened	>79
24	08/22/06	Not Yet Convened	>70

Medical Services Bureau personnel respond to more than 7,000 daily inmate sick calls and distribute prescribed medication to more than 6,000 inmates each day. However, as a result of some innovative programs designed to streamline the process by which inmates receive treatment, Medical Services Bureau personnel's provision of medical care to approximately 900 inmate patients on the medical line each day, as reported in last year's annual report, has been reduced slightly.

To meet this substantial demand for medical services, the Medical Services Bureau is in a constant struggle to employ a sufficient number of professional medical staff. In the past several years, it has mounted an aggressive recruitment effort and has brought the number of Medical Services Bureau personnel to more than 1,000. This number represents an increase in physicians, nurses and support staff, yet the Medical Services Bureau is still operating with fewer than its full complement of personnel.

In addition to increasing the number of Medical Services Bureau personnel to meet the demand for medical services, LASD is proactively seeking and, where appropriate, employing more innovative and efficient programs to provide appropriate medical treatment and services to inmate patients. The programs include: (1) tele-medicine program that will allow medical professionals to interview inmates and perform tests and certain exams from remote locations, improving the delivery of treatment and providing greater access to specialists; (2) digital radiology program to eliminate the need for the more costly and difficult to store hard film system and to allow doctors to attach x-rays to an inmate patient's medical records; (3) auto-medication program to pre-package certain prescribed medications which physicians have ordered; (4) regular nurse clinics to replace pill calls and to avoid unnecessary inmate medical call outs; and (5) a step-down unit program to enhance the level of medical care for a segment of ill inmates not critical enough to receive a bed in the jail's correctional treatment facility.

OIR reported last year that Medical Services Bureau had received a provisional license from the California State Department of Health Services for operation of LASD's in-patient Correctional Treatment Center ("CTC") within TTCF. Medical Services Bureau first received licensure in 2004; in 2005 it received an extension of the provisional license. OIR is happy to report that Medical Services recently received permanent licensure for the CTC. As previously reported, LASD, which maintains the largest CTC in the state, became the first and only county sheriff's department within California to obtain such licensure. This licensure reflects well on Medical Services Bureau and its efforts to provide quality medical care for inmates.

Indeed, LASD's ability to gain State licensure for its CTC has helped raise the Department's profile statewide and given the Medical Services Bureau a dimension that other entities consider a model for emulation. In September 2006, the federal court-appointed receiver for the State of California Department of Corrections and Rehabilitation visited LASD's Medical Services Bureau to examine measures Medical Services Bureau employed to provide medical treatment to inmate patients. The receiver's team consisted of a doctor, nurse, former warden, a structural and information technology engineer and an administrator, and the team visited Medical Services Bureau as part of its research to restructure the health delivery system within the state prison system. The receiver's team paid special attention to the CTC and to a number of Medical Services Bureau programs, including the intake process, the use of electronic medical records, and the pharmacy's use of auto-medicine.

OIR continues to monitor LASD investigations into Medical Services Bureau personnel and their performances. As previously reported, where the evidence has demonstrated a failure or lapse in the provision of appropriate medical treatment to inmate patients, or another violation of Department policy or procedures, LASD has demonstrated a commitment to hold those involved employees accountable. Though the issues in the following cases obviously vary greatly from the substance of deputy-involved investigations and the prospect of disciplining medical professionals sometimes puts the Medical Services Bureau Captain in an uncomfortable position, the Department's need to investigate, hold its employees accountable, and initiate reform is just as applicable. The following two cases provide a representative sampling of the types of misconduct that Medical Services Bureau has confronted in the past year, and are not evidence of any systemic breakdown.

## C A S E

---

*A Medical Services Bureau nurse was improperly handling physicians' orders to distribute pain medications to inmate patients. In some cases, the nurse was failing to document properly the distribution of these pain medications; in others, the nurse was not distributing all required doses of the medicine, or was failing to do so in a timely manner. Other Medical Services Bureau nurses noticed various discrepancies in the medication distribution charts and properly notified Medical Services Bureau managers. LASD's investigation disclosed that the nurse had at least 31 incidents that violated its policy and procedures. When the nurse became aware of the evidence of the violations, the nurse resigned from LASD.*

## C A S E

---

*Two Medical Services Bureau nurses improperly documented that they had delivered a prescribed medication to an inmate patient, when in fact the medication at issue was not even in stock at the time the nurses claimed to have given it to the inmate. This clearly violated Department policy and procedures, for which LASD recommended a two-day suspension for each nurse.*



# PART THREE The Discipline Process And Deputy Misconduct

## **Pre-Disposition Settlement Agreements**

Since OIR's inception, monitoring the Department's response to officer misconduct and insuring that investigations are "thorough, fair, and effective" has been the core of our mission. Accordingly, it is with particular interest that we note the recent increase in "pre-disposition settlement agreements"—a new approach to the resolution of administrative cases.

Use of this device tends to involve incidents that are factually straightforward, and in which the alleged misconduct is of low to moderate seriousness. The Department's ordinary report process and/or other initial fact gathering generates enough information to frame the issues and determine the scope of the wrongful behavior. At that point, the unit commander or other ranking supervisor will discuss the matter — before initiating a formal administrative investigation — with involved personnel to assess the applicability of the settlement approach.

A typical case might work like this: A deputy at a jail facility conducting a routine check of a dormitory instructs an inmate to remove unauthorized pictures from the wall near his bunk. The inmate first pretends not to hear, then curses at the deputy, lies down on his bunk, and puts a pillow over his head as if to block out further conversation. The deputy strides toward the inmate, yanks the pictures from the wall himself, and orders the inmate to "roll up" his possessions for a transfer to discipline. The inmate takes a halfhearted swing at the deputy, who then uses a control hold and the help of two other deputies to get the inmate into handcuffs and out of the dorm.

All the involved deputies make the appropriate reports of force. In the process of putting together the resulting force package, the reviewing supervisor recognizes that the main deputy has probably violated the facility's "recalcitrant inmate policy," which requires deputies to pull back and get the assistance of a supervisor rather than engaging uncooperative inmates directly. This is especially frustrating to the supervisor, since he has just reviewed the policy at briefings in order to emphasize its importance.

While opening a formal case and conducting interviews with witnesses and subjects are certainly possibilities, the sergeant discusses the matter with a lieutenant and then the captain. The captain then decides to talk to the deputy about her concerns, about the facts as she understands them, and about a possible settlement: the deputy will acknowledge the policy violation and take a day's suspension without appeal, while the Department will agree to hold the day in abeyance as mitigation for the acceptance of responsibility. Assuming the deputy accepts the offer, the whole matter is resolved in a few days.

These agreements tend to work less well when there is a factual dispute or when the severity of potential discipline warrants a more traditional and complete review. Similarly, it is crucial in OIR's view that the subject personnel do not feel coerced into taking a deal rather than exercising their rights to a full investigation. Recently, for example, a supervisor's actions were called into question during the routine review of a force incident that occurred during the wave of jail disturbances in February. The supervisor had reported his force (a knee to the back of a prone suspect that resulted in a chipped tooth) at the time. However, a videotape of the incident showed that the inmate was seemingly compliant and that it had been the supervisor whose tone was belligerent and whose force seemed unnecessary.

The videotape and other accumulated evidence painted a fairly comprehensive picture and suggested that no further investigation would be needed or useful — a factor that helps determine the suitability of this approach. After consultation with OIR about recommended outcomes, the unit captain brought the supervisor in for a discussion of the incident and offered a settlement in which force and general conduct violations would be acknowledged. At the same time, though, the captain stressed the options available to the supervisor, and emphasized that he was entitled to share his side of the story in a formal interview if he believed that would enhance his position. The supervisor chose to exercise that right, and the resulting investigation is pending.

However, when the circumstances are right, this approach has much to recommend it. It promotes efficiency and tends to greatly reduce the amount of time between transgression and resolution. It also tends to get unit commanders more directly involved, and thereby offers a valuable forum for them to exercise leadership in the face of problematic behavior, rather than playing a bystander's role for months during the pendency of a case. Just as importantly, these timely settlements can benefit the subjects. They have a chance to accept responsibility, recognize their policy violations, and direct their energy toward improving performance.

The trend toward early settlement agreements is often directed at simple and low-level cases. It can, however, work with more significant incidents as well if

handled carefully. In May, a unit captain at one of the jail facilities called the OIR liaison attorney to discuss an incident that had occurred the day before. An inmate had complained about being choked and punched by a deputy during a confrontation in the inmate's dorm. No force had been reported. A supervisor began the process of pursuing the allegation and learned the identity of three deputies (a force user and two witnesses — each of whom would have had a duty to report what they had seen) who were potentially involved.

Upon being contacted by the supervisor, each of them separately chose to forego their administrative rights and to offer a prompt and detailed account of what they had seen or done. For the most part, they corroborated the inmate's version of the story, acknowledged their own misconduct, and expressed a willingness to accept responsibility.

The incident was, of course, troubling. However, the deputies' response gratified the captain by affording an opportunity to address serious misconduct in a direct, timely, and constructive way.<sup>1</sup> Once the initial reports were prepared and the captain had a complete sense of what had occurred, he met with the deputies individually to discuss the incident, propose discipline for each of them, express his concerns, and affirm their decision to come forward and admit their culpability. Within a few weeks, the parties finalized an agreement in which one deputy received a 10-day suspension for his inappropriate use of force and failure to report, while the witness deputies each received 5 days.

More than a protracted and adversarial disciplinary proceeding, a pre-disposition settlement addresses misconduct directly, forthrightly, and efficiently. Both parties benefit accordingly. From a management perspective, a settlement achieves the key disciplinary goals of accountability and corrective action, and it does so with a minimum drain on resources and minimum delay between incident and resolution.<sup>2</sup>

---

<sup>1</sup> A pitfall of the pre-disposition approach is that resolution might occur too quickly — before all relevant facts come to light and potential issues can be explored. In this case, the captain consulted OIR before finalizing his approach, and agreed that a consideration of possible criminal issues relating to the force was needed. The captain accordingly presented the evidence and accumulated reports to the Department's Internal Criminal Investigations Bureau for an assessment. An ICIB supervisor in turn presented the scenario to the District Attorney's Office, and all parties agreed that the inmate's potentially threatening actions — and lack of significant injury — had undermined the viability of a prosecution.

<sup>2</sup> Nor does this approach suggest or promote a "sweeping under the rug" of transgressions. The Department still maintains a record of these cases and their outcomes, and these are reflected in the performance histories of involved employees. As such, the settlement cases bear the same weight as formal investigations, and can be utilized fully for purposes of progressive discipline if necessary.

As for the employee, he or she presumably shares the view that a faster process of moving beyond mistakes is a better one. When the Department's response is fair, proportionate, and ultimately encouraging of improved performance, the experience can actually become a positive one for all concerned.

## **Delay in Disciplinary Decisions**

Unfortunately, a handful of cases represent the other end of the spectrum with regard to efficient and timely resolution. OIR has also tracked three disciplinary matters in which decisions appealed by employees have gone years without finality; indeed, the hearings have not even commenced.

### **C A S E**

---

*A five-day suspension was imposed in August 2004. The discipline arose out of an incident that happened in July 2002. The Department issued the initial letter stating it intended to impose discipline in June 2003. The matter then proceeded through the Department's internal grievance process, and in August 2004 the discipline was imposed. The employee then appealed the imposition of discipline to the County's Employee Relations Commission ("ERCOM"), the body responsible for this level of discipline. Although more than two years have passed since that appeal was commenced, and four years since the actual incident, no hearings have been held at ERCOM. In fact, only recently did the parties even select a hearing officer. Meanwhile, any component of behavior management or employee development that the discipline might have contained has undoubtedly fizzled away to nothing in the absence of a final judgment.*

### **C A S E**

---

*An employee was discharged in September 2004 as a result of a founded investigation. The employee appealed the discharge to the Civil Service Commission. A hearing officer was assigned and hearing dates were set. However, on the first day of hearing in July 2005, the hearing was stopped without any evidence being taken. It then took months to reschedule a second set of hearing dates for March 2006. On the first day, the hearing was again stopped without any evidence being heard. No new hearing dates have yet been scheduled.*

While it is understandable that there might be reasons to cancel hearings or delay taking evidence, OIR has not heard any explanation for why it should take so long even to schedule new hearing dates. Such delay is to the detriment of all parties. The employee continues to live under the uncertainty, and witness memories are

apt to fade. In the second case, the situation is particularly detrimental to the County: it would likely need to pay the employee back pay for the two years this appeal has been pending should his discharge be overturned.

## C A S E

---

*Termination was imposed in July 2003 as a result of a founded investigation. The discipline arose out of an incident that occurred in December 2001. The employee eventually appealed the discharge to the Civil Service Commission. More than four years after the incident date and three years after the appeal was commenced, the appeal remains stalled in a Civil Service Commission hearing pending the resolution of the related wrongful termination lawsuit.*

That suit, in turn, has stalled while the court awaits the disposition of another government entity's lawsuit. (The unrelated lawsuit is currently on appeal and raises similar legal issues to the case involving the Department employee.)

This convoluted set of circumstance renders "blame" a less applicable concept, and is fortunately the exception rather than the rule. Nonetheless, the extended passage of time seems noteworthy — and again, the County probably must provide more than three years of back pay should the employee be ordered reinstated.

In another recently concluded case, it was the Civil Service proceeding that caused the lion's share of the delay. This case involved a Custody Division deputy whom the Department determined had masturbated in the vicinity of his female partner during their night shift duties in a jail housing area control booth. The original incident occurred in 2003. After the administrative investigation, the Department discharged the deputy, who then appealed the finding and discipline.

The hearing officer's recommended decision in this case emerged in August; however, it has not received final approval from the Commission itself, and even then would be subject to appeal by the Department. Nonetheless, some things are already clear about the adjudication of this matter.

The civil service hearing took place over thirteen days. That in itself is unusually long, even for the appeal of a discharge. What compounded the timeliness issue is that these days were spread over a fourteen-month period. Only two days of testimony were consecutive. The hearing officer then took another three months to make his findings and issue his written opinion.

Some of the delay associated with this unusually drawn out proceeding was due to the difficulty of scheduling psychology and sexuality expert witnesses obtained

by the deputy, who had to be flown in repeatedly from another part of the state. Ironically, in summarizing the significance of this testimony, the hearing officer referred to it merely as “character evidence” and stated that it had little influence on his findings. (LASD had objected to the admission of much of this testimony as redundant or irrelevant, but to no avail.)

This level of delay, distention and discontinuity is almost certainly detrimental to the search for truth. Furthermore, the excessively drawn out process is costly and frustrating to both sides, and presumably particularly difficult for the out-of-work deputy. Moreover, should the tentative recommendation of the hearing officer to reinstate this deputy stand, the County will be required to pay this employee during the fourteen-month-long period of this appeal.

The Civil Service Commission process remains an integral last step in the “cradle to grave” monitoring that OIR seeks to provide. The Commission’s work is often very thoughtful and thorough, and certainly the deputies’ right to due process takes precedence over speed at all costs. At some point, though, the delays become untenable, and the County as well as individual parties stop being well served. OIR encourages LASD to do everything within its control to make efficiency and timeliness into components of all cases.

## **Use of the Apology to Address Disciplinary Issues**

In our Fourth Annual Report, we commented positively on the deputies’ public apology in the Compton shooting case — a controversial shooting in which 120 rounds were shot at a moving car with many of those rounds going into the adjoining neighborhood. We also advocated formal apologies more generally as an element of the discipline process with tremendous potential worth. Depending on the circumstances of the case, an apology for misconduct can have a much greater impact than a suspension in terms of resolving hard feelings and helping all involved parties move forward. An example from this year came in the case discussed below.

### **C A S E**

---

*An off-duty deputy arrived at a non-LASD police station to complain of an arrest of a relative. During the deputy’s encounter with supervisors at the station, he acted unprofessionally and belligerently. His behavior suggested to the police station personnel that the deputy was under the influence of alcohol. As a result of this incident, the deputy received an original punishment of a several day suspension. Pursuant to a settlement agreement, the suspension’s days were reduced and the deputy*

*agreed to attend alcohol counseling and to author personal letters of apologies to the supervisors of the police station.*

As effective and appropriate a result as this may seem to be, obstacles prevent the trend from becoming more widespread. One potential hurdle is that the Department is extremely limited in the types of discipline it is entitled to impose under existing practices and agreements. When misconduct is proven in a given case, the stipulated categories of possible discipline include only discharge, demotion, days of suspension not to exceed thirty, or a letter of reprimand. In order for an alternative approach to occur, the Department must first impose a traditional “sentence” and then convince the employee during settlement discussions that a different option is acceptable. Accordingly, it is sometimes not feasible or practical for apology, training, the presentation of a briefing about “lessons learned,” or counseling to become part of the package — even when it might be more constructive for all concerned.

This limitation is not unique to LASD, but is instead common among all law enforcement agencies. Nor would change be easy: to expand the menu of corrective actions it can unilaterally impose after policy violations, LASD would need to engage in wide scale discussions with its employee associations, as well as seek changes to the County’s Civil Service rules. Nonetheless, the benefits may well warrant such an undertaking. And, at the very least, the Department should make more of an effort to bear pro-active discipline in mind, and push for it more insistently, when resolving cases through settlement discussions.

### **Criminal Conviction (Rape Under Color of Authority)**

In OIR’s Fourth Annual Report, a discussion of sexual misconduct issues alluded to a pending trial in federal court. That trial took place in February of this year, and ended in the conviction of a patrol deputy for civil rights violations — three separate on-duty sexual attacks under color of authority. In each instance, the deputy used his power as an officer in order to detain individual women, force them into compromised situations with the threat of arrest, and intimidate them into submitting to his assaults.

The strength of the evidence turned in large part on multiple victims who separately were able to identify the deputy and whose individual allegations overlapped in enough particulars to establish a pattern of behavior. Investigators from the Sheriff’s Department’s Internal Criminal Investigations Bureau also did a creditable job of pursuing leads that were gleaned from the victims’ accounts. One victim, for example, provided details about the numbers on the radio car

used by the deputy on the night he assaulted her. The numbers were a close — but not exact — match to the markings on the suspect deputy’s car on the night in question. This was helpful information, but the investigators took it one step further, and established that other cars with similar numbering were not in service or were otherwise accounted for. This helped blunt any possible “rush to judgment” arguments by the defense, and, just as importantly, showed the thoroughness and thoughtfulness that characterized the investigation as a whole.

The case has several noteworthy aspects. Certainly the courage of the victims was impressive, both in coming forward and enduring the difficult and very public act of testifying about their traumatic experiences. The case also offered a disturbing reminder of how police power leaves the public especially vulnerable in the face of corruption and predatory behavior. Fortunately, the case also illustrated the Department’s effectiveness in addressing such misconduct, and the potential value of collaboration between the Department and prosecutors who specialize in police cases. A few months after his conviction, the deputy in this case was sentenced to thirty years in federal prison.

### **Summary of An Off-Duty Conduct Incident**

The off-duty conduct of deputies continues to be an issue for the Department. As reported in our prior annual reports, the Department holds its members accountable for their inappropriate or criminal off-duty conduct. An example of off-duty conduct that recently resulted in discipline involved two deputies who were investigated both criminally and administratively for, among other things, battery.

### **C A S E**

---

*In late October 2004, while off duty, two deputies who were dating each other traveled outside the County of Los Angeles to celebrate Halloween. The deputies, dressed in costumes, went to a bar. After drinking for a period of time, the deputies became involved in an argument and physical altercation with three women. The female deputy either grabbed one of the three female patrons by the throat or pulled her hair. The bar’s bouncer and bartender separated the two deputies and the three female patrons. While the deputies remained at the back of the bar, the three women moved to the front of the bar.*

*Within minutes, the deputies walked toward the front of the bar. The female deputy charged after one of the three female patrons whom she had confronted at the rear of the bar. The bouncer quickly interceded and grabbed the female deputy to avoid any*

*further fighting. However, as the bouncer pulled the female deputy away from the three female patrons and toward the door of the bar, the male deputy grabbed one of the females and began to drag her out of the bar. He then punched the bouncer on the side of the face. The bouncer released the female deputy and grabbed the male deputy and pulled him outside the bar.*

*Beginning inside the bar and then spilling outside the bar, the female deputy and the female patron with whom she had earlier fought began fighting again. During this fight and while he held the male deputy, the bartender heard the male deputy say either "he was going to f\*\*\* her up" or "f\*\*\* her up." After several minutes, the fights concluded with the deputies running from the scene.*

*When the deputies fled, they left behind several items, including the female deputy's purse and both deputies' Sheriff's Department identification and badges. The female patron who was involved in the fight with the female deputy found the female deputy's flat badge/identification and gave it to the local police department. In addition, the female patron received medical treatment for her injuries and filed a battery report with the local police department. During the criminal investigation, the bouncer also reported a black eye sustained when the male deputy punched him on the side of the face.*

*Within several days after the fight, claiming that her purse had been misplaced or ripped off or lost off her wrist, the female deputy filed a lost property report with the local police department stating that the two flat badges and a cell phone were lost.*

The local police department investigated the criminal batteries; however, the district attorney for that county declined to file charges. At the conclusion of the criminal investigation, LASD began an administrative investigation into the off-duty incident.

During the internal administrative investigation, the male deputy was less than candid in the view of both the Department and OIR. Among other things, his claim that he only took defensive measures to protect the female deputy during the bar fight was not consistent with credible evidence that emerged elsewhere in the investigation. LASD ultimately determined the following charges were founded against the male deputy: (1) Obedience to Laws, Regulations and Orders (for his involvement in the off-duty bar fight); (2) General Behavior (for being a participant in the bar fight, failing to report the loss of his Department badge and identification to either the local police department or LASD, and discrediting LASD through these actions); and (3) Failure to Make Statements and/or Making False Statements During an Internal Investigation. Department officials recommended a 15-day suspension, and OIR concurred with both the founded charges and the recommended level of discipline.

Moreover, pursuant to its investigation, LASD determined the following charges were founded against the female deputy: (1) Obedience to Laws, Regulations and Orders (for her involvement in the off-duty bar fight); and (2) General Behavior (for being a participant in the bar fight, failing to report the loss of her Department badge and identification to either the local police department or LASD for three days, and discrediting LASD by these actions). Department officials recommended a 10-day suspension, and OIR concurred with both the founded charges and the recommended level of discipline.

OIR will continue to monitor this matter as it proceeds through the grievance process. Meanwhile, OIR endorses LASD's recognition that off-duty behavior — even if not criminal — matters a great deal. The Department embraces the notion of a higher standard that extends into the personal lives of deputies. It also makes an explicit connection between their employees' own respect for the law and their ability to enforce it with legitimacy. In this case, the deputies' unruly conduct — and their failure to accept responsibility for it — reflected poorly not only on themselves but on the Department they represent.

## **DUI Update**

We have continued to track off duty arrests this year of LASD personnel for driving under the influence of alcohol. Through the end of September 2006, a total of 12 off-duty LASD employees had been arrested for DUI. An additional two arrests were for public drunkenness or disorderly conduct because of intoxication. Most of the arrests were of sworn personnel and most were of employees with security-related positions (as opposed to patrol responsibilities).

A DUI arrest is more than a personal embarrassment and a potential career setback. It represents a grave lapse in judgment by those who are empowered to enforce the state's standards for safe driving. It can also send a dramatic and very negative message to the community and undermine public confidence. In this regard, it is important to note that five of the DUI incidents so far in 2006 have involved collisions.

On a positive note, these numbers represent a downward trend of almost 40% in the total number of LASD personnel arrested for driving under the influence. Nonetheless, the statistics suggest that continued attention to this issue is needed. For example, a large percentage of the arrestees were Custody deputies. These tend to be among the youngest employees in the Department, as jail duty is their first assignment after graduating from the Sheriff's Academy. It is vital for the Department to send a strong message to these employees embarking on their law enforcement careers. It is equally important for the Department to

detect those employees who may have a chemical dependency and to address this problem sooner rather than later, either through the disciplinary system, through counseling and treatment facilitated by Employee Support Services, or both.

Two years ago the Department initiated a training module for Custody personnel focused on alcohol abuse, off duty behavior and “career survival.” The training appeared to have a beneficial effect for Custody employees. This training is still provided for custody deputies, but its frequency has been reduced. The renewed predominance of custody personnel among the DUI arrests may signal the need to rejuvenate this training and make sure Custody employees receive it. As a result of another spate of DUI arrests, the highest echelon of LASD management has ordered supervisors to increase the Department’s response to DUI arrests through more severe discipline. We also intend to suggest that the “career survival” classes presented to custody personnel should remain part of the remedial plans.

### **K-11 Strip Search Case: Troubling Allegations and a Thorough Response**

A group of approximately 22 inmates, returning to their dormitory from a life skills class, were stopped by their escort deputies and strip searched in a central hallway of Men’s Central Jail. Many of the inmates later alleged that the search was baseless, extremely lengthy, intended only to harass and humiliate them, and conducted in a place where they would be exposed to passing staff, inmates and other spectators. Most disturbingly, the inmates said that, throughout the search, deputies had pointedly bullied them with derogatory and vulgar language.

These inmates were all denoted by jail personnel as “K-11s,” that is, self-declared gay inmates who are housed separately from the general population to protect them from predatory or violent behavior of other inmates. Ten of the inmates filled out formal complaint forms. Several of the complaints quoted extremely derisive comments from deputies alluding to the inmates’ sexual histories or practices.

The facility captain became aware of the complaints four days later, launched an inquiry, and tasked a sergeant to interview inmates. A few days later the Southern California ACLU reiterated some of the specific allegations and called for a thorough investigation. A formal Internal Affairs Bureau investigation was commenced that day. The Sheriff’s Gay Lesbian Bi-Sexual and Transgender Advisory Council met with the Department, expressed great concern and requested a thorough and swift investigation into the incident. Department executives promised that the investigation would be completed within 30 days.

IAB assigned two sergeant/investigators to the case. They set to work immediately and enlisted the help of fellow investigators as needed. Over the next 30 days,

investigators interviewed 24 deputies and other employees, 36 inmates, and a volunteer. The potential administrative charges were Use of Derogatory Language, [Mis]Conduct Toward Others, Sexual Harassment, Failure to Report Misconduct, and Failure to Meet Performance Standards.

OIR conferred with the Internal Affairs investigators and their supervisors throughout this process and read the reports and transcripts as they were produced. We were impressed with the depth and volume of the investigation and the distance that IAB was able to cover in the time allotted.

There remained, however, significant gaps in the investigation. Specific tasks had not been pursued because of the press of time caused by the 30-day commitment. Any investigation of significant allegations against a large number of employee subjects requires a scrupulous approach. As OIR said at the time, “Without an earnest attempt to gather the remaining evidence, OIR cannot conclude that the investigation has been done in a thorough and unbiased manner.”

OIR approached the Chief of Leadership & Training Division, praised the course of the investigation thus far, pointed out the remaining gaps, and enumerated a list of 10 essential tasks that had yet to be completed in the investigation. These included tracking down and interviewing the few inmates who had been released since the incident, re-interviewing the volunteer after showing him the surveillance video, and interviewing deputies who may have conversed with the inmates in the days following the incident. OIR had discussed most of these tasks with IAB and knew that the Bureau was able and indeed eager to pursue them and complete their investigation. The Chief agreed and IAB took two more weeks to finish the case.

OIR reviewed the final reports and interview transcripts. Much new evidence had been developed, shedding decisive light on some of the allegations. Many of the factual questions could be determined with reasonable certainty:

- There was a legitimate and specific basis for the search — part of a pre-existing narcotics investigation.
- The place of the search was not unusual.
- The search lasted 7 minutes, about average for this type of search.
- The search followed a standard pattern of steps; no one was singled out.
- Most unrelated inmate or staff traffic entering the search area was stopped during the search.

One fundamental question remained: what had been said by deputies during the strip search? The evidence tended to fall into three groups:

- the statements of inmates who tended to corroborate one another with some natural variation and contradiction, plus one notable exception, an inmate who suggested collusion among some of the others;
- the statements of the involved deputies who tended to corroborate one another, described a routine strip search and denied harassment or use of derogatory terms; and
- the “neutral observers,” that is, a video surveillance camera and the volunteer.

The videotape was of great value but also very frustrating. It came from an old, low quality camera mounted in the hallway where the strip search took place. More a series of still clips than a video, the image was silent and crude, but showed the general progress of the strip search. The volunteer’s observations were equally important. He could have been presumed to be the witness least likely to be swayed by loyalty or antipathy. He stated that he had observed the entire strip search as well as many of the derogatory statements and offensive acts.

But the volunteer’s repeated descriptions of what he witnessed did not hold up to scrutiny. They contradicted one another. Most importantly, it became clear that the volunteer simply was not present for the relevant parts of the strip search. The videotape fatally impeached the volunteer’s assertions about where he was and what he saw. This, in turn, threw much of the rest of the evidence of misconduct into question. OIR recommended that most of the charges be deemed “unresolved” and the remainder “unfounded.” Custody executives agreed.

OIR presented its evaluation of the evidence to the GLBT Advisory Council, the ACLU and the press in order to make the process as transparent as possible, even while the final result was unavoidably equivocal. Stills from the video camera, which were prepared by the Department’s videography experts on very short notice, were extremely helpful in demonstrating the appropriateness of the Department’s decision. The Sheriff himself also appeared at the briefing and stressed his support for the need for transparency when serious allegations such as this arise.

Nevertheless, the case investigation has had some lasting positive impact on jail procedures and on the interests of gay inmates. Inmate strip searches are no longer held in the main hallways, but confined to more private side hallways where there is less chance that searched inmates will be exposed to uninvolved staff or other inmates. Deputies have been reminded of their legal and ethical responsibilities to all inmates in keeping with the LASD Core Values. Meanwhile, more fundamental reforms, such as relocation of the inmates to a jail facility that might be better suited to their needs, have been held up as a result of other challenges caused by the riots and the revived overcrowding litigation. OIR will continue to closely monitor the situation and push for additional systemic reform should similar allegations resurface.

## **Quarterly Discipline Report: Tracking Trends in Misconduct**

In our Second Annual Report, we reported that, at OIR's urging, LASD Internal Affairs had agreed to revive the Quarterly Disciplinary Report, which had briefly ceased publication. This comprehensive listing of all administrative discipline imposed by the Department on its employees is a valuable window into patterns of misconduct and a useful tool to help managers throughout the Department impose discipline in a consistent and proportional manner. It also provides a basis for all employees to test personal experience or the "rumor mill" against the actual collected results of the disciplinary system. The QDR is now distributed more widely to Department managers. The purpose of the QDR is not to embarrass individual employees or accentuate their punishment. Care is taken to redact all names and identifying locations or job descriptions.

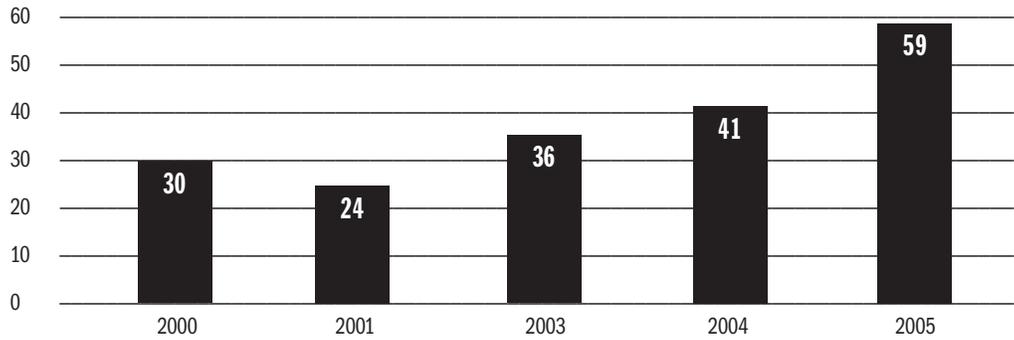
Recently, Internal Affairs looked back over the accumulated data from 2000 through 2005 (with insufficient data from 2002 to be included) and counted significant features such as cases resulting in discharge, number of supervisors disciplined, use of force cases, false statement cases, and off-duty misconduct. OIR commends LASD's effort to collect and evaluate real data on its self-policing function. Many of the trends derived from these data are subject to opinion and interpretation, but some clear facts emerge from the five year overview:

- The number of supervisors (sergeants and above) receiving discipline has remained steady over time and is substantial. Almost as many supervisors — as a proportion of the group — are disciplined as are non-supervisors.
- The number of Excessive Force or Failure to Report Force cases has remained fairly consistent at 30 cases or less per year.
- Discipline meted out for lying or making false statements in reports has risen steadily each year since 2001.
- Discipline for violations of the Department's pursuit policy have risen steadily, almost doubling since 2000. This represents a growing concern for public safety and officer safety and a willingness to hold accountable those who violate this policy.
- Sexual misconduct cases remain very rare and show no discernable trend up or down.
- The data for 2006 is still incomplete, but it may indicate a downward trend for False Statements cases and for cases leading to discharge. (See also section on Driving Under the Influence arrests, above.)

---

### **Lying/Falsification of Official Documents (Suspensions-Discharge)**

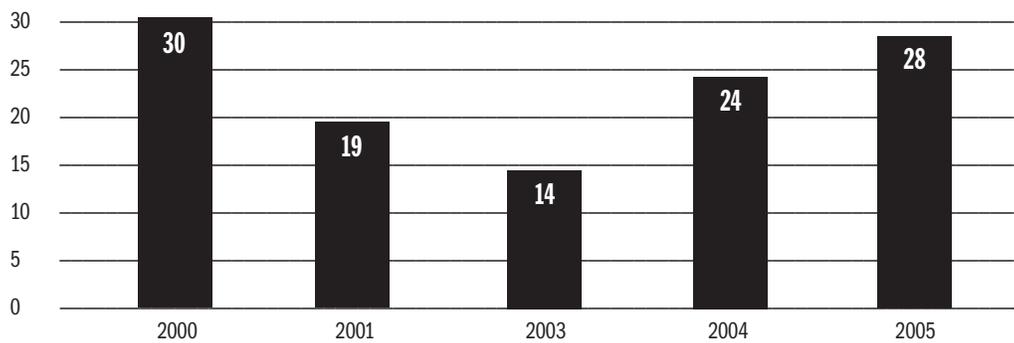
Administrative Discipline Report (Calendar Years 2000, 2001, 2003, 2004 & 2005)



---

### **Use of Force/Failure to Report Force (Suspensions-Discharge)**

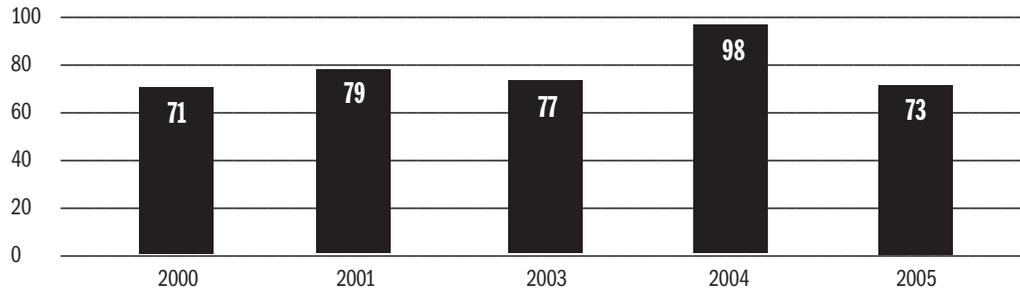
Administrative Discipline Report (Calendar Years 2000, 2001, 2003, 2004 & 2005)



---

### Sworn Supervisors Disciplined (Sergeants and Above)

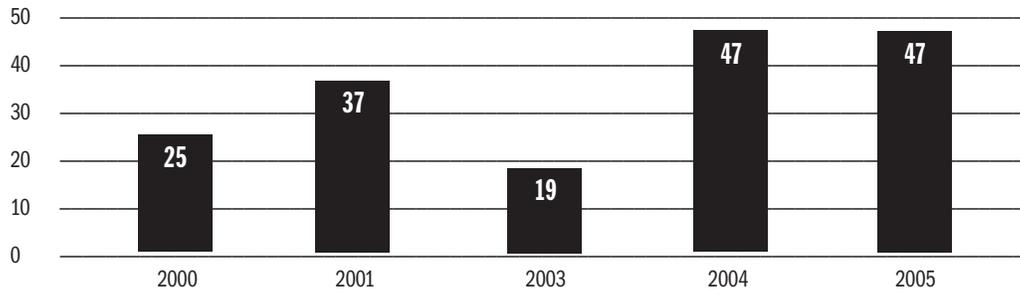
Administrative Discipline Report (Calendar Years 2000, 2001, 2003, 2004 & 2005)



---

### Code-3 Violations/Pursuits (Suspensions-Discharge)

Administrative Discipline Report (Calendar Years 2000, 2001, 2003, 2004 & 2005)



## **OIR and Internal Affairs**

From the start of our work with the Sheriff's Department, nothing has mattered more to our effectiveness and ability to influence LASD than our relationship with the Internal Affairs Bureau. IAB's role in investigating misconduct cases, deputy-involved shootings, significant force, and other critical incidents is at the heart of the Department's internal review process. Our oversight model has always revolved around the belief that IAB's work is of central importance, and that the experience and skill of the sworn personnel who work there leaves them — and not us — best-suited to the task of conducting investigations. At the same time, their openness to collaboration helps us participate meaningfully and efficiently in the Department's consideration of these cases. The fact that our office is in the same building as theirs seems symbolically appropriate, but it is also a practical advantage that we value greatly.

We have, of course, become increasingly familiar to each other over the course of five years' time. In fact, our tenure in the building goes back further than that of many of IAB's current investigators and supervisors. Over the course of hundreds of cases and countless interactions, we have established formal and informal protocols that have enhanced efficiency while maintaining the priority of thorough, fair, and effective investigations. On those occasions when we do differ over the approach to a particular investigation or bureau practice, the lines of communication are open enough and established enough that mutually acceptable resolutions have become the rule.

In the spring of this year, all six OIR attorneys met with the captain and five lieutenants from IAB in a "summit" that addressed several issues and concerns that had been developing on both sides. Some of these related to roll-out protocols, and the clarification of roles and responsibilities. Others had to do with misconduct cases, and how OIR's need for direct interactions with sergeant investigators could best be reconciled with the Bureau's "chain of command" and protocols for supervision. None were major, or difficult to fix. On the contrary, the meeting's lack of contention and points of friction was perhaps its most striking feature.

OIR's greatest concerns about IAB have less to do with that unit's current effectiveness than with the Department's ongoing commitment to supporting it. For obvious reasons, the popularity of Internal Affairs groups among the rank and file of any law enforcement agency tends to be minimal. Most deputies would grudgingly acknowledge the need for IAB, but they don't have to like it, and would not ordinarily be drawn to it as an assignment for themselves. For this reason, it is crucial that Department management sets a positive tone and takes practical steps to ensure that IAB has the resources, personnel, and stature needed to conduct its work at a high level.

The Department's executives have the ability to shape perception in intangible ways through their public remarks about Internal Affairs and its importance. Other gestures matter as well: the commendations that Sheriff Baca personally issued to investigators last year after the Compton shooting review sent a powerful message, and Department personnel at all levels certainly notice when executives visit the building and show their appreciation for IAB's efforts. More concretely, though, Internal Affairs must be perceived as a "good career move"—one that attracts the attention of management as a valued service and a reliable stepping stone for promotion. This has been the case in the past, and in OIR's view it is a tradition well worth perpetuating.

## PART FOUR Updates and Initiatives

### **WCSCRs**

In its Third Annual Report, OIR identified a backlog of pending citizen complaints and commendations, or Watch Commander Service Comment Reports (WCSCRs) in LASD's computer-based tracking system. The WCSCRs covered the time period September 1999 to December 2003. As OIR initially reported, it was not clear whether the WCSCRs were still pending because they had never been investigated, or had been investigated but then either misplaced or never entered into the computer tracking system.

Over the past two years, LASD has made significant progress in addressing the outstanding WCSCRs found in that audit. LASD had set an internal deadline for completing its project of resolving all of those pending WCSCRs. Unfortunately, LASD did not meet its own deadline, but has nonetheless continued in its efforts to address the backlog.

OIR has followed the progress of LASD's efforts to clear the backlog throughout this past year. Members of the Discovery Unit repeatedly called individual units, identifying the WCSCRs that were outstanding and seeking their completion. The Discovery Unit facilitated the copying of WCSCR packages that had been completed, but for some reason had not made it into the computer system as completed. The Discovery Unit then entered that relevant information. Where the WCSCR review had not been completed, units were required to either complete it or indicate why the review could not be completed at this time.

At the beginning of August, OIR alerted LASD that of the initial 2300 backlogged WCSCRs, 255 still remained. LASD re-doubled its efforts to finish the project by the end of August and reported to OIR that the project was complete. OIR then reviewed how these final outstanding WCSCRs were completed. For a handful of the WCSCRs, LASD was able to locate an investigative memorandum or otherwise determine that the incident had been reviewed through another channel, such as a duplicate complaint or the Executive Force Review Committee. For some, the closure notation indicated that LASD was unable to provide or locate "records" or the SCR form. Some indicated that there was no workable

information and that the WCSCR was several years old. For the majority, however, the “closure” notation merely stated that the unit was unable to provide a response by the end of the audit and the Discovery Unit was awaiting the SCR package. In other words, the matters were in fact still pending.

OIR paid particular attention to any closure that was not accompanied by either a finished WCSCR packet or, at least, a memorandum from the Chief of the involved division indicating why the WCSCR packet could not be completed. These other entries presented several questions to OIR. For instance, it is not clear whether the ones indicating that records could not be located mean that a review of the WCSCR was completed but misplaced, or that it is unknown whether a review was ever completed. While for the majority of the WSCRs that indicate that there is no workable information there is no contact information for the complainant in the Department’s computerized tracking system and no indication of another way to contact the complainant, for some, there is contact information for the complaining party, or even a police report relating to the incident. OIR’s first question is why so many of the computer entries do not include complainant contact information. But it is also not clear why, when that contact information was available, or other reports were available, it was concluded that there was a lack of workable information.

Of most concern were the entries where the Discovery Unit is still awaiting a response but has nonetheless changed the outcome of the WCSCR from “Pending” to “Review Completed.” The Discovery Unit has explained that these entries were made under the mistaken belief that the audit had to be completed by a deadline, and that it was better to close than to leave these WSCRs still pending. This puts form over substance. By closing them in this manner, it is now much more difficult to perform computer searches to continue to track those WSCRs to determine whether the packages ever are supplied by the units.

OIR has not returned to do a comprehensive audit of all 2300 WSCRs that were closed as a result of this audit. OIR has taken the Discovery Unit’s representation that these closures were made based on receipt of completed WSCRs or information sufficient to show that the WCSCR could not now be completed. However, the handling of these final 255 WSCRs has raised concerns. OIR recognizes that many of these complaints are, in fact, old, and that these 255 WSCRs are a small fraction of the more than 28,000 total WSCRs submitted in that time period. OIR hopes that through this audit and catch-up effort LASD has learned to pay closer attention to WSCRs and to ensure completion in a timely manner. Now it is best to focus on more recent complaints and the future.

Looking forward, the Discovery Unit is of the belief that this attention on WCSCRs has helped units stay more current with more recent WCSCRs. When this project commenced in 2004, PPI showed an average of more than 530 backlogged WCSCRs per year for the period September 1999 through December 2003. A review of current records in the Personal Performance Index (“PPI”)<sup>1</sup> show that for 2004, only 135 WCSCRs are still pending out of 6054 that were received that year. As OIR found in the past, these include both commendations and complaints, indicating that this is not merely the result of an effort to avoid investigating alleged misconduct. While that number is still too high given that LASD has had more than a year to complete these, it demonstrates significant progress. The numbers for 2005, however, are not as good. There are 437 out of 5588 WCSCRs from 2005 still pending. There is again a mixture of commendations and complaints.

Given all the attention paid by LASD to outstanding WCSCRs and the importance of LASD completing these reviews, OIR would expect that, as with civil claims (for which a similar problem was identified by OIR in its First Report), LASD should be able to clear up all backlogs and remain current. The Department’s Manual of Policies and Procedures requires that WCSCRs be completed within 60 days. PPI provides easy tools for searching for outstanding WCSCRs and allows units to track their outstanding ones. There is therefore no excuse for not staying current. No WCSCR should be closed because the passage of time results in “no workable information.” OIR will continue to monitor LASD’s progress with WCSCRs with the goal that every WCSCR be timely addressed. OIR is confident that, similar to civil claims, LASD will be able to implement a system whereby all units stay current on their WCSCR requirements. The numbers from 2004 and 2005, however, demonstrate that LASD still has much to do to reach this goal.

### **Use of Commendations as a Change Agent**

LASD often writes commendations for its employees for exemplary service and conduct. Public commendations are noted as a result of receiving positive communications from the community regarding how employees have handled service calls or other positive interactions. Internal commendations are prepared by supervisors in response to their awareness of valorous or meritorious actions by LASD employees. Commendations, along with complaints, are linked to a Service Comment Report that is then logged onto each employee’s Personnel Performance Index.

---

<sup>1</sup> The PPI is the computerized tracking system of employee conduct that has been in existence within the Department for over a decade.

As we noted in our Third Annual Report, and as discussed above, there was a significant backlog in the entry of Service Comment Reports into the PPI. Thus, both complaints and commendations were not being timely entered into each employee's personnel profile. For the same reason that we were concerned about the lag in entry of complaints, we (and the Department) were also concerned about the failure to timely enter commendations. Since that time, the Department has made strides in entering both complaints and commendations in a timely fashion. For example, for fiscal year 2005-06, 1522 Internal Commendations and 2530 Public Commendations were entered into the Department's PPI system.

The Department has used commendations to appropriately award exemplary employee behavior and we support use of such devices to do so. More recently, LASD has awarded special commendations to employees who by their current assignments may not often be considered as natural candidates to receive them. For example, in the aftermath of the extensive and timely investigation of the 120-round Compton shooting incident, the Sheriff delivered personal commendations to the Internal Affairs investigators responsible for the good work in that case. In many law enforcement agencies, internal affairs is often viewed by the rank and file as those who wear the black hats who are out to "get" fellow officers and by command staff as a necessary evil. It is thus a welcome change in traditional police culture to see LASD provide positive recognition to investigators when they exceed Department expectations in this unit with critical responsibilities.

OIR has also used the Department's commendation system to publicly inform the Department when, in its view, its personnel have performed extraordinarily. For example, in one case through exceptional perceptive skills, two Internal Affairs investigators discovered that a videotape of a vehicle taken at the scene of an arrest did not match the description of the vehicle documented by the arresting deputies. While the incident started as a review of the force used at the time of arrest, the IA investigators discovered a problem with the integrity of the police report that could have gone unnoticed by less keen personnel. OIR, which has also observed the skilled and dedicated work of these investigators in other matters, wrote a letter of commendation detailing their efforts in this case.

In describing the responsibilities of oversight groups, there is virtually no mention of any role for such organizations in providing positive feedback to individual members of police agencies who perform well. In our view, however, when we learn of exemplary conduct by LASD members that is particularly germane to our responsibilities in ensuring effective and objective investigations, recognizing and acknowledging such behavior has an important place in our mission. To "catch" the Department doing well, which it does often, can be entirely consistent with our role as independent reviewers.

## **Overdetentions and Erroneous Releases**

During the past year, there has been much publicized concern about LASD's erroneous detention of certain inmates in the County jail beyond their release dates. While the issue of "overdetention" of inmates has been a major concern at LASD in the past, the numbers of overdetentions in recent years has decreased significantly. In 1997, there were more than 600 overdetentions. In 2005, there were fewer than 80. While this is not a perfect record, there is recognition that, as with any process involving human beings, zero error rates are highly unlikely. Nonetheless, the question remained whether LASD had done all it should to reduce its error rate as much as possible, or whether there were still additional measures that could be taken to decrease the number of overdetentions further.

To explore this area, OIR began to review all overdetentions and erroneous releases (the other possible result of an error in an inmate's jail term). As an initial step, OIR instituted meetings with the Captain of the Inmate Reception Center ("IRC"). IRC is responsible for calculating inmate sentences and processing court paperwork that may impact those sentences. When OIR approached the IRC Captain about meeting to discuss specific overdetentions and their causes, he indicated he already had a monthly meeting with his staff on those issues and invited OIR to join the meeting.

IRC's meetings are very informative. Now bi-monthly, instead of monthly, IRC meets to discuss all overdetentions and erroneous releases that occurred in the preceding two months. A deputy who has researched the incident presents the relevant underlying paperwork and explanation for how the error occurred. This may include statements from the involved employees about their roles in any errors.

There are three primary sources for errors: an IRC clerk's error in processing information; a Superior Court Clerk's error in documenting or transmitting relevant information; or a Court Services Deputy's error either in documenting or transmitting information, or in releasing (or not releasing) an inmate directly from court.

When OIR initially attended the meetings, the lack of participation by Court Services was an immediately apparent shortcoming. IRC would sometimes identify, as contributing factors to the overdetention or erroneous release, some conduct by an LASD employee assigned to the Court Services Division. IRC expressed frustration that they had no way to address these issues other than to send a memorandum to that employee's captain. Rather than resolving issues, however, those memoranda would often commence a back and forth dispute about who was responsible for the overdetention. This would often make it difficult to correct existing problems.

Moreover, in the first couple of meetings OIR attended, IRC identified potential deficiencies in the performance of Court Services employees and stated it would send memoranda to Court Services to alert them to the issues so that they could be addressed on that end. However, despite repeated requests, OIR never saw — and IRC may never have completed — these memoranda.

OIR concluded that this process was too cumbersome. It was too difficult to ensure that all IRC and Court Services issues that led to the overdetention or erroneous release were being addressed. OIR concluded that it would make more sense to have Court Services at IRC's meeting so that there could be one discussion of the errors and any conclusions could benefit from the input from Court Services personnel. In addition, Court Services would have immediate access to information about any errors made by its personnel.

OIR approached Court Services about a couple of issues that had arisen in meetings with IRC and for which memoranda had not been completed. In that meeting, Court Services quickly volunteered to send a representative to the IRC meetings.

A Court Services representative has begun to attend the IRC meetings and this has been very helpful in addressing the issues raised by overdetentions and erroneous releases. Court Services timely learns of issues with their employees, policies, or training. In addition, Court Services is able to provide relevant information and valuable insight that impacts the analysis of the errors that have occurred. Moreover, Court Services is present to speak up when it feels that the reason for the error is being unfairly attributed to its personnel by the staff at IRC. All in all, the presence of two important Departmental components to determine the reason for any overdetentions or erroneous releases at one meeting produces a dynamic that is more productive and efficient in arriving at the answer.

At these meetings, the discussion focuses on two primary areas: First, any systemic issues that contributed to the error, and second, the role of individual employees. Where systemic issues are identified, including those that may involve Superior Court personnel, there is a discussion of potential remedies for the issues, as well as the best way to seek implementation of those remedies. In a couple of instances, IRC has identified specific issues to address with the Superior Court to try to clarify documentation and procedures. Additionally, IRC has identified areas where its employees repeatedly have difficulties and has targeted training at those areas.

Some overdetentions or erroneous releases, however, are purely the results of human errors by IRC personnel. These meetings examine those errors and the conditions under which they were made, as well as the employee's understanding

of what went wrong. In addition, IRC looks at the employee's history, if any, of similar mistakes. To date, since OIR began attending the meetings, IRC has refrained from imposing discipline on any employee for an error resulting in an overdetection or erroneous release. Rather, IRC has preferred to rely on informal counseling and instruction, retraining, or at times a formal performance log entry. For most situations, this appears to be an appropriate response given the nature of the errors and the complexity of the work. However, in a few instances OIR has seen certain employees who are repeatedly committing errors — much more frequently than their colleagues. At that point, it appears to OIR that IRC may need to increase its response and consider more formal measures to get the employee's attention. IRC's continued reliance on informal counseling in these situations is particularly troublesome when the employee appears unable to recognize his error or accept his responsibility in the incident. IRC is much more likely to improve the behavior through counseling where the employee recognizes an error than where the employee steadfastly denies any mistakes.

The relatively small number of overdetections and erroneous releases currently recorded is encouraging. OIR is also reassured by the detailed examination of each overdetection and erroneous release to identify personnel, policy, or training issues. It is still too early to determine, however, whether additional reasonable steps could and should be taken that would lower that number further. OIR is continuing to follow IRC's process of self-evaluation and the involvement of Court Services Division in that process.

## **Community Outreach**

The Office of Independent Review welcomes the chance to participate in community outreach related to the Sheriff's Department. In the aftermath of the February jail riots, a group of concerned individuals from South Los Angeles visited OIR to ask questions and express concerns about racial tensions in the County jail system. Several of them were longtime activists and church leaders in the local African-American community. Along with providing valuable insight to OIR attorneys about the perceptions and reactions that the jail unrest had provoked, these representatives expressed a sincere desire to become involved in constructive relationships with LASD.

At that initial meeting, OIR did its best to answer questions and provide information about the violence that had already occurred and the steps being taken by the Department to address ongoing problems. The exchange was productive, and proved to be the springboard for the formation of a community group that has continued a dialogue with OIR and with the Sheriff's Department itself.

With OIR providing occasional direction and guidance, the community group has focused its efforts in two areas. The first relates to improved understanding. Recognizing that longstanding attitudes and bureaucratic obstacles have undermined LASD's connection to certain segments of the public, the community group members have dedicated themselves to learning about the relevant systems and finding efficient ways to share their community's viewpoints and frustrations. Since the riots, community group members have taken tours of several of the LASD jail facilities and have met regularly with OIR attorneys and Department executives to discuss issues and share ideas.

In keeping with the idea that the flow of information will heighten understanding and strengthen ties, community group members also make regular inquiries about particular incidents and cases. While OIR does not advocate on behalf of individual people, it can facilitate the process through which the public can be heard and taken seriously. Here, OIR's combination of familiarity with the Department and arm's length independence make it a useful resource.

The second main initiative of the community group has been in the area of recruitment. The community group members have embraced the idea that one of the best and most direct ways to advance the relationship between the Department and the African-American community is to establish more of a presence in the ranks of working deputies and professional staff. Accordingly, community group members have committed a great deal of time and energy to recruiting efforts in their own neighborhoods and cities. They have had the enthusiastic support and backing of the Department's Personnel Administration and Recruiting offices in these efforts. The Department is actively hiring, and can potentially benefit from the support of the community group in bringing its message to a traditionally under-represented part of the County population.

OIR has been extremely impressed with the energy and dedication of the community group's leadership. Similarly, OIR has found the Sheriff's Department's receptivity and cooperative spirit to be heartening. It has not always been an easy collaboration. For example, the community group has sponsored a few "town hall meeting" events in and around South Los Angeles, and in each instance some members of the community berated those Department executives in attendance with remarks more notable for their hostility than their focus or constructive intent. Understandably, the Department finds this dynamic frustrating.

Still, OIR believes the exchange is worthwhile. An awareness of public perception — even when it seems unfair or unreasonable — has intrinsic value, as do the Department's efforts to explain and be accountable to those who often feel powerless. Indeed, on each of the occasions when some people voiced their

bitterness and seemed unwilling to listen, others in attendance took a different view and seemed to genuinely appreciate the outreach.

Another example of OIR's outreach is its work this year with the Los Angeles County Human Relations Commission. Again, the February jail riots provided the impetus. Following those disturbances, the Human Relations Commissioners were interested in learning more about the jails, and OIR coordinated a tour of the Pitchess Detention Center for several commissioners and staff members. More recently, an OIR attorney, along with an executive from LASD, briefed the Hate Crimes Network, a community group supported by the Human Relations Commission, on the racial dimension to the violence in the jails. As with the meetings of the new community group, OIR found this to be a useful discussion. OIR appreciated this opportunity both to educate interested members of the public on the complex dynamic fueling violence in the jails and to learn from those most active in their communities how tensions outside the jail play a role in that violence.

The progress of community groups and other activists can be slow and difficult to measure. Nonetheless, OIR will continue to support entities and individuals who seek to foster stronger communication between LASD and the communities it serves. Ideally, the dialogue will contribute to an environment in which problems, tensions, or controversial events can be assessed against a backdrop of mutual respect and consideration.

### **Reform in the TARP Policy**

Early in 2005, deputies at one of the north county jail facilities responded to a dorm where an inmate — who later proved to be drug-intoxicated — was behaving bizarrely. He was jumping from bunk to bunk and yelling incoherently, and at one point he broke a light fixture and began brandishing a metal piece of it. The deputies moved in and eventually used a taser and other force to subdue him. Because the inmate was still violently restless, the deputies used the Department's Total Appendage Restraint Procedure ("TARP") in order to control him as medical assistance was summoned.

The TARP involves the connection of cuffed hands and hobbled feet in order to restrict the movement of an unruly suspect, and it succeeded in containing the inmate for the minutes it took for fire department paramedics to arrive on scene. With the TARP still in place, deputies then transferred the inmate to a gurney, and took care to keep him off his stomach for medical reasons in keeping with Department policy. The entire process was videotaped and appropriately supervised.

Once the inmate was in the ambulance, though, a couple of problems emerged. First, there was a delay of several minutes while the medical team waited for their deputy escort to retrieve his gun for the trip to the hospital. (For security reasons, custody deputies routinely store their weapons in lockers prior to entering the main areas of the county jails.) And second, during the delay, the inmate ended up on his stomach while still TARP'ed inside the ambulance. Though the videotape shows him moving throughout, and medical attendants are on the scene, his positioning during this period clashed with Department policy. Meanwhile, the inmate's continuing unruly condition presented issues of concern to the paramedics and interfered with their ability to treat and monitor him.

When the inmate arrived at the hospital, he was in cardiac arrest and his respiration and blood flow had faltered to the point where life support was necessary. A few days later, he died having never regained consciousness.

Though the connection between the inmate's positioning and subsequent distress was never established (in fact, all witnesses from the ambulance ride describe the inmate as energetic and vocal throughout the trip), the incident revealed a possible gap in Sheriff's Department protocols. The involved deputies assumed that, once the inmate was in the ambulance, his medical welfare had become the responsibility of the paramedics. This was both reasonable and understandable. However, the inmate remained TARP'ed as the ambulance idled for several minutes, and the Department's policy about keeping TARP'ed individuals off their stomachs arguably still applied.

Because the death had occurred in conjunction with a use of force incident, the case was presented to the District Attorney's Office, which found no criminal liability on the part of the involved officers. Then the matter proceeded to the Executive Force Review Committee for additional assessment of the administrative, tactical, and policy-related issues. Though the panel determined (with OIR's concurrence) that the deputies had not violated policy in their handling of the inmate, at OIR's urging it also recommended a "review of the TARP policy to conclude who maintains the duty of care once a suspect (patient) is physically transferred from department custody and into the care of medical personnel."<sup>2</sup>

A few weeks later, representatives from the Department's Training Bureau, Custody Support Services, and Field Operations Support Services met with the responsible OIR attorney to assess the issue. That committee soon determined

---

<sup>2</sup> The Committee also called for further inquiry into the delay caused by the escort deputy's need to arm himself. The relevant facility revisited its own protocols to ensure that supervisors initiate the necessary preparations for an escort as soon as a medical response is summoned.

that policy revisions were needed to clarify deputy responsibilities with TARP'ed suspects who needed medical intervention. It also determined that the direct involvement of other affected agencies made sense in the discussion and drafting process. Accordingly, a second meeting brought together Sheriff's Department personnel with supervisors and executives from Los Angeles City and County Fire Departments and the county's Emergency Medical Services Department.

As a result of that recent meeting, the participants agreed in principle to the clarification of existing protocols and understandings. While the Department's own policy modifications have yet to be finalized, OIR will continue to monitor this reform. OIR and the Department believe it will help clarify how overlapping responsibilities — between security concerns and medical needs — should be divided. Ideally, this will strengthen the effectiveness of these different agencies in responding to situations like the one in which this inmate died.

### **Policy to Address Obstructing Investigations**

LASD has long had a policy that prohibited employees from interfering with an investigation. During the past year, however, LASD and OIR concluded that the policy should be revised to more clearly state the full scope of conduct that it is intended to prohibit. LASD, working with OIR, therefore revised MPP 3-01/040.76 Obstructing an Investigation/Influencing a Witness. The Department added language to the policy to emphasize that the prohibited conduct includes intimidating or unduly influencing any participant in an investigation. The new language also clarifies that personnel should not engage in conversations that could interfere with or distort an investigation.

The process of revising the policy highlighted the benefits of the working relationship between OIR and LASD. During the course of the revision, some changes were made that OIR was concerned would limit the scope of the policy in unintended ways. OIR was able to bring these concerns to the attention of the LASD personnel working on the revision, and LASD agreed with OIR's concerns and addressed them. Importantly, this could all occur before the policy was formally adopted and thus was much easier to remedy than if OIR's only input occurred after the policy was implemented.

### **Aero Bureau**

The Aero Bureau is responsible for the air support provided to patrol deputies. This support consists of helicopters, normally manned with a pilot and an



**3-01/040.76 OBSTRUCTING AN INVESTIGATION//INFLUENCING A WITNESS**

Employees shall not take any action that could interfere with, delay, obstruct, distort or unduly influence any investigation.

Employees shall not take any action that could intimidate or unduly influence any participant in an investigation, nor engage in any conversation that could interfere with, delay, obstruct, distort, or unduly influence any investigation.

Any employee who knowingly gives false evidence, withholds evidence, or interferes in any way, during such an investigation, or requests or encourages another to do so, shall be deemed to have obstructed the investigation.

For purposes of this section, investigation shall include, but is not limited to, any criminal, civil, or administrative investigation, review, inquiry, inquest, hearing, trial, or similar activity conducted by representatives of this Department or any other governmental agency.

Nothing in this section is intended to preclude a member from seeking and/or receiving legal guidance, advice, or representation.

**Revised 06/20/06  
04/01/96 MPP**

observer. When patrol units are involved in containments, vehicle pursuits, attempts to locate suspects, or other tactical operations, they can request that a helicopter respond to provide assistance. Depending on how many helicopter units are available, their location, and weather conditions, an Aero unit can respond in minutes.

OIR has seen the impact the Aero Bureau has had on tactical operations that resulted in shootings or force reviewed by the Executive Force Review Committee. Despite the sometimes critical role played by Aero Bureau personnel, however, OIR noticed that Aero command staff was not consistently present during these discussions. OIR raised this issue with the personnel responsible for organizing EFRC. They agreed that Aero's presence would be appropriate and agreed to invite them. At the same time, OIR has attempted to be more vigilant at identifying incidents where Aero Bureau played a significant role and the command staff should be present for the discussion. While this is still a small number of the total matters heard by EFRC, to date Aero's presence appears to be a useful addition to EFRC. At the least, it has started a productive dialogue between Aero and the patrol stations that will hopefully help them each have a better understanding of the other's capabilities and needs.

Another specific issue relating to Aero Bureau that arose in the EFRC discussions is its role in vehicle pursuits. LASD policy requires that any Aero unit responding to a pursuit, among other things, communicate over the radio the total number of patrol units actively involved in the pursuit. As a result of discussions that occurred at EFRC, it was apparent that the Aero Bureau helicopter units were not always complying with this policy.

Discussions with Aero Bureau revealed that the deputies assigned there did not believe the policy was being enforced and therefore were not complying with it. Even though OIR was able to identify at least one instance in which the policy had been enforced, this perception made Aero command staff reluctant to enforce the policy against employees who violated it. While command staff was reluctant to enforce the policy, OIR's discussions with LASD executives and patrol personnel indicated that LASD believed this to be a useful policy requirement that should be enforced.

The Department's discussions about this specific portion of the pursuit policy were occurring at the same time that LASD was contemplating revisions to several portions of the vehicle pursuit policy. There was an understanding that with those revisions Aero Bureau could reaffirm its commitment to the policy. However, OIR was concerned about the conduct of pursuits in the interim while the proposed policy revisions were being finalized. When OIR approached Aero

Bureau about how to enforce the policy, OIR was pleased to learn that, on its own initiative, Aero Bureau had issued a memorandum to its personnel reminding them of the requirements of the vehicle pursuit policy. The memorandum alerted Aero personnel to the fact that changes may be made to the policy in the future, but stated clearly that until any changes were made, the policy would be enforced as written and they were expected to comply with it.

## **Tactical Policy**

Last year, as reported in OIR's Fourth Annual Report, LASD adopted a policy related to when deputies can fire in response to threats from vehicles. That policy was somewhat unique in identifying specifically the tactical considerations that would be used to evaluate the conduct of all personnel involved in such an incident. As a related project, this year LASD undertook to draft a more general policy that would identify important tactical principles personnel should be complying with. OIR worked with LASD on the drafting of this policy. In July, LASD issued MPP 5-06/105.00 Tactical Incidents.

The Tactical Incidents policy identifies and then defines the tactical considerations that all personnel should be considering in all tactical situations, not just those involving vehicles. It also puts personnel on notice that their conduct will be evaluated according to these principles. Specifically, it states, "All personnel shall expect that their conduct may be evaluated based on their adherence to the following principles."

Personnel should be readily familiar with the tactical principles and definitions set forth in the policy, as they have been trained on these concepts repeatedly, starting with the Academy and continuing throughout their careers. No tactical principle presented in the policy should be a new concept for any sworn member of the Department. The purpose of compiling these principles in one policy, however, was to provide clear guidance to personnel of the standards to be applied to their tactical decisions. The policy also provides supervisors the standard they should be applying when evaluating their deputies' performance. This is particularly helpful for Executive Force Review Committee, where tactical issues are often discussed.

OIR commends these efforts to provide clear guidance to personnel and supervisors. It hopefully will improve the quality of the tactical decisions being made and provide a basis for consistent evaluations of tactical decisions based on a uniform standard.

## **LASD Patrol Initiatives**

The Sheriff's Department's twenty-three local patrol stations, which are spread throughout the county, are grouped together geographically into three "Field Operations Regions." Each Region has its command staff and support system, designed to provide an added layer of supervision and to be more responsive to distinct issues that might arise locally. In the past, OIR has reported on the specific innovations and reforms that each Region has produced. The commitment to progress and improvement suggested by these programs clearly reflects well on the Department as a whole and improves the service that patrol stations are able to provide.

OIR views these initiatives as worthy of praise and support. While it is too early to evaluate their effectiveness, many seem likely to bear fruit and benefit the Department. They also represent a bold way to take advantage of the immense size of the LASD by encouraging individual field operations regions to act as experimental laboratories for new approaches in training methods and substance. LASD can capitalize most effectively on these experiments if it takes steps to determine which ones were effective, then proliferates those throughout the Department.

### **Region I**

*Unit Level Performance Mentoring* For 11 years LASD has had a department-wide Performance Mentoring program designed to identify and provide one-on-one assistance to deputies whose job performance was not meeting the minimum expectations of the Department. The road to Performance Mentoring starts with a computer program that spots employees who have been involved in a high number of force incidents, administrative investigations, civil claims and/or citizen complaints.

Though the mentoring program can have a positive influence on selected employees, the Department's centralized screening process can be cumbersome. Sometimes more than a year can pass between the original identification of a candidate by the computer and the commencement of the actual mentoring process.

Region I has undertaken a program that capitalizes on the Department's "early-warning" system in a faster, more localized way. Once a candidate is identified for screening through the main process, the Region takes immediate action at the "local level" by assigning a mentor lieutenant and a sergeant right at the officer's own station, and beginning the process of intervention. Importantly, this action is

not disciplinary or punitive; instead, it is meant to be a constructive form of extra attention that helps with career survival and improves performance. To offer it in a more timely fashion, and through supervisors who would know the officer best, makes good sense.

*Honesty/Veracity Briefings* Region I is now in the 3rd year of an extensive series of scenario-based briefings on the theme of honesty and integrity. Each scenario is presented to deputies at shift briefings through a written narrative or a video dramatization. They are then guided through discussion points and asked for honest, sometimes anonymous responses.

Sergeants who receive special training in the subject matter lead these discussions. The more than a dozen scenarios include topics such as the following: covering up a spouse's hit-and-run accident; "handing off" an arrest to a trainee and suggesting that he report it as his own; finding marijuana in a friend's son's car; and whether to report an accidental firearm discharge that does not strike anyone.

The scenarios are designed not to function as pat dilemmas with obvious "right" answers but rather, as sophisticated think-pieces that may stimulate employees to anticipate real problems they may encounter on the job. A central message is that when you compound an error in judgment or an impulsive integrity mistake by lying about it, the consequences go from serious to devastating.

This program is structured so that each shift at all eight stations in the region has the opportunity to complete it. This is obviously a major commitment of time and resources. If the program can begin to achieve its objectives to "strengthen the deputies' personal resolve to be trustworthy" and to "minimize the number of administrative investigations in which trust violations are an issue," the effort will be well worth it.

*Core Knowledge Assessment Program* This program imposes clear-cut didactic structure on a series of weekly briefings designed to review or update basic knowledge of legal principles, officer safety and Department policy. Topics like Vehicle Pursuit Initiation, Use of the Stunbag Shotgun, Crowd and Riot Policy, Dealing with Mentally Ill Persons, and Search and Seizure of Vehicles are covered in a standard briefing format. Then deputies are asked to answer a short series of multiple-choice questions to reinforce the rules they have learned. Over 40 topics have been introduced since the program's implementation a year ago, and more are on the way.

## Region II

*Outreach to Line Supervisors* During the past year, Field Operations Region II has implemented management practices that emphasize the important supervisory role played by Sergeants and Lieutenant. The Chief and Commanders meet with all of the lieutenants and sergeants once a year. They also meet specially with new lieutenants and sergeants. These meetings address topics such as sound decision-making, supervisory courage, training, administrative accountability, and factual documentation of risk management reports. They also discuss the concept of loyalty to the department and their fellow supervisors. There is also an emphasis on needing to notice the little things — both good and bad — and not letting little problems grow into big ones.

This emphasis on immediate supervisors also carries over into meetings with the Field Training Officers. The Chief and Commanders of the Region visit the stations to meet with the training officers. The discussions at these meetings focus on accountability, officer safety, and their role as teachers and mentors.

*Specialized Training Program* Region II has also been tasked in this past year with addressing the issues raised by a number of deputy involved shootings in the Region that involved a large number of rounds fired by the deputies. LASD executives were concerned that “contagious fire” might be contributing to the number of shots being fired by deputies. In an attempt to address this issue, Region II has brought in the Special Enforcement Bureau to provide specialized training to Sergeants and Deputies. The training is focused on mind sets that might cause contagious fire.

Special Enforcement Bureau is widely recognized for its tactical expertise and exceptional skill level. While SEB’s personnel perform critical operations, primarily involving armed suspects, they have significantly fewer shootings than patrol deputies, and their shootings involve significantly fewer rounds fired. In an effort to reach out to the Department where the need was greatest (in terms of crime statistics and shooting trends for the past several years), SEB personnel put together a three-day training block that reaches ten deputies at a time, and has had several different sessions since beginning in June.

Region II has also initiated recurrent station-level briefings to attempt to address these same issues. While time is needed to determine whether these efforts will translate into results in the field, the response from participating deputies has been extremely favorable.

## Region III

*Recurrent Briefing Program* Region III took the lead this year in introducing a calendar of important topics that each station in the Region has presented to its deputies during the daily briefing period before patrol shifts. Each station contributes a handful of topics each month to the program's coordinator, who then distributes the calendar and monitors the feedback. Topics include new policy issues, officer-safety tips, updates in the law, tactical reminders, and a host of other relevant subjects designed to emphasize (or re-emphasize) key points affecting officer performance. In keeping with the progressive notion that "every day is a training day," this program takes an organized approach to continuing education for deputies by incorporating it right into the daily schedule.

*Fingerprinting Program* Region III has also taken the lead in dedicating resources to a pilot program that will expand the collection and analysis of fingerprints. Based on current technology and database capabilities, the forensic gathering and analysis of fingerprints has greater potential than ever to assist in the solving of crime. The problem is that resource limitations have narrowed the number of investigations in which the full weight of the technician's skill can be brought to bear.

Based on the success enjoyed by one station, which had "purchased" the services of an additional forensic specialist through a contractual agreement with its host city, the Region has moved to expand its fingerprint program. It has teamed with the crime lab to add dedicated personnel to the fingerprinting project, and to make use of sophisticated new machinery that is housed at one of the station facilities. The goal is to obtain more data, analyze it more quickly, and ideally generate more "hits" that will identify suspects and provide leads in criminal cases. Effective resource management is always a challenge to the Department, which is pulled in so many different directions at once. This program seems to be both worthwhile and relatively practical, and it will be interesting to track its effectiveness.

### **OIR's Protocols with LASD: Reinforcing the Oversight Model**

OIR interaction with the Sheriff's Department has always extended beyond its core function of reviewing misconduct investigations and deputy-involved shootings. Since its inception, OIR has regularly reached out to Department executives, supervisors, and line personnel to discuss issues of training, policy,

and protocols.<sup>3</sup> Occasionally, the topic of these contacts is OIR’s own relationship with LASD and the need for open and consistent communication. OIR has become an increasingly familiar presence around the Sheriff’s Department in the course of its five-year history. Still, we occasionally encounter situations when it becomes necessary to clarify or reiterate our review protocols. These reminders can take different forms and range from quick clarifications to elaborate presentations.

In February, for example, when the inmate riots were a couple of days old but still far from resolved, the Custody Division held an emergency meeting to assess the initial inmate murder and to evaluate the Department’s action plan for addressing the ongoing unrest. An OIR attorney found out about the meeting and quickly headed over to its location — only to be told at the first break that he needed to leave because of sensitive matters that were about to be discussed.

The attorney agreed to leave the meeting, not wanting to distract from the very real emergency that the Department was confronting. It was, however, important to OIR that the situation be addressed promptly.

As we have repeatedly stated from the time of our inception, our effectiveness and legitimacy as an oversight entity hinges on two things more than any other: our unfettered access to Department meetings and records, regardless of their “sensitivity,” and our ability to offer input and make recommendations. Obviously, this incident went to the heart of the access issue. It was for that reason that we brought this occurrence to the personal attention of the Sheriff. We were encouraged but not surprised that he affirmed his unwavering insistence that Department personnel comply with our requests for access and accommodate our presence at meetings we believe necessary to our role.

---

<sup>3</sup> This year, for example, OIR continued to offer an hourly presentation to new supervisors on issues relating to misconduct investigations. The session addresses the tension between respect for deputies’ rights and the need for officer accountability. OIR also regularly provides a more specific block of training to custody supervisors on the unique issues arising from inmate allegations.

The National Association of Civilian Oversight of Law Enforcement (NACOLE) holds an annual conference that brings together oversight entities and peace officers from around the country. OIR has attended the conference each year since 2001, and regularly participates in panel discussions and other presentations for attendees. At this year’s conference in Boise, Idaho, OIR attorneys joined with an ACLU coordinator and a lawyer from the California prison system’s review group to discuss “Oversight Behind Bars” and the challenges of that setting for monitors. We appreciate the opportunity NACOLE provides, at its conference and throughout the year, to exchange ideas with other oversight professionals and to share the successes and frustrations of our own experience with LASD.

That same month, OIR attorneys gave a presentation at the Department's quarterly "Management Conference," which brings together all executives from the level of captain up to the Sheriff himself. The topic was OIR's review protocol, and it revolved around a series of hypothetical case examples that were drawn from actual recent experiences, and were designed to remind the Department's decision-makers of the agreement to consult with OIR at all stages of the discipline process.

Too often, as we have discussed in past reports, the results produced by thoughtful discussion and principled assessment of the evidence have been undone by late maneuvering that has excluded OIR. This is, in part, a function of the several stages that a case might pass through *after* the Department has reached consensus with OIR on a particular outcome.

1. OIR reviews the case and reaches consensus with the Department regarding the result.
2. The deputy receives a letter that expresses the Department's intent to discipline him, and affords him the opportunity to review the case file and respond.
3. The deputy can challenge either the findings or the amount of proposed discipline, or both, through a presentation to one or more Department executives.
4. If the Department cannot or does not wish to reach a settlement with the deputy, the deputy can grieve or appeal the case through established bodies such as the Employee Relations Commission (for less severe discipline) or the Civil Service Commission.
5. The deputy's case is scheduled for hearing, during which further negotiations can and do take place.
6. The hearing itself occurs, often several months after the initial intent letter, and both sides produce evidence in support of their respective positions.

Apart from the delay between incident and final resolution that such a process potentially creates in each case, the numerous stages and the contacts the parties may have along the way often present opportunities for changes to occur. While it is often the case that the changes are appropriate in light of the evolving evidence or other considerations, it is important to OIR that the process remain as careful and thoughtful as possible, and that OIR's knowledge of and input into the evolving situation is ensured by the handling personnel within the Department.

Drawn from actual case experiences, the following hypothetical scenarios and proposed responses were among those presented at the Conference.

1. What if the deputy and his lawyer protest at the first grievance meeting with the captain that important witnesses were never interviewed, or that the

investigation violated the Peace Officers' Bill of Rights somehow, and should therefore be nullified?

*Response:* Challenges to the thoroughness or legal validity of an investigation are deserving of careful attention. However, the claims of a subject deputy need not be taken at face value, or "ruled upon" during the very meeting in which they are first raised. OIR often reminds the Department's executives that "time is on their side" when it is the deputy who raises a challenge.

2. What if the deputy and his lawyer agree to accept a lengthy suspension, but only if false statement charges are dropped from the case?

*Response:* False statement charges have special significance in the discipline process, because they go to the integrity of deputies in fundamental ways. OIR has frequently taken the position that a false statement allegation, if proven, need not automatically lead to discharge. However, changing or dropping such a charge during settlement negotiations — even if the amount of the proposed suspension remains the same — is something OIR does not condone, absent the emergence of new evidence. OIR emphasizes this point when consulting with the Department in the latter stages of a case.

3. What if a deputy and her lawyer reject the Department's settlement offer, take a case to Civil Service, go through the hearing process, and then, on the last day of the hearing, contact the Department to convey a willingness to now accept the original settlement?

*Response:* Reasonable minds can disagree as to whether a settlement offer should "expire" under such circumstances. After all, the passage of time and the costs of the hearing process for the Department are arguably factors that change the definition of a "fair deal" for a given case. It is also likely that such a last minute change of heart by a deputy reflects his impression that the hearing has gone poorly, thereby strengthening the Department's hand. OIR recognizes that such decisions are best made on a case-by-case basis, but encourages the Department to weigh its options and assess the deputy's acceptance of responsibility from a new perspective.

4. What if the lawyer representing the Department at Civil Service calls in mid-hearing to say that things are going poorly, and that the Department should put together a new and better settlement offer?

*Response:* OIR certainly respects the assessments of the Department's lawyers, and is inclined to defer to their expertise and their personal knowledge of how the case is proceeding. However, OIR again urges

the Department to consider the advice carefully, not rush to change its position without careful discussion, and to include OIR in that dialogue before reacting or taking final action.

What each of these responses shares is an emphasis on careful, thoughtful evaluation of the facts. While responsiveness to new information is important and necessary, it should not undermine the Department's consideration of all the facts and the long history these cases can accumulate. OIR's part in that process continues to be an important aspect of our responsibilities.

### **LASD Fundraising Issue**

The Sheriff's Department's prominence in Los Angeles County makes it an influential part of local politics — both directly and indirectly. The Sheriff is himself an elected official, of course, and the Department routinely takes an interest in local and state matters that affect LASD's ability to carry out its mission. A number of Department members are also local office-holders in their spare time.

This involvement in civic affairs is not, in itself, problematic. On the contrary, some of the connections to politics are entirely appropriate, if not downright unavoidable. Furthermore, the commitment of individual officers to public service through part-time work on town councils or school boards is often admirable. Nonetheless, the Department's considerable influence makes fairness a potential issue and dictates a need for policies and regulations relating to political activity.

While policies have been in place on this subject for some time, the need for a "refresher course" came to light in the spring, when the media became aware of an e-mail that one Department executive had sent to several others — on the Department's own e-mail system — in support of a peer's candidacy for a local elected office. The e-mail publicized a fund-raiser and urged people to attend.

The e-mail, which OIR later reviewed, was benign and straightforward on its surface. It was also improper. By using Department resources and reaching out to Department members on behalf of a particular candidate, this executive had run afoul of policy and potentially violated a state law prohibiting such actions by government officials. (The District Attorney's Office reviewed the matter but declined to prosecute.)

When the e-mail was publicized by the press, months after it had been written, the sender was quick to accept responsibility and explained that he simply wasn't aware of the prohibitions. (This position was strengthened by the fact that none

of the many high-ranking recipients of the e-mail seemed to realize a problem either.) Because the limitations period for possible discipline had already lapsed, OIR and the Department agreed that action against the sender of the e-mail was not viable. However, it did seem necessary and appropriate to remind Department officials of the appropriate rules. The Undersheriff asked OIR to prepare some briefing materials, which he then presented to the executives at the recent fall management conference. Some of those materials are reproduced on page 84.

### **Legal Changes in the Complaint Process**

Near the close of 2005, the Federal Court of Appeals ruled that California Penal Code section 148.6 is unconstitutional. [Chaker v. Crogan 428 F.3d 1215 (2005)] This obscure section of the penal code was displayed at the front desk of almost every police or sheriff's station in California. The law specified a warning to members of the public who intended to file complaints against a peace officer. It required law enforcement agencies to have the complainant read the warning and sign it. The warning, which had to appear in boldface type, stated, in part, that

YOU HAVE A RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT.... [But] IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

The Court found the Penal Code section to be an impermissible violation of the First Amendment right to free speech because it sought to regulate speech based on view-point. The Court stated that, the law criminalizes one kind of speech in favor of another by forbidding knowingly false statements against police officers, but allowing knowingly false statements *in favor of* police officers. In the future, the legislature could choose to rewrite the law to address this flaw, but for the meantime, the statute has been struck down.

After the court case was denied review by the U.S. Supreme Court and thus became final, the LASD was advised to remove the 148.6 admonition from displays and complaint forms used throughout Sheriff's Department facilities. OIR conferred with the Leadership and Training Division on the best way to ensure a swift changeover to comply with the new constitutional requirement. An order was issued throughout the Department instructing personnel to remove the bottom part containing the 148.6 admonition from the existing complaint form until new forms could be printed and distributed. This allowed the public the

As articulated in Section 3201 of the California Government Code, the state's legislature "finds that political activities of public employees are of significant statewide concern." Fairness dictates that such employees should neither take advantage of their positions or be subject to political coercion related to their jobs.

Accordingly, the legislature has passed laws that regulate such activities and that apply to all Sheriff's Department personnel.

Section 3205, reproduced in its entirety below, addresses fund-raising activity in the context of political campaigns. Subsection (d), it should be noted, makes violation of this law a misdemeanor.

#### **California Government Code**

**3205.** (a) An officer or employee of a local agency shall not, directly or indirectly, solicit a political contribution from an officer or employee of that agency, or from a person on an employment list of that agency, with knowledge that the person from whom the contribution is solicited is an officer or employee of that agency.

(b) A candidate for elective office of a local agency shall not, directly or indirectly, solicit a political contribution from an officer or employee of that agency, or from a person on an employment list of that agency, with knowledge that the person from whom the contribution is solicited is an officer or employee of that agency.

(c) This section shall not prohibit an officer or employee of a local agency, or a candidate for elective office in a local agency, from requesting political contributions from officers or employees of that agency if the solicitation is part of a solicitation made to a significant segment of the public which may include officers or employees of that local agency.

(d) Violation of this section is punishable as a misdemeanor. The district attorney shall have all authority to prosecute under this section.

(e) For purposes of this section, the term "contribution" shall have the same meaning as defined in Section 82015.

These activities are also matters of administrative concern for the Sheriff's Department. Indeed, the Manual of Policy and Procedure tracks the relevant state laws in 3-01/070.05, entitled "Political Activity." As election season approaches (and at all times), members should remain mindful of the relevant laws and policy, and adjust behavior accordingly.

uninterrupted opportunity to file complaints. OIR requested that the Leadership and Training Division confirm compliance with this order and it agreed to do so by surveying stations and units.

## **Union Issues: Correcting the Record**

### **Use of Force Reporting**

Deputies are specially authorized to use force because of their critical role in preserving the peace and taking people into custody, not infrequently in the face of resistance. However, it is critical to any progressive law enforcement organization that when force is used, it be thoroughly documented. Because of that, we were dismayed to read an anonymous article published in *The Dispatcher*, a publication written and distributed by the Association of Los Angeles Deputy Sheriffs (“ALADS”), an employee association representing a number of deputy sheriffs. In the article, entitled “Before You Write That Memo”, the author advised that in documenting use of force, the report was “only a notification” and should be “brief” and to the point. The article goes on to suggest that deputies only document a minimal recitation of the occurrence: “It should contain, the date, time and the fact that force was used. It should not be a five page report.”

That advice reflected the tension that sometimes exists between deputies’ *rights* — as citizens, employees, peace officers, and union members — and their obligations. Force incidents are sometimes straightforward, but often lead to further scrutiny from the Department about the necessity of the force and the tactics that were used along the way. That scrutiny can, in extreme cases, lead to exposure for the deputies, not just administratively but also in the criminal arena.

The deputies’ union has a powerful and appropriate interest in protecting its members when they are confronted with such scrutiny. However, the deputies’ rights must be balanced against their duties to uphold the law, provide truthful information in reports, help preserve public safety, and follow Departmental policy. The advice in the ALADS article unfortunately — and incorrectly — pushed too far.

A review of LASD’s Policy Manual on Use of Force reporting demonstrates the advice provided by the author in the Dispatcher article was simply wrong. Section 5-09/430.00, Use of Force Reporting and Review Procedures, states, “whenever an incident involving reportable force requires a first report, all details regarding the use of force shall be included in that report.” In addition the policy requires that each “member who used force, including partners, shall submit a

separate supplementary report detailing his actions.” The policy expressly requires that each “member reporting force in a report or memorandum shall describe in detail the actions of the suspect necessitating the use of force and the specific force used in response to the suspect’s actions.” The Policy Manual further requires that sergeants “approving reports shall ensure that all pertinent information is contained in the crime report.” The Manual specifically indicates that in doing so, particular “attention should be given to the description of the use of force and the suspect’s actions compelling the use of force.”

When OIR reviewed the incorrect “advice” being provided to deputy sheriffs regarding their obligations in documenting force, it turned to the Department’s experts on such issues and recommended that a bulletin be prepared to clarify potential misunderstandings. The Department agreed and worked with OIR to produce such a bulletin. In the Newsletter distributed by Field Operations Support Services, deputies were reminded of the need to prepare a detailed memorandum setting out the facts for why force was necessary. The Newsletter expressly pointed out that the Policy’s reporting requirements were not met simply by writing that “force was used” and reiterated that the report required a detailed description of the actions of the suspect and the specific force used by the department member.

OIR applauds the Department’s prompt response and recognition of the imperatives behind effective force reporting. In addition to ensuring accountability for the use of force, thorough documentation is helpful for purposes of training, civil liability, risk management, supervision, and review of the Department’s systemic processes. It may also have implications for any subsequent prosecution of the suspect. Finally, an accurate and thorough approach to documentation also gives the deputy a forum for articulating his own observations and actions when they are most fresh in his or her mind. While it is disappointing that the anonymous author of the Dispatcher article thought otherwise, the resulting Newsletter presumably corrected any related misunderstandings.

### The ALADS “Leadership Assessments”

ALADS publishes an annual report in which it reports on the feedback received by its membership regarding the performance of LASD Captains. The report contains statistical compilations relating to each Captain and purports to use these figures to rate each of them as “Outstanding, Very Good, Satisfactory, Needs Improvement, or Unsatisfactory.” Next to a photograph of each unit commander is a rating on certain categories including “integrity,” “fairness,” “concern for deputies,” “character,” and “accountability.” The report suggests that it is a device through which subordinates can evaluate their unit commander and

---

## Los Angeles County Sheriff's Department

### NEWSLETTER

Field Operations Support Services, (323) 526-5760

---



VOLUME 06 NUMBER 12

DATE: June 27, 2006

#### USE OF FORCE REPORTING REQUIREMENTS

The purpose of this newsletter is to remind personnel of Manual of Policy and Procedures Section 5-09/430.00, Use of Force Reporting and Review Procedures, which states that "whenever an incident involving reportable force requires a first report, all details regarding the use of force shall be included in that report." A reference to the verbal notification is required per policy and the name of the supervisor to whom the verbal notification was made shall be included in the first report. Pursuant to the policy, each "member who used force, including partners, shall submit a separate supplementary report detailing his actions." The policy expressly requires that each "member reporting force in a report or memorandum shall describe in detail the actions of the suspect necessitating the use of force and the specific force used in response to the suspect's actions." The policy further requires that any "injuries or complaint of injuries, and any medical treatment or refusal of medical treatment, shall be documented in the first report, supplementary reports, or memoranda."

The MPP further requires that sergeants "approving reports shall ensure that all pertinent information is contained in the crime report." The MPP expressly states that particular "attention should be given to the description of the use of force and the suspect's actions compelling the use of force."

The reporting requirements of MPP 5-09/430.00 are not met by simply writing that force was used. The MPP section requires a detailed description of the actions of the suspect and the specific force used by the department member.

Thorough documentation of an incident is important for several reasons. One reason is that a deputy may have to testify about an incident several years after it occurs. Having a detailed report will assist the deputy in preparing to testify about the incident.

provide the captains with insight as to how the deputies perceive them. While the concept of subordinates providing feedback to their supervisors has theoretical appeal, in practice the “leadership assessments” fall short of being a constructive exercise. The collection and presentation of data seems far from scientific (with no indication of what percentage of eligible deputies is responding, for example), and the anonymity afforded the deputies is as likely to promote meanness as it is candor. (Along with the numerical ratings, the paper publishes selected comments about the captains, and they are often personal in their disparaging tone or content.) Certainly, if deputies’ yearly performance evaluations occurred under similar circumstances, their union would be right to grieve the process as unfair and unreliable.

In the past, the Department has not publicly responded to these annually produced leadership assessments, and at times there may be a certain wisdom to that approach. After all, thick skin is a desirable trait for someone who rises to the upper management of the Department. Criticism goes with the territory, and no rules require it to be fair. However, it can be problematic when questionable “findings” and/or misinformation shape perceptions unfairly, either within the Department or in the public at large. When this year’s “leadership assessment” was published, the survey’s criticism of the captain from a particular patrol station came to the attention of that city’s local newspaper.

The resulting article prompted the Department’s Division Chief to take a different tack than the usual silence, and instead to describe the assessments in general as “mean-spirited, non-constructive vitriolic nonsense.” The Chief, after discussing the matter and gaining the support of the Sheriff, publicly questioned the survey’s methodology and noted that he gives it no weight — even when remarks favorable to specific captains are included.

We commend the Chief (and the Sheriff) for taking such an unequivocal position, and urge the union to re-consider this annual exercise in hard feelings and negativity. OIR has itself experienced the frustration of being the subject of biased and misleading articles in the ALADS monthly paper. As we have said to the union’s leaders themselves, we greatly respect their role in the discipline process and in promoting the overall well being of the Sheriff’s Department. We consider their voice to be necessary and often insightful. For these reasons, it is especially disappointing when articles squander the authority of the union in the service of attacks and propaganda.

APPENDIX A **LASD/OIR**  
*Working to Achieve  
 Systemic Change – Year Five*

<b>OIR Identification of Systemic Problem</b>	<b>OIR Recommendation</b>	<b>LASD Response</b>	<b>Implementation of OIR Recommendation</b>
Shooting through windshields	Re-issue training video	Re-issued training video and developed training poster	Re-issued training video and developed poster, see pages 18-19
Deputies huddling after shooting	Develop anti-huddling policy	Developed anti-huddling policy	Developed anti-huddling policy, see pages 19-21
Taking clothes from inmates for disciplinary reasons	Reconsider practice of taking clothes from inmates for disciplinary reasons	Sheriff must personally approve implementation of the practice	Removing clothes from inmates for disciplinary reasons requires Sheriff's approval, see page 29
Older inmates victimized by younger inmates	Increase housing options for older inmates	LASD considering feasibility of increasing such options	Feasibility of housing options for older inmates being considered, see pages 30, 32.
No Internal Affairs presence at most inmate homicides & suicides	Develop IAB protocol to regularly roll out to inmate homicides and suicides	IAB rollout protocol developed	IAB roll outs regularly to inmate homicides & suicides see pages 32-34.
Inmate death reviews not being conducted on a timely basis	Provide more timely death reviews	LASD working to provide more timely death reviews	LASD working through backlog of death reviews, see pages 34-38.

<b>OIR Identification of Systemic Problem</b>	<b>OIR Recommendation</b>	<b>LASD Response</b>	<b>Implementation of OIR Recommendation</b>
Inmate death reviews not sufficiently robust	Redesign death reviews to ensure robust reviews	LASD working with OIR to redesign death reviews.	Death review protocol being redesigned to ensure robust review, see pages 34-38.
Court Services representative not present for reviews of over detentions & erroneous releases.	Have Court Services representative attend reviews	Court Services representative present at reviews	Court Services representative participates in reviews, see pages 65-67.
TARP policy not clear when paramedics on scene	Refine TARP policy to address gap in policy	LASD met with outside agencies to refine policy	Refined TARP policy in progress, see page 69-71.
Policy on obstructing investigations not entirely clear	Refine policy to make clear	LASD worked with OIR to clarify policy	Policy on obstructing investigations clarified, see page 66.
Aero Bureau not participating in Force Reviews	Invite Aero Bureau to participate	Aero Bureau invited to participate	Aero Bureau attends Force Reviews when appropriate, see pages 71-74.
Aero Bureau not enforcing pursuit policy	Develop protocols to ensure policy is in force.	Aero Bureau agreed to enforce policy	Memorandum prepared for Aero Bureau noting that policy would be enforced, see pages 71-74.
OIR not being consulted before disciplinary decisions are modified	Conduct training to ensure that consultation occurs.	LASD agreed to conduct training	Training on OIR-LASD consultation protocol conducted, see pages 78-82.
LASD not aware of limitations on fundraising	Conduct training to ensure LASD aware of limits on fundraising	LASD agreed to conduct training	Training on limitations on fundraising conducted, see pages 82-84.

<b>OIR Identification of Systemic Problem</b>	<b>OIR Recommendation</b>	<b>LASD Response</b>	<b>Implementation of OIR Recommendation</b>
Complaint advisory found to be unconstitutional	Remove complaint advisory from complaint forms	LASD agreed to remove complaint advisory	Complaint advisory removed, see pages 84-85.
Article distributed by Union providing misleading information on Use of Force reporting	Produce training bulletin reminding deputies of Use of Force reporting requirements	LASD agreed to prepare bulletins	Training bulletin prepared, see pages 85-87.