

Allegations of Abuse in the Los Angeles County Jails: Status Report on Investigations and Outcomes

Los Angeles County Office of Independent Review
October 2013



It has been two years since the ACLU filed 78 declarations alleging wide scale and pervasive abuse of inmates by deputies in the County jails. The resulting media attention focused on these broad claims, and while that scrutiny has been crucial in producing a great deal of positive change, it is nonetheless critical to thoroughly investigate and fairly analyze each individual allegation. The Sheriff's Department has completed criminal investigations into all of the force allegations made in the original 78 ACLU declarations, and this report summarizes and analyzes some of these cases. This look backward is necessary both to hold people accountable for what occurred in prior years, where possible and appropriate, and to learn from past mistakes. Additionally, constant vigilance of deputies' use of force in the Department's custody settings remains vital going forward.

The Los Angeles County Sheriff's Department receives hundreds of complaints from inmates each year in which the inmate alleges that a deputy wrongfully used force against him or her. In hundreds more instances per year, deputies report using force against an inmate in one of the County's jails. When the Department learns about a force incident, either through an inmate or the deputy's self-report, it has an obligation to promptly and thoroughly investigate it. As we have reported, the Department historically did not devote sufficient attention and resources to this important function, particularly with regard to lower level force incidents that resulted in minimal injuries to the inmate. As we have written before, we often found the Department's inquiries and investigations into these incidents were inadequate, sometimes slanted, and insufficiently thorough. This lackluster approach persisted largely because of poor training of first-line supervisors and inattention by jail operations managers.

In 2011, as the media's attention focused on deputies' use of force in jails, OIR's arguments for greater scrutiny of force incidents began to gain traction within the Department. When the Department learned the FBI had an informant inside the jail to report on deputy abuse of inmates, the Department created a Jail Investigative Task Force within its Internal Criminal Investigations Bureau (ICIB). And when the ACLU filed 78 Declarations in September 2011, and made additional claims in a January 2012 complaint,

the Department immediately recognized the need to thoroughly investigate these allegations and assigned all of the allegations of improper force to the ICIB Task Force to be investigated as criminal cases. The Department assigned more than 20 additional investigators to ICIB to handle the workload, pulling sergeants and detectives from other assignments throughout the Department, and infused the Task Force with a sense of urgency and importance. While we were frustrated that it took a media blitz to focus the Department's attention on force investigations and allegations, we were nonetheless pleased to see it respond to these jail force investigations with an unprecedented dedication of resources.

Since 2011, the Department has done much to change the dynamics of force incidents in the County jails. Among many other things, the installation in 2012 of more than 1,500 video cameras in the downtown facilities provides supervisors a neutral perspective on most incidents; the Custody Force Review Committee provides a heightened level of executive oversight of lower-level incidents; Custody Division now prepares and disseminates a daily force synopsis, providing a brief summary of every force incident that occurred the prior day which allows managers to keep a close eye on force trends within each facility; ICIB is far more willing to investigate allegations of excessive force than it has been in the past; and a new Assistant Sheriff focused only on Custody brings extensive expertise gained while managing the complex California state prison system. Much can be said and written about these developments, in particular, the fact that according to LASD statistics, 90% of the force incidents occurring in the three downtown jails are now captured on video.¹ This report, however, focuses only on the particular allegations put forward by the ACLU in October 2011 and January 2012, providing a look backward at the allegations that ignited the Department's resolve to implement these changes.

This report provides a summary of the evidence developed during the Department's investigations into 30 of the declarations filed by the ACLU in September 2011 and January 2012, plus one additional investigation that did not stem from an ACLU allegation but nonetheless was handled by the ICIB Task Force. These 31 cases are ones for which the Department's investigations – both criminal and administrative – are complete. In all, as of the beginning of September 2013, the ICIB's Jail Investigations Task Force has completed 104 investigations stemming from the allegations made by the ACLU in 2011 and 2012, including all of the allegations raised in the declarations filed in September 2011. All of these cases have been forwarded to the Internal Affairs Bureau (IAB) for administrative investigations. Because IAB did not receive the same influx of personnel

¹ Considering this figure, it is difficult to understand why LASD has not moved with more speed and resolve in installing cameras in the jails at the Pitchess Detention Center in the northern part of the County and the women's jail at the Century Regional Detention Facility.

and resources as ICIB to create a task force focused on these cases, the administrative investigations have taken longer and are still proceeding.²

- ICIB has submitted a total of 65 cases to the District Attorney for filing consideration. In 49 of those, the D.A. has declined to file criminal charges against any of the involved personnel, most often citing a lack of sufficient evidence to prove that a crime occurred. Prosecutors have filed charges of assault under color of authority against one deputy for allegations stemming from an ACLU allegation and have charged two other deputies involved in the same case with making false reports. That case is not among the ones we review here because the criminal case is still pending. The remaining 15 cases are still pending with the D.A.
- Of the 31 cases we discuss in this report, none have led to an administrative finding of unnecessary or excessive force.
- Five of the cases reviewed here led to discipline for deputies for policy violations related to the use of force.
- Eleven cases discussed in this report resulted in training or policy changes related to a systemic issue brought to light by the allegations.

That these cases resulted in no criminal filings or findings of unnecessary force is not surprising. In some cases, inmates or former inmates moved away from or renounced the allegations they made in their ACLU declarations when interviewed by investigators. In some cases, other inmate witnesses failed to corroborate the declarant's account. Other cases came down to a factual dispute between deputies and inmates with no independent evidence, so that any discipline imposed on a deputy would not have been sustainable in a County Civil Service proceeding to which deputies are entitled. An "unresolved" finding³ in these cases is often appropriate, as there simply is not sufficient evidence to prove the inmate's allegation. The statement of an inmate, or multiple inmates, without more, is rarely considered sufficient to sustain a conclusion that a deputy used unreasonable force. This is precisely why the installation of security cameras throughout Men's Central Jail, the Inmate Reception Center, and the Twin Towers facility was such a critical development for holding deputies accountable for inappropriate uses of force. Video changes the balance of evidence, effectively functioning as a tie-breaker in cases where deputies' statements conflict with inmates' accounts.

² The Citizens' Commission on Jail Violence recommended that IAB receive additional staffing. The County very recently approved a funding request related to this recommendation.

³ In the Department's parlance, allegations are either "unfounded," "founded," or "unresolved." "Unresolved" is defined by the Department as, "When the investigation fails to resolve the conflict between the complainant's allegation and the Department member's version of the incident; when there is no preponderance of evidence to support either version of the incident." (LASD, Manual of Policies and Procedures, § 3-04/020.25)

A significant challenge to the Department's resolve to fully investigate the allegations presented by the ACLU is that the declarations were filed months, and sometimes years, after the incidents occurred. Because so many of the initial force investigations conducted by LASD sergeants were wanting in their thoroughness, it became extremely difficult for ICIB investigators to put cases together months later. In addition to the logistical hurdles of attempting to locate inmate witnesses years after the event, memories faded with the passage of time and any potential forensic evidence was no longer available. On the administrative side, the fact that in many cases the Sheriff's Department had knowledge of the incident at the time it occurred also made discipline no longer possible, even if there had been evidence establishing a founded violation, because of the statute of limitations for discipline of peace officers set out in state law.

We summarize in this report only cases for which the Department's investigations – both criminal and administrative – are complete. While fewer than a third of all the completed criminal investigations have complete administrative dispositions, the 31 case summaries included in this report are likely representative of the entire group in the types of issues raised, the ratio of cases with founded policy violations to those determined to be unresolved, and the level of OIR involvement and review.

These cases were investigated first by ICIB, which gave OIR a unique level of access to the investigative process. OIR lawyers attended regular Task Force briefings, and ICIB investigators were instructed to consult regularly with the attorney assigned to his or her case. When ICIB completes an investigation, it forwards it to the District Attorney for consideration of whether to file criminal charges.⁴ At the same time, it sends the case to the Internal Affairs Bureau (IAB) for an investigation of any administrative violations the involved personnel may have committed. Initially, OIR received a copy of the investigative book at the same time it was forwarded to the District Attorney. But after several cases in which OIR suggested investigators do additional work on a case following its transmission to the District Attorney, ICIB agreed to provide us draft reports and the opportunity to weigh in before the investigations were finalized. OIR also weighed in on the quality and thoroughness of the administrative investigations into these allegations and, in most cases, consulted with the decision makers at Custody Division as they deliberated on the appropriate disposition. The case summaries that follow demonstrate the following:

- Many of these cases point to the systemic failures in the way the Department previously investigated and reviewed reported uses of force as well as allegations of unreported force, including the failure to identify and interview all potential

⁴ In the ACLU-derived cases, in order to provide an additional level of oversight, ICIB also forwarded a copy of the criminal investigation to the Office of the United States Attorney for federal review. To date, none of these referrals has resulted in federal criminal charges being filed.

witnesses at the time of the incident, the failure to seriously investigate allegations made by inmates, and the failure to appropriately follow up and learn the extent of an inmate's injury.

- Some of these cases, particularly those stemming from incidents at Men's Central Jail (MCJ), involve multiple allegations against the same deputies.
- The completed ICIB investigations, in general, are thorough and fair. ICIB invested significant resources to identify and locate numerous witnesses and potential witnesses in locations all across the state. Investigators' interviews, in general, were straightforward and unbiased.
- IAB investigations into these allegations were not universally timely or thorough. Too often, IAB cases have been completed with only a few days remaining before the expiration of the statute of limitations, leaving decision makers little time to review the case, make a determination of whether a policy violation occurred, and recommend discipline. We found that some decisions were rushed through to meet the deadline and were not as thoroughly vetted as they should have been. In cases where we found the investigations to be lacking, often there was too little time remaining for an investigator to complete any additional work that OIR deemed important.
- While Custody Division consulted with OIR in most cases prior to making any findings in these cases, there were some notable lapses, particularly at the beginning of the review process as the Division was still establishing its protocols for handling case dispositions.

The case summaries that follow track the inmates' allegations, any prior investigative work done by the Department, the results of the criminal and administrative investigations completed following the filing of the declarations, as well as OIR's impacts on the investigative process and case dispositions. The inmates who signed declarations are named in these summaries, as those declarations are part of the public record. In accordance with state privacy laws, the summaries do not include the names of LASD personnel. However, because multiple allegations from MCJ involved the same personnel, we assigned numerical identifiers to deputies and custody assistants in those summaries. These numbers are applicable for all MCJ cases – that is, "Deputy 055" in one case, for example, will refer to the same deputy identified as "055" in another case.

Investigation Summaries

Court Services

Robert Caballero

Jason Fisher

Inmate Reception Center

Cesar Mancilla

Men's Central Jail

Gabriel Carrillo

Lawrence Davis

Alexander Fuentes

Jason Green

Rodolpho Mendoza

Shawn Meyers

Raul Pedroza

Juan Pablo Reyes

Mani Sadri

William Tillman

Michael Topete

Arthur Townesend

Evans Tutt

Mr. UU

Twin Towers Correctional Facility

James Bowman

Michael Campbell (Dec. 15, 2010)

Michael Campbell (April 20, 2011)

Charles Celestine

Melvyn Foster

Gordon Grbavac

Kevin Highsmith

Frank Mendoza

James Parker

Anthony Penmik

Ronald Reeves

Irvin Shaw

Cedric Smith (Dec. 2, 2004)

Cedric Smith (July 30, 2010)

Court Services

INVOLVED PERSON'S NAME: ROBERT CABALLERO

DATE OF INCIDENT: Inmate claims January 15, 2011 – Force report states January 20, 2011

LOCATION OF INCIDENT: Clara Shortridge Foltz Criminal Justice Center

DECLARANT: Robert Caballero

DATE DECLARATION SIGNED: August 2, 2011

CLAIM/LAWSUIT FILED? No

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNFOUNDED; systemic issues regarding force investigations and handling of “keep-away” inmates addressed through training and briefings.

SYNOPSIS OF ACLU DECLARATION: Inmate Caballero alleges in his declaration that on January 15, 2011, he was in a holding cell at the courthouse waiting to make his court appearance. (All evidence points to the actual date of the use of force as January 20, 2011, not January 15, 2011.) Caballero alleges a “Mexican” deputy called him out of the cell and as he was walking to the courtroom, for no reason, the deputy shoved him against the wall and put his hands behind his back, while roughly twisting his hands. Caballero told the deputy “you don’t have to pull my arm.” The deputy responded “don’t tell me what to do!” The deputy then slammed Caballero into the wall and down to the floor where he then started punching him and kicking him in the ribs. Three other deputies then came over and also started to kick and punch him. One deputy put his arm around Caballero’s neck and choked him. Caballero lost consciousness and was taken to the hospital. Caballero claims he had a bruised left eye, bruised rib cage, and major cuts on his tongue from biting it during the beating. Caballero alleges he was bleeding out of his eye and had serious bruises around his rib cage and face. He states he needed six stitches on his right upper eye. Caballero alleges at the hospital the deputy who videotaped his injuries apologized to him on behalf of all the deputies who beat him.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

Yes. Deputies reported their use of force on the date of the incident (January 20, 2011). Caballero was interviewed on camera regarding the incident shortly after he arrived at the hospital (LCMC).

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: The three deputies involved in the use of force and one witness deputy documented their actions and observations in reports written immediately after the incident occurred. Caballero was classified as a K-10 inmate, meaning that he was to be kept away from other inmates. Deputy 1 was in the process of removing inmate Caballero to take him to an awaiting bus on the service level. Caballero was waist chained with one hand uncuffed. (Inmates are left with one hand uncuffed, allowing the inmate to attend to personal needs when locked in a solitary cell.) Simultaneously another K-10 inmate was being removed from another cell next to Caballero's cell. Upon seeing the other K-10 inmate, Caballero attempted to run down the hallway toward that inmate. The deputy held on to Caballero's waist chain to prevent him from assaulting the other inmate. Deputy 1 pushed Caballero against the wall in an effort to control him while telling Caballero several times to put his hand behind his back. Caballero refused to comply. Deputy 1 was unable to properly restrain Caballero and could not gain control of his uncuffed hand. Deputies 2 and 3 had just entered the hallway with other inmates when they saw Deputy 1 struggling with Caballero. Deputies 2 and 3 ordered the inmates to get on the ground and they rushed toward Deputy 1 to help him restrain Caballero. The deputies then forced Caballero to the floor and continued to try to retrieve his uncuffed hand from under his body. Deputy 3 had his arm around Caballero's neck and shoulder in order to control his movement as they went to the floor. Caballero struck his head on the cement floor causing a laceration over his right eyebrow. Caballero continued to ignore the deputies' orders to comply. According to the deputies' reports, Caballero never lost consciousness but was yelling throughout the incident. Caballero was taken from the location of the incident to the hospital for his injuries. All deputies involved immediately reported the force.

The K-10 inmate Caballero was trying to attack was briefly interviewed and stated that he did not know Caballero and had never met him before. He stated that he was no longer an active gang member, and added he has been threatened by other inmates. (Gang members who leave or "drop out" of a gang are frequently targeted by active gang members with physical violence or death.)

Caballero was interviewed by a sergeant on video at LCMC on the day of the incident. Caballero denied the deputies' account of the incident and stated he never attempted to break free from the deputy to assault the inmate. He states the deputy accused him of trying to "rush" another inmate, but Caballero denied this. Rather, Caballero states he was in his cell, waist chained with one hand free. A deputy came to his cell to handcuff him and yanked on his arm. When Caballero told the deputy he did not have to yank him, the deputy told him not to tell him what to do, proceeded to handcuff him, and then swung him by the waist chain and took him to the ground where an additional three or four deputies arrived and stomped on his head and hit him in the face, his rib cage, his left eyebrow and the back of his head.

Caballero sustained a cut above his right eyebrow for which he received five stitches. He also had some minor swelling on his left cheek, a hematoma over his left eyebrow, and some minor abrasions below his chin. He had no fractures or broken bones. The doctor treating Caballero acknowledged these injuries were consistent with the force reported by the deputies. After reviewing Caballero's interview with the sergeant that interviewed him on video tape, another sergeant from the unit attempted a subsequent interview with the medical staff at LCMC to follow up on Caballero's allegation he was stomped, punched, choked and lost consciousness. Citing HIPPA laws, the medical staff would not provide the sergeant any additional information regarding Caballero's injuries/treatment without written authorization.

At the time of the incident, there were no video cameras where the incident took place. However, CCTV cameras have since been installed.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: The ICIB Task force investigators interviewed Caballero, the K-10 inmate who Caballero attempted to assault and the deputy Caballero alleged apologized to him on behalf of all the deputies that beat Caballero.

The other K-10 inmate stated he was in protective custody at the time of the incident because he was no longer an active gang member and had been threatened by other inmates. In addition, this inmate was in jail for an alleged rape (a charge that frequently results in those charged with such a crime as being targets of violence by other inmates in jail). The inmate also stated there have been other attempts to assault him at MCJ.

The inmate stated that Caballero tried to "rush him." He stated Caballero used his free arm to reach for him and tried to swing at him but both deputies were standing between them. The other K-10 inmate stated that Caballero may have accused him of being a rapist as he rushed towards him. As Caballero attempted to advance and swing at him, the inmate stated that the deputy who had brought Caballero out of the cell blocked Caballero's swing or punch with his arm. The deputy then hit Caballero on the side of the head with his fist and Caballero fell to the ground on his back. The inmate stated that Caballero attempted to get up and continue the attack, and the same deputy again hit Caballero on the side of the head. The deputy then got on top of Caballero and struck him approximately six times on the right side of the face (cheek area). This inmate's account of the incident differed from the deputies' versions and corroborated Caballero's account to the extent that he stated the deputies hit Caballero in the face.

Investigators interviewed the deputy that Caballero alleged apologized to him on behalf of the deputies that beat him. This deputy denied that he apologized to Caballero.

In Caballero's declaration he specifically named one of the deputies that used force against him, but no deputy by that name was involved in the use of force against Caballero and no deputy by that name was assigned to the court that day.

Inmate Caballero was interviewed by the investigators. In his ACLU declaration Caballero stated that a "Mexican" deputy had ordered him out of his cell and that it was that deputy that started the use of force against him. However, in his interview with the Task Force investigators Caballero states that an older male White deputy had ordered him out of his cell and took him to the ground. He goes on to state that later two male Hispanic deputies joined the White deputy during the use of force (a total of three deputies). In his declaration and in the initial videotaped interview at the hospital, he stated that three deputies joined the first deputy in the use of force (a total of four deputies) and that one was a middle-aged Asian deputy. None of the deputies involved in the use of force are of Asian descent.

At OIR's request, task force investigators later re-interviewed Caballero to ask about the alleged assault on the other inmate. He told investigators that he did not want to "pursue any of this." He stated that "the deputies were probably doing their job" and that he did not want any "type of legal thing against them or take their jobs away." Caballero stated regarding the declaration that "the lady filed a paper and asked me some questions. Next thing you know it was something looking for prosecution against the officer." When asked if the declaration was true he stated "It don't matter if it was true or wasn't. I feel that there's no need for me to pursue it and I got nothing to say about it."

The deputy involved in the incident who brought Caballero out of his cell and subsequently prevented him from assaulting the other K-10 inmate died in an off duty traffic accident in August 2011, and thus could not be interviewed for this investigation. Investigators did not initially interview the other involved deputies, but at OIR's request, the task force investigators interviewed Deputy 2 regarding his use of force in this incident. Deputy 2 could not fully recall the incident as it has been over one year since the date of the incident. Deputy 2 stated he saw Deputy 1 needed assistance in handcuffing Caballero. He recalled that he had to use force to try to handcuff Caballero and during the incident Caballero was taken to the ground. He recalled a small cut and some bleeding over his right eyebrow.

The witness Deputy who had brought the other K-10 inmate out of his cell declined to be interviewed by the task force investigators.

ICIB submitted the case to the District Attorney and the United States Attorney. The District Attorney completed its review of the allegations by inmate Caballero and declined to initiate criminal proceedings against the deputies involved in the use of force, concluding that inmate Caballero had attempted to assault inmate Solis and had physically resisted the deputies who

tried to handcuff him. Furthermore, the DA concluded the deputies acted reasonably and lawfully in their use of force against inmate Caballero. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS BUREAU INVESTIGATION: Internal Affairs (IA) investigators interviewed two of the three deputies involved in the use of force against Inmate Caballero. (As mentioned earlier, the third deputy involved in the use of force died in a car crash in August 2011.) IA also interviewed the witness deputy who was guarding the other inmate. The deputies' accounts to IA of what occurred were consistent with their written reports. IA also obtained additional records which indicate that Caballero suffered no head injury. Furthermore, upon his discharge from the hospital the day after the use of force incident, Caballero declined further monitoring by refusing to be transferred to the medical ward.

OIR INVOLVEMENT/REVIEW: OIR first learned of this incident after the filing of the declaration by the ACLU. After reviewing the ICIB investigation, we requested some additional interviews be completed, and the ICIB investigator complied with this request.

In addition, we recommended that ICIB investigators attempt to locate the other inmates who, according to the deputies' force reports, were present when the incident occurred. The supervisors preparing the initial force package should have identified and interviewed these inmates, but unfortunately did not. ICIB investigators learned that 157 inmates were present on that floor on the day of the incident. Due to the high number of inmates, and with no ability to narrow down who may have been present and with many now out of custody, it is impractical for investigators to pursue the matter further to identify inmate witnesses.

OIR discussed the ICIB and IA investigations with the involved unit. OIR concurred with the unit that the use of force by the deputies was within policy and the allegations unfounded, based on evidence that inmate Caballero had attempted to assault another inmate and that the deputies used force to prevent the assault.

At the request of OIR, the sergeant responsible for investigating this use of force incident immediately after it occurred, has been counseled and trained about the need to conduct thorough force investigations and to ensure that potential inmate witnesses are identified and interviewed. Additionally, the unit has been conducting training sessions with all sergeants and supervising deputies regarding use of force reports and investigations and how to conduct them more thoroughly. Finally, the unit has briefed the deputies involved in this incident regarding the handling and transport of K-10 inmates and keep-aways. In fact, the topic of keep-aways has been and will continue to be a recurrent briefing topic per the unit supervisors.

INVOLVED PERSON'S NAME: JASON FISHER

DATE OF INCIDENT: May 17, 2010

LOCATION OF INCIDENT: Inglewood Court – Holding Tank

DECLARANT: Jason Fisher

DATE DECLARATION SIGNED: August 10, 2011

CLAIM/LAWSUIT FILED? Yes

DISTRICT ATTORNEY STATUS: N/A

ADMINISTRATIVE OUTCOME: UNRESOLVED; systemic issues identified for training/briefings

SYNOPSIS OF ACLU DECLARATION: Inmate Fisher alleges in his Declaration that on May 17, 2010, he was in Inglewood court for his arraignment. Because he was charged with sex crimes involving a minor, Fisher was placed in protective custody ("PC") and accordingly had a yellow wrist band. He was placed in a PC cell. After speaking with his attorney, he was placed in the general population holding tank that housed only Hispanic inmates instead of the PC tank. (Fisher is African American.) He told the two deputies placing him in the general population tank that he was to be in the PC tank. However, they did not listen to him. Once inside the tank Fisher was attacked by the inmates by being punched and kicked in his head and body (abdomen and rib area). There were 15 to 20 Hispanic inmates in the cell. After 5 minutes of being beaten he became unconscious. He woke up and was again attacked by the inmates. Inmates jumped on his head and were kicking him in the face. Three inmates then pounded on the cell door and yelled "man down." A female deputy opened the door and started laughing and said "what is he doing here?!" The inmates lied and said Fisher had a seizure. The paramedics were called and Fisher was taken to the hospital. Fisher alleges he had contusions in his head and his lip was busted open. His right ear was swollen and he had headaches and blurred vision. He was taken back to Men's Central Jail and housed in a medical ward.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

LASD was aware that Fisher had been assaulted by other inmates in the holding cell. The inmates who yelled "man down" told the deputies that Fisher had a "seizure." LASD immediately noticed Fisher wearing a yellow wristband which indicated he was a "keep away." Unfortunately, the sergeant on duty (who was not the regular sergeant working that court) failed to notify his supervisor. When the regularly assigned sergeant returned to work the

following day, there was again a failure to notify a supervisor of the incident. Thus, the unit never conducted an investigation of the incident.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: While the Department did not initially conduct an administrative investigation into potential wrongdoing, there were two reports regarding this allegation that were completed by the unit on the date of the incident – and Inmate Injury Report and an Incident Report. The Inmate Injury Report states that a deputy responded to the first floor lock-up regarding a “man down” call. Upon arrival, he saw Fisher lying on his back. The deputy observed swelling and a 1/8 inch laceration to his lower lip. The Incident Report taken by the unit states the following: A deputy arrived at the cell and saw the paramedics treating Fisher for his injuries. He observed Fisher shaking and saw blood around Fisher’s mouth and small laceration on his lower lip. Fisher was transported to the hospital. During the ride to the ambulance, the deputy asked Fisher what had happened to him. Fisher told the deputy that he had been jumped by the other inmates in his holding cell. Fisher told the deputy that after he was finished with his attorney visit, he was put in the Hispanic holding cell with the other inmates. One of the inmates asked Fisher to show him his wrist band. After showing it to him, the inmate yelled to the other inmates to jump him. Fisher said a big Hispanic inmate with a bald head hit him in the forehead with his fist causing his head to bounce off the wall resulting in him falling to the floor. At this point, other inmates began kicking and punching Fisher in the head and the body. Fisher could not identify the other inmates. A check of the list of inmates revealed only six inmates in the cell when Fisher was injured. All inmates were checked for any signs of redness on their hands. None showed visible signs of being engaged in a fight. All inmates said they thought Fisher was having a seizure. Fisher was treated by a doctor for the small laceration to his lip and advised there were no additional visible injuries. The doctor also conducted a CT scan of Fisher.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: None. This case was not reviewed by ICIB as there were no allegations of use of force by LASD members. This case was directly sent to the Internal Affairs Bureau (IAB).

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: IAB investigators interviewed inmate Fisher. In his declaration Fisher claimed that a White deputy put him in the wrong (Hispanic) tank. (Fisher is African-American.) During the IAB interview, he picked a Filipino deputy as the deputy that put him in the wrong tank. (Inmate Fisher appeared to be medicated (for PTSD) during his IAB interview and thus the investigators believed it could explain the discrepancies in the description of the deputies in his declaration and his interview.)

Fisher also alleges in his declaration that once he was at the hospital, the doctor told him he needed stitches for his lip but that the deputy who had accompanied him to the hospital told

the doctor they would take care of it in the jail and the doctor did not question the deputy and said "OK." The deputy that transported Fisher to the hospital denied that he told the doctors to not give Fisher stitches or any other medical attention.

Fisher's medical records show that he was treated for a contusion to his left forehead and a small lip abrasion and had no other signs of injury. A doctor's note states that his lip did not need stitches. Upon his release from the hospital, Fisher was returned to jail and housed in a medical ward, where medical staff conducted follow-up exams to address his complaints. Thus, Fisher's claims regarding the lack of medical care are not supported by the medical records obtained by IAB.

IAB interviewed all deputies listed in the in-service sheet who were working in the lock-up area on the day of the incident. The six deputies did not recall whether they had put Fisher in the cell nor did they know who had put him in the wrong cell. The deputy that Fisher picked in the six-pack denied that he had put him in the wrong cell.

Investigators also interviewed two sergeants. On the day of the incident, a sergeant who is now retired was working as the branch supervisor (although not his regular work assignment). The sergeant told IAB investigators that he recalled the incident and notified the regular sergeant (who is also now retired) who was off that day regarding the incident, leaving it to her to conduct a follow-up investigation. However, the regular branch sergeant did not recall the incident and stated that although she signed the inmate injury report the next day when she returned, it would have been the on duty sergeant's responsibility to conduct a follow-up investigation.

Following OIR's review of the initial case, IAB conducted further investigation to identify and interview the 11 other inmates in the cell at the time of the assault on Mr. Fisher. Two of those inmates had no current addresses and the numbers for their emergency contacts were disconnected. IAB went to the remaining nine witness residences in an attempt to locate them. Two inmate witnesses were located while the remaining inmates had either moved or did not respond to requests to be interviewed by IAB. Both of the witnesses identified did not recall the incident involving Fisher.

OIR also requested IAB contact Fisher's friend to whom he said he had sent his complaint to be filed on his behalf. IAB contacted the phone number given to them by Fisher. On the first try, IAB left a message on a generic voicemail. When they tried again a few days later, that number was disconnected.

OIR INVOLVEMENT/REVIEW: Upon review of the IAB investigation, OIR determined that further investigation was required, including interviews of the 11 other inmates in the cell at

the time of the assault on Fisher as well as the friend to whom Fisher reported sending his complaint.

Once the investigation was finalized, OIR discussed the case with the involved unit. Although LASD believed the sergeants each had a responsibility to conduct a follow-up investigation, neither sergeant could be disciplined as they had both retired. Furthermore, since the Department had knowledge of the incident at the time it occurred, the one-year statute in this case had expired. Because much time had passed between the date of the incident and the investigation of the case by IAB, the deputies interviewed had vague recollection of the incident. Furthermore, no deputy claimed responsibility for placing Fisher in the wrong cell. Thus, although LASD determined there had been policy violations by Fisher being placed in the wrong tank, it was unable to determine whether this was a result of a mistake or a deliberate act. The Department determined that allegations of misconduct were “unresolved.” OIR concurred. LASD acknowledged that the lack of a thorough investigation immediately following the incident was directly attributable to the lack of supervisory attention. OIR concurs with this assessment.

At the request of OIR, the unit conducted briefings regarding the importance of identifying and placing inmates in the correct holding tanks in addition to briefing sergeants regarding the importance of immediate follow-up investigations regardless of whether the supervisor is working a regular assignment or is only temporarily assigned to the unit.

Inmate Reception Center

INVOLVED PERSON'S NAME: CESAR MANCILLA

DATE OF INCIDENT: February 23, 2011

LOCATION OF INCIDENT: IRC

DECLARANT: N/A. Allegations were brought as part of Rosas lawsuit; no declaration filed

DATE DECLARATION SIGNED: N/A

CLAIM/LAWSUIT FILED? Yes. In addition to *Rosas*, Mr. Mancilla filed a lawsuit on February 16, 2012.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNFOUNDED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Mr. Mancilla's allegations are contained in two paragraphs of the *Rosas* lawsuit. The complaint alleges that Mr. Mancilla was obeying deputies' orders when, without justification, he was savagely beaten by several uniformed custody personnel. The deputies continued to beat him after he was handcuffed, and was denied food, water, and medical attention for the remainder of the night. The next day, the doctor determined he had a collapsed lung, two broken ribs, a nasal fracture, four broken teeth, and other injuries.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

Yes. Deputies reported their uses of force and the unit completed a force package. Because of the fractures of Mr. Mancilla's ribs and the fact that he was hospitalized due to his injuries, the case ultimately was handled by IA and presented to the Executive Force Review Committee.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: On the night of the incident the IRC Watch Commander made an appropriate notification to IA regarding this incident. At the time, however, doctors at the jail had not identified the extent of Mr. Mancilla's injuries. A sergeant and lieutenant at IRC completed a force package regarding the incident, taking written statements from the involved deputies, interviewing several inmate witnesses, and interviewing Mr. Mancilla. When the inmate was sent to LCMC the following day, however, IRC personnel should have learned the extent of the injuries and referred the investigation to IA. Instead, the Department did not learn about the extent of Mr. Mancilla's injuries until

contacted by one of his family members, more than a month later. OIR also received an inquiry, and pressed IA to begin its investigation.

IA investigators interviewed the four involved deputies, but otherwise relied on the work done by the sergeant and lieutenant at IRC who had completed the force package. The deputy who initially made contact with Mr. Mancilla reported that he was working in one of the initial processing areas of IRC, where he and eight to twelve other deputies were securing and searching a line of 100 to 110 inmates. Mr. Mancilla was not following instructions and was swaying and staring at the deputies. When the deputy told him to move forward, Mr. Mancilla glared at him. The deputy asked him if he understood English, and the inmate said, "Fuck you, deputy, it's on." The deputy told him to place his hands behind his back, and the inmate replied, "Fuck you, I'm going to kick your ass." The deputy grabbed Mr. Mancilla's wrist in an attempt to control him and escort him to an isolation cell, away from all the other inmates. Mr. Mancilla spun around and punched the deputy, who ducked to avoid being hit in the face, but was struck in the shoulder. The deputy fell back, but then punched Mr. Mancilla in the face, causing him to fall down. Mr. Mancilla jumped up and grabbed the deputy around the waist, pushing him back into a wall. The deputy said he shoved the inmate back, then grabbed his head and kned him in the face twice. This caused the inmate to fall down as three other deputies arrived to assist. According to all the deputies, Mr. Mancilla continued to struggle while on the ground. The initial deputy struck Mr. Mancilla with his flashlight on his shoulder and ribs and delivered palm strikes to his face. Two other deputies attempted to control Mr. Mancilla's arms and hands and restrain his legs. One of these deputies also punched the inmate several times in the torso. A sergeant arrived and ordered a fourth deputy to use OC spray. That deputy applied the OC directly into Mr. Mancilla's face in two separate bursts, at which point the deputies were able to handcuff Mr. Mancilla and carry him out of the holding cell, though he was still struggling and cursing. All of the deputies reported that Mr. Mancilla appeared to be under the influence of something, based on his dilated pupils and the way in which he fought.

IRC personnel interviewed four inmates on the night of the incident. None reported seeing the fight with the deputies, but only heard the commotion. Two of these inmates stated that Mr. Mancilla earlier had been challenging other inmates to fight. One inmate stated that Mr. Mancilla had not been following directions and was acting like he was "wacked out" on drugs.

Mr. Mancilla was interviewed on tape by the IRC lieutenant. His statements were sometimes unresponsive and rambling. He first stated that he did not fight with deputies, but rather with some other people. He then stated he shouldn't have been stubborn and disobedient and

talked to deputies the way he did. He said he was fighting because he wanted to see his daughter. He denied being in any pain at the time of the interview.

The Executive Force Review Committee (EFRC) reviewed and heard this case on October 4, 2011 and concluded that the force used by deputies was within policy.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: ICIB investigators re-interviewed the four inmate witnesses interviewed at the time of the incident, plus an additional 13 inmates. Two inmates said they saw Mr. Mancilla swing at the deputy; the rest generally described hearing or seeing a scuffle but did not specifically describe the incident. The inmate witnesses consistently stated that Mr. Mancilla was being uncooperative, challenging other inmates to fight, acting aggressively, acting “mentally unstable” or “loaded,” or that he “wasn’t in his right state of mind.”

Investigators attempted to interview the involved personnel, but all declined. They also interviewed six members of the medical staff who were involved with Mr. Mancilla, from IRC, LCMC, and the EMT who transported Mr. Mancilla; none had any specific memory beyond their medical records.

Mr. Mancilla refused to be interviewed by investigators, on advice of his attorney.

ICIB submitted the case to the District Attorney and United States Attorney for filing consideration. The DA declined to file criminal charges, concluding that the deputies’ uses of force were necessary to defend themselves and fellow deputies from Mr. Mancilla’s assault. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: Because this case had previously been investigated administratively and the EFRC panel had concluded the force was within policy, IA did not do any additional investigation.

Custody Division determined all potential charges to be “unfounded.” OIR concurred.

OIR INVOLVEMENT/REVIEW: OIR became involved in this matter following an inquiry by Mr. Mancilla’s family member. Because IRC had not initially identified the severity of Mr. Mancilla’s injuries or recognized that he had been hospitalized, the incident was being handled as a standard force package to be completed by IRC staff. OIR intervened and pushed IA to handle the investigation, triggering the review by EFRC. At the time of the EFRC hearing, OIR raised questions about (1) the availability of Tasers for IRC personnel, and (2) the poor practice of having a sergeant who had been involved in the incident by directing some of the force then assume responsibility for completing the force package – approving the deputies’ written

reports, interviewing inmate witnesses, and interviewing Mr. Mancilla. OIR had repeatedly raised this second issue and have recently prevailed upon the Department to change its force policy to include a requirement that force packages be investigated and completed by personnel not involved in the force incident.

OIR reviewed the ICIB investigation before it was finalized and concluded it was as thorough and complete as it could be, given the lack of cooperation from Mr. Mancilla. OIR did raise a concern about investigators' attempt to contact Mr. Mancilla after they had heard from his attorney that he did not want to be interviewed. Investigators stated it was their practice to get the refusal directly from an individual and not through an attorney, but ultimately agreed with OIR that contact with the attorney is sufficient and should preclude any further contact with the individual.

Men's Central Jail

INVOLVED PERSON'S NAME: GABRIEL CARRILLO

DATE OF INCIDENT: February 26, 2011

LOCATION OF INCIDENT: MCJ Visiting Front

DECLARANT: N/A

DATE DECLARATION SIGNED: N/A

CLAIM/LAWSUIT FILED? Yes. Pending.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNRESOLVED as to the force issues

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): This incident was not part of the September 2011 ACLU filings of declarations asserting excessive force in the jails. However, the allegations were included in the ACLU class action lawsuit filed in January 2012.

On August 10, 2011, Mr. Carrillo filed a claim for damages with the County. Mr. Carrillo alleged that he was sprayed with O.C., kicked and punched while he was handcuffed and unresisting. He suffered loss of consciousness, two black eyes nearly swollen shut, and numerous cuts and bruises to his face and head, as well as injuries to his wrists that were the result of being assaulted while handcuffed. The County denied the claim. The incident was assigned to the then-recently formed Internal Criminal Investigations Bureau (ICIB) Jail Investigations Task Force (JITF) for further investigation.

On April 23, 2012, Mr. Carrillo filed a lawsuit against the LASD where he made the same allegations as in the claim and alleged that deputies had falsified reports causing the District Attorney to file criminal charges against him. The lawsuit is pending.

Finally, while Mr. Carrillo's allegations were not included among the ACLU declarations filed in September 2011, his allegations were contained in the class action lawsuit brought by the ACLU in January 2012.

SYNOPSIS OF THE INITIAL LASD INVESTIGATION: According to the reports submitted as part of the force package completed by Men's Central Jail staff at the time of this incident, Deputies 038 and 039 detained a female visitor to the jail for being in possession of a cell phone based on information provided by an anonymous informant.

The female visitor was escorted into a break room used by Sheriff's personnel who were working Visiting. In addition to a refrigerator and a table and chairs, it also contained equipment for booking visitors arrested for alleged crimes. The young woman admitted to possessing a cell phone and told the deputies that she had a second cell phone in her boot. Deputy 039 arrested her for possession of a cell phone in a jail facility (a misdemeanor). The deputy learned that a companion of hers, Gabriel Carrillo, was also in possession of a cell phone. Mr. Carrillo was there to visit his brother, who had been arrested the prior day by two deputies from the Department's Operation Safe Streets (OSS) Gang Enforcement Team (GET). The grounds for this arrest were misplaced. The law pursuant to which people were being arrested at the time for possessing a cell phone in Visiting at MCJ was being misinterpreted by MCJ staff to apply to visitors when, in fact, the prohibition was intended to only apply to individuals inside the secure areas of the jail. The fact that prosecutors were not approving charges for possession of a cell phone following these arrests should have alerted MCJ leadership that there was a problem with the way staff was interpreting the law. As noted in further detail below, as a direct result of OIR's urging, LASD authorities are no longer arresting jail visitors for possession of cell phones.

Deputy 038 went out into the lobby and asked Mr. Carrillo if he had a cell phone. According to the deputy, Mr. Carrillo responded with, "F*** yeah what you going to do, arrest me?" Deputy 038 handcuffed Mr. Carrillo and led him to the same break room, where Deputy 039 was exiting with the female detainee. Once in the break room, according to his report, Deputy 038 took a handcuff off Mr. Carrillo's right hand to obtain fingerprints for the booking slip and Mr. Carrillo swung his elbow and struck the deputy in the arm. Deputy 038 responded to the assault by grabbing Mr. Carrillo and pushing him against the refrigerator. In the meantime, Sergeant 042 put out a radio broadcast that a deputy was involved in a fight. Deputy 039 had by now returned to the break room and tried to help gain control over Mr. Carrillo who was struggling with Deputy 038. Mr. Carrillo reportedly swung at a deputy and tried to escape out the visiting front booking room door.

According to the Incident Report, Mr. Carrillo had just gotten to the door as Deputy 003 entered. Deputy 003 pulled Mr. Carrillo by the shirt as Mr. Carrillo allegedly punched him in the chest. The sergeant ordered the deputies to take Mr. Carrillo to the floor. Deputy 003, 038 and

039 conducted a team take down and Mr. Carrillo hit the floor face first. This caused him to start bleeding from his forehead and nose.

Deputy 038 wrote that he saw Mr. Carrillo begin to kick at the deputies and refuse to give up his hands for handcuffing while ignoring orders by deputies to stop resisting. Deputy 038 reported, that Mr. Carrillo was yelling that he wasn't resisting. According to Deputy 038, Mr. Carrillo was, in fact, still resisting. Deputy 038's report also stated that Mr. Carrillo spit towards Deputy 003 and that the sergeant ordered him to use O.C. spray. Deputy 003 sprayed Mr. Carrillo in the face, but the report stated that Mr. Carrillo continued to struggle. Deputy 038 punched Mr. Carrillo in the face two to three times at the sergeant's direction.

Deputy 040, who had arrived to assist and tried to control his legs with knee strikes on Mr. Carrillo's thighs. Deputy 041, who had also entered the room to help, punched Mr. Carrillo in the thighs. Deputy 003 also punched Mr. Carrillo in the face after he used the O.C. spray. Deputy 039 reported that Mr. Carrillo also struck his face on chairs and desk legs as he struggled with the deputies.

Mr. Carrillo was finally handcuffed and sent to the clinic for medical treatment. He was ultimately transported to the hospital before he was taken into jail custody. Mr. Carrillo was treated for blunt force trauma to the face, and a head laceration as well as exposure to O.C. spray.

Because the extent of the injuries suffered by Mr. Carrillo did not meet the criteria for IAB to roll out and handle the investigation, the MCJ watch commander and on-duty sergeant were responsible for completing a Use of Force Report detailing the unit's investigation into the incident. In accordance with Department policy in place at the time, Sergeant 042 was responsible for conducting the force investigation even though he was present for the entire incident and directed his subordinates to use force.¹ All of the involved deputies or deputies who heard or saw part of the incident wrote Supplemental Reports memorializing their observations or involvement. Those reports were largely consistent with each other. In all, five deputies used force on Mr. Carrillo: the team takedown, O.C. spray, control holds, punches and knee strikes. None of the deputies reported kicking Mr. Carrillo.

Supervisors interviewed civilian witnesses who were in the visiting lobby at the time. Two witnesses saw the deputy handcuff Mr. Carrillo but added nothing further. A third witness saw

¹ In accord with OIR recommendations, LASD investigative protocols subsequently have been revised so that Sergeants who direct force are not authorized to conduct the resulting investigations.

the arrest and heard Mr. Carrillo ask questions but did not see him fighting with deputies. The report lists a fourth witness who said that Mr. Carrillo had an attitude with the deputies and was resisting. None could see what occurred inside the room where the incident took place.

Supervisors also interviewed two inmate workers who had been working nearby. Both heard the sounds of a struggle and deputies saying, “quit kicking,” and “stop fighting,” while a male voice protested with, “I didn’t do anything,” and “I’m not resisting, get off me!”

Sergeant 042 and the watch commander interviewed Mr. Carrillo while Deputy 044 recorded it with a video camera. Mr. Carrillo said that he did not know what happened. He said he did not fight with deputies and didn’t recall what occurred. He complained of pain to both of his wrists, face and both thighs from being hit but couldn’t say who hit him. He denied that he arrived at the jail upset because of his brother’s force incident with the deputies who arrested him.

Finally, the sergeant interviewed Mr. Carrillo’s female companion. According to the deputies’ written reports, she was not in the break room at the time of the incident. Deputy 039 stated that she took the female companion out of the break room and handed her off to Deputy 045, with instructions to keep her separated from Mr. Carrillo. Deputy 039 then wrote that she returned to the break room where the incident with Mr. Carrillo then took place.

In her video recorded interview, Mr. Carrillo’s companion states that she was still in the break room when deputies brought Mr. Carrillo in and she heard Mr. Carrillo tell a deputy that “if he wasn’t in handcuffs it would be a different story.” She said that the female deputy in the room [Deputy 039] then called in other deputies and that one of them got into a confrontation with Mr. Carrillo. She said she saw three deputies push Mr. Carrillo against the refrigerator. She demonstrated with her body how deputies pushed Mr. Carrillo’s hands and arms up behind as his back. At that point she was taken out of the room and said that she did not see anything further.

These details are not included in either the Incident (Arrest) Report of the Use of Force report. In fact, the Use of Force Report authored by Sergeant 042 states that she “did not witness the fight with deputies as she had been taken out of the room.”

The Use of Force Review written by the involved sergeant concludes that the “force used by deputy personnel was reasonable and justified, and was within Department policy.” The Watch Commander approved the report and made the same assessment. The Captain approved the report and forwarded to Custody Division, and the matter was closed.

Deputies booked Mr. Carrillo for resisting an officer, attempted escape, bringing a cell phone into a jail facility and battery on a peace officer. The female companion was booked for the misdemeanor of bringing a cell phone into a jail facility. The District Attorney filed charges against Mr. Carrillo for four felonies and one misdemeanor charge. All of these charges were eventually dismissed. No charges were filed against Mr. Carrillo's companion.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: In August 2011, the Internal Criminal Investigation Bureau (ICIB) was assigned to investigate the allegations that Mr. Carrillo had raised that deputies had beaten him without any justification and that Department members had tampered or doctored the video recorded statement of his female companion. The investigation began in earnest in mid-September, just prior to the filing of the ACLU declarations that are the subject of the bulk of this report.

One of the areas the investigation explored is whether deputies in Visiting were aware prior to the incident that Mr. Carrillo's brother had been involved in an altercation with deputies in East Los Angeles. The concern stemmed from the ICIB investigators' review of the video recorded interview of Mr. Carrillo's companion. During the interview she mentioned the prior incident and it appeared to investigators that Sergeant 042 was already familiar with it.

Investigators attempted to interview Mr. Carrillo's girlfriend and his grandmother (who was visiting Mr. Carrillo's brother at the time of this incident), but were unsuccessful. The grandmother told them that she needed to contact Mr. Carrillo's lawyer before she was willing to speak. She never called back. Investigators contacted the female companion in person but she was not willing to speak to them. Despite significant efforts by investigators to contact him, Mr. Carrillo likewise declined to be interviewed.

Investigators interviewed three of the four civilian witnesses identified and interviewed as part of the initial force package. From their vantage point in the lobby, they saw deputies detain and lead Mr. Carrillo away. None saw the incident inside the break room. The three witnesses who had been interviewed at the time of the incident gave ICIB investigators statements consistent with their initial interviews. In general, they saw nothing beyond what appeared to be a routine arrest. Investigators were unable to locate the fourth witness, so relied on his interview shortly after the force incident, during which he said that Carrillo was uncooperative and was shrugging his shoulders and swaying from side to side as he was led away.

ICIB investigators also identified an additional witness while reviewing recorded phone calls made by inmates. They overheard her describing the incident to an inmate on the phone. She

said a man was making a scene in visiting and that he went crazy and was fighting with deputies. When interviewed by the task force the witness said that the man was asking deputies why he was being arrested. She said as he was being escorted, he began stomping his feet and screaming and that he was screaming and kicking as he was taken into the backroom. She said she could clearly hear a commotion inside the room but could not see it.

Investigators also interviewed the two inmate workers who had been identified during the Use of Force investigation. They both had heard the commotion but did not see it. Their statements to ICIB were consistent with their earlier accounts.

Because of the allegation that the video recorded interview of Mr. Carrillo's girlfriend was edited, ICIB asked the Department's Technical Services Bureau to review the video. They found no evidence (no obvious start/stops, pauses, or abrupt mid-sentence changes) to indicate the recorded conversation was interrupted. The recording was examined with nonlinear digital video editing software and the technician opined that the "video was recorded in one continuous session."

Task force investigators interviewed or attempted to interview all involved LASD personnel. Deputy 038, who arrested Mr. Carrillo and testified under oath at Mr. Carrillo's preliminary hearing, agreed to be questioned. The summary of his involvement largely tracked what he wrote as the author of the incident report as well as his prior testimony. Deputies 040 and 041 also agreed to ICIB interviews and gave statements consistent with their earlier reports.

Investigators also spoke to the deputy who interviewed Mr. Carrillo's girlfriend for the criminal investigation of Mr. Carrillo. He said he did not force her to make any statements and did not intimidate her.

Deputy 039 and Deputy 003 declined to submit to an interview.

ICIB investigators twice interviewed the Visiting supervisor, Sergeant 042. During his first interview he recounted the incident with Mr. Carrillo in the same manner as he described it in the Use of Force report he authored. The sergeant called the ICIB investigator later that day and told him that after the force incident, he had used his cell phone to send a photograph of Mr. Carrillo to Deputy 043, who was assigned to the Gang Enforcement Team and had previously arrested Mr. Carrillo's brother. The sergeant told the investigator that he did not have any contact with Deputy 043 prior to the use of force incident with Gabriel Carrillo.

Investigators interviewed the sergeant a second time and obtained a search warrant to inspect his cell phone. In the exchange of text messages between Sergeant 042 and Deputy 043, the deputy first sent a photograph of Mr. Carrillo's brother, which showed injuries he sustained during his arrest. The sergeant in turn sent what appeared to be a booking photograph of Gabriel Carrillo which depicted the injuries suffered during the altercation with the Visiting deputies. The sergeant then sent a text which read: "looks like we did a better job..... where's the beer big homie?" Deputy 043 replied with "Hahaha."

The completed criminal investigation of the force used against Gabriel Carrillo was submitted to the District Attorney and the Justice System Integrity Division declined to file criminal charges on April 6, 2012. The District Attorney concluded there was "no evidence to suggest that the deputies acted inappropriately." Furthermore the conclusion was reached that the force used was reasonable and necessary to subdue Mr. Carrillo who assaulted deputies and was trying to escape. The investigation was also submitted to the U.S. Attorney, who has not filed any charges.

SYNOPSIS OF THE INTERNAL AFFAIRS INVESTIGATION REGARDING THE USE OF FORCE: The District Attorney rejected the case for criminal filing in April 2012, but the Internal Affairs Bureau (IAB) did not begin its administrative investigation until November 2012, largely due to a bureaucratic formality that had been overlooked until OIR raised the issue.

The initial IAB investigation focused on whether deputies used unnecessary or unreasonable force and named as subjects Deputies 038, 039, 003, 040 and 041 as well as Sergeant 042. The photos and comments sent via text message were the subject of a separate investigation.

IAB investigators interviewed all of the subjects and a number of employee witnesses.

Deputy 045 witnessed some of the incident. Because his view was obscured, he did not see deputies hit or kick Mr. Carrillo, but said he heard Mr. Carrillo say "I am not resisting, fuck you," before he saw Mr. Carrillo punch a deputy and attempt to escape from the break room.

Deputy 044 described his interaction with Mr. Carrillo's girlfriend – he gave her Miranda warnings and facilitated her provision of a written statement. He denied allegations that had been made in Mr. Carrillo's lawsuit that he had coached her or told her what to write.

Deputy 046 responded after he heard the radio broadcast of the fight and did not see the use of force. He said by the time he arrived the incident was already over and he was asked to detain and watch over the female (Mr. Carrillo's companion). Though his statement contradicts

the account provided by Deputy 039, who said she handed the girlfriend off to Deputy 046 prior to the force incident, he said he was certain that he was asked to watch over her after the incident was over.

IAB investigators interviewed Deputy 038, whose statements were largely consistent with those given in his ICIB interview. He reiterated that Mr. Carrillo and his girlfriend were never in the break room at the same time, and that he removed Mr. Carrillo's right handcuff in the break room before Mr. Carrillo swung at him. He defended his decision to remove the cuffs because he said Mr. Carrillo's boisterous behavior was typical of people he had detained before and those situations did not result in the use of force. However, during the criminal proceedings against Mr. Carrillo, the deputy testified the reason he initially put Mr. Carrillo in handcuffs was for "officer safety reasons," because Mr. Carrillo's response to the question about whether he had a cell phone ("Fuck yeah, what are you going to do arrest me?") demonstrated hostility.

The IAB investigation also endeavored to determine whether, as alleged by the Carrillo lawsuit, Mr. Carrillo's girlfriend was in a position to see the force incident. When interviewed by IAB investigators, Deputy 039 reiterated that she was present in the break room when Mr. Carrillo swung at Deputy 038 and that Mr. Carrillo's girlfriend was not in the room, nor could she have seen what was happening inside the room.

Deputies 003, 040 and 041 provided statements that were largely consistent with prior reports and/or statements. All three were asked if they saw the female arrestee in the break room with Mr. Carrillo at any time. They all said that they did not and had no knowledge of her until after the force incident was over.

IAB interviewed the sergeant about his involvement. He, too, provided information consistent with his earlier statements and interviews and likewise insisted that Mr. Carrillo's girlfriend could not have seen the force incident.

IAB investigators elected to not re-interview civilian visitors to the jail, because the interviews by ICIB were thorough and complete.

IAB submitted the completed administrative investigation to the Custody Division just one day before the expiration of the statute of limitations. Division staff quickly reviewed the material and determined that the charges against the subject deputies were "unresolved."

SYNOPSIS OF THE ADMINISTRATIVE INVESTIGATION REGARDING THE TEXT MESSAGE: The Department initiated an administrative investigation against Sergeant 042 and the OSS deputy

for exchanging the photos and text messages regarding Mr. Carrillo and his brother, David. When interviewed by IAB, the jail sergeant claimed that he sent the photo of Gabriel Carrillo to the OSS deputy because he had learned that at the time of David Carrillo's arrest, he had two companions who had successfully fled. The sergeant wanted to see if Gabriel Carrillo might have been one of them. He obtained the booking photo via his LASD email, but then took a photo of the photo with his phone, from which he sent the text message. The IAB investigator did not explore with the sergeant why he did not just forward the email from his LASD account to the OSS deputy. He explained that the text message, "Looks like we did a better job . . ." was intended to poke fun at the OSS deputy for having let suspects flee, while jail deputies were able to apprehend Mr. Carrillo.

The OSS deputy, when interviewed by IAB, claimed that he sent the sergeant a photo of David Carrillo only after the sergeant sent the photo of Gabriel Carrillo, and his purpose was simply to get the sergeant's opinion about whether the two are brothers. The phone records establish, however, that the photo of David Carrillo was sent from the deputy's phone prior to the sergeant's emailed photo of Gabriel Carrillo. The deputy claimed not to know where he obtained the photo of David Carrillo, which depicts injuries incurred during his arrest but is clearly not a booking photo.

IAB sent the completed investigation to the Case Review Committee for a decision about findings and appropriate discipline. The Committee found charges of General Behavior; Professional Conduct, Performance to Standards, and False Statements to be "founded" as to both subjects. The Department found that their conduct did not conform to the Department's Core Values, failed to display common sense and failed to respect the dignity of Gabriel and David Carrillo. The Department decided to discharge the jail Sergeant and the OSS deputy.

OIR concurred with LASD's discipline determination. On their face, the transmissions between the jail Sergeant and the OSS deputy exemplify law enforcement culture at its worst. Even if the force used against both brothers may have been justified, the jail sergeant's articulated pride in the injuries sustained by Gabriel Carrillo at the hands of his deputies has no place in policing. Injuries inflicted by officers, regardless of justification, are not a joking matter. Use of force should be seen as a necessary last resort to overcoming resistance, not as a competition to see who can inflict the most damage. The jail sergeant's after-the-fact explanation of what he meant was inconsistent with the content of the text message, and LASD made the correct decision in terminating his employment. The Department must continue to work – through training, supervision, and effective investigations – to identify others within its ranks espousing the same inclinations.

SUMMARY OF OIR INVOLVEMENT/REVIEW: The initial Use of Force Report prepared by MCJ supervisors encapsulated many of the concerns OIR has raised in the past:

- The sergeant who directed the force is the author of the Use of Force Report. He, of course, is not a disinterested party in that he apparently ordered the takedown, the punches and knee strikes as well as the use of the O.C. spray against Mr. Carrillo. This case clearly demonstrates why OIR has advocated for a policy change to prohibit a sergeant who is involved in a force incident, whether using force or directing it, from interviewing the involved inmate or writing the force package.” At OIR’s insistence, LASD has since changed its policy and involved sergeants, with rare exceptions, are no longer responsible for the preparation of force packages.
- The initial assertions made by one witness – Mr. Carrillo’s girlfriend – were omitted from the initial force report, creating the inference that the author of the report was biased in favor of the deputies’ accounts.
- As with many force incidents during this era, there was insufficient scrutiny of this use of force incident by Custody leadership. As a result of OIR recommendations, a more robust force review process has subsequently been implemented by the Custody Division. Under this more robust process, the Carrillo use of force would have been Category 2 force – meaning the suspect sustained an identifiable injury caused by force – which would have required notification to the Custody Force Response Team and then an eventual review by the Custody Force Review Committee (CFRC) staffed by commanders. This process is intended to increase the accountability of deputies and supervisors as well as assuring the thoroughness and fairness of force investigations. An attorney from OIR is present during all CFRC review presentations. The CFRC has so far been effective in reviewing force incidents that prior to its creation would not have received such scrutiny.

OIR found the ICIB investigation thorough and complete, despite being hampered by the inability to interview Mr. Carrillo, his companion or his grandmother. Ideally, there would have been further investigation into the veracity of the statement ostensibly written by the girlfriend, but this depended on the ability to interview her.

The Internal Affairs investigation was sufficient, though inefficiently managed and completed too close to the statutory deadline.

OIR concurred with the findings and disposition in this case. Nonetheless, OIR continues to have concerns about the purported bruising on Mr. Carrillo's wrists and whether it establishes that he was handcuffed during the incident as he alleges. We also are concerned about the factual issue of whether Mr. Carrillo's girlfriend was present during the beginning of the altercation. Despite these concerns, Mr. Carrillo's allegations of excessive force were appropriately deemed "unresolved," as the differences between the allegations and the version provided by involved deputies cannot be settled, particularly as a result of the failure of Mr. Carrillo, his girlfriend, and his grandmother to cooperate in the subsequent LASD investigations. OIR will continue to closely monitor the continuing civil litigation and will urge the LASD to re-open administrative investigations if new material evidence is established.

This case also raised additional issues not directly related to the use of force in which OIR was significantly involved:

Concerns about MCJ Visiting: While this is the only incident in MCJ Visiting which is covered in this report, it is just one of several incidents involving its deputies which took place during that time period that either resulted in discipline or are still under investigation. Sergeant 042, who as explained above was fired behind his transmission of Mr. Carrillo's booking photo and the texting of inappropriate comments, reportedly encouraged his deputies to be "aggressive" about making arrests and was the supervisor in nearly all of these incidents.

When a new unit commander was assigned to MCJ in March 2011, OIR raised some concerns about Visiting with him, and he initiated a number of changes. The Captain assigned a very experienced sergeant to the area which provided a steady and mature hand to the deputies who were relatively inexperienced in dealing with the public. MCJ leadership also moved new deputies into Visiting who were chosen for their demeanor and likelihood of working well with the public. In June 2011, the captain oversaw the installment of 24 video cameras in the lobby and the break room where the Carrillo force incident occurred, and other security measures were introduced to aid in the arrest and booking process. Throughout the entire process, the captain was very receptive to OIR touring the visiting area on short notice and in listening to OIR suggestions for corrective actions.

Arrests of Individuals for Possession of a Cell Phone in Visiting: When OIR learned about the arrest of Mr. Carrillo and others for possession of a cell phone in MCJ Visiting, we researched the issue and then drafted a memo in October 2011 to jail executives expressing our concerns about the legal grounds for arresting visitors for having cell phones. The Department took our concerns seriously and issued a bulletin clarifying the legal issues. Since the issuance of the training bulletin, there have been no arrests of visitor for possessing a cell phone.

INVOLVED INMATE: LAWRENCE DAVIS

DATE OF INCIDENT: March 16, 2011

LOCATION OF INCIDENT: MCJ 2500 (“*Pro Per*” module)

DECLARANT: N/A

DATE DECLARATION SIGNED: N/A

CLAIM/LAWSUIT FILED? Part of *Rosas* litigation.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNRESOLVED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): The investigation was generated by internal reporting.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

Yes. Deputies reported a use of force on March 16, 2011. An allegation of excessive force was made on the date of the incident.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: According to the reports submitted as part of the force package completed by Men’s Central Jail staff at the time of this incident, Inmate Davis was a *pro per* inmate (meaning he was representing himself in his pending criminal case) and assigned to the 2500 module. Deputy 027 saw Davis yelling at an inmate worker who was inside a supply room. Deputy 027 saw Davis run out of his view into the supply room. The deputy entered the supply room where he saw the inmates punching each other. One of the inmate worker’s punches caused Davis to stumble backwards and he struck his head on the door jamb. According to the deputy, Davis appeared to be “agonizing in pain.” During that time, the deputy sprayed O.C. spray at both inmates to stop the fight.

The closet where the incident took place is 4 feet 11 inches wide and 7 feet 10 inches deep. It is located directly across from the control booth at a distance of 7 feet 3 inches.

While the fight stopped, Davis ignored an order deputies gave both inmates to lay face down on the floor and put both hands behind their backs. Instead Davis started throwing punches at the deputy but missed. The deputy responded by punching Davis in the face four times to stop

the assault. The deputy then grabbed Davis by his shirt and pulled him to the floor onto his face and stomach.

As other deputies arrived to assist, Davis kept his hands and arms tucked underneath his body and “violently kicked” at the deputies. Deputies were able to get control of his arms by pulling them from underneath his body. A Sergeant arrived on scene while the struggle was still occurring and he ordered Davis to stop kicking and resisting. Davis was handcuffed and Deputy 029 applied a hobble restraint to Davis’ legs to stop him from kicking. According to deputies, that was the end of the use of force. No deputy reported using any impact weapons, like a flashlight, or kicking Davis.

An uninvolved deputy escorted Davis to the MCJ clinic. There, the force investigator, a sergeant, observed bruising to both eyes, abrasions to his upper back and an abrasion and bruising “to the left top side of his head.” An interview of Davis was conducted with a video recorder. Davis said that he asked the trusty for a lunch and reached into the room to grab one when the trusty attacked him without warning. Davis said he only defended himself from the attack and when Deputies ordered him to stop fighting, he did. He said after he stopped fighting that deputies beat him with pipes, bats, batons, flashlights on his legs and other weapons. Investigators looked at his legs and saw an abrasion on his right shin. Davis said that could have come from a deputy standing on his leg. A review of Davis’s entire body for injuries was recorded with the video camera.

When deputies interviewed the trusty, he said that Davis asked for an extra lunch. He told Davis he would have to ask one of the deputies first. According to the trusty, this angered Davis who immediately started punching him. The trusty said he punched Davis several times to defend himself.

Fire Department personnel transported Davis to County/USC Medical Center for further treatment. A doctor noticed an injury to his head that he said appeared to have been made by a sharp object. The doctor advised LASD personnel assigned to the medical center jail ward. A sergeant immediately notified MCJ and the force investigators responded to the hospital.

The injury appeared to be scratches that some observers have interpreted as being the letters M and Y. The doctor told the force investigators that the other injuries were consistent with exposure to O.C. spray, the bruising on his right shin was consistent with the legs being restrained by another person, and that the injuries were not consistent with being struck by any type of hard object. Investigators took extensive additional photographs of the injuries. In comparing the video footage and earlier observations, the MCJ investigators concluded the scratches on the right side of his head were not present at the time Davis’ body was inspected

for injuries following the incident. Davis reported that it was deputies at MCJ who inflicted the scratches as he fought with them but he could not identify the deputy who did so.

In reviewing the Use of Force report, OIR had three concerns. The first is that the force investigators did not appear to have interviewed other inmates who may have seen at least portions of the incident. The pro per module has been the source of numerous allegations. Since pro per inmates have privileges which allow for extensive communication with each other, it is critical that the Department memorialize their statements as quickly as possible. Investigators possibly prematurely discarded Davis' claims of being attacked by bats, pipes and batons as outlandish, but as the subsequent controversies over jail violence has demonstrated, the failure to interview all potential witnesses creates the conditions where it is very difficult to assess the validity of statements that are made months or years later.

The second concern is that once the physician noted the scratches and the MCJ investigators concluded – it appears reasonably – that they were not present when Davis left MCJ, the matter should have immediately received a higher level of scrutiny. While IAB was notified per policy about the initial force and transfer to the medical center, it is not clear that they were informed of the additional injuries seen by the physician. They should have been informed so an investigation could have been launched immediately to determine when and how the additional injuries were sustained. At that point there was a range of potential causes that should have been explored. The scratches were caused by either: MCJ staff during the altercation, after he left the 2500 module, after he arrived at the clinic, while he was being transported by LAFD personnel, or while at the medical center. In addition, the scratches could have been caused by another person, self-inflicted or accidental.

The third concern is that there were recording surveillance cameras installed in the adjacent law library at the time of the incident. The initial force investigators did not review the video footage because they surmised that the supply closet where the altercation took place was outside the view of the cameras. Task Force investigators later confirmed that belief and took photos of the camera points of views which OIR has reviewed. The initial force investigators' conclusion, however, was misguided. The video footage would not have shown the incident but would have shown the potential inmate witnesses and whether they were lying on the ground as ordered by deputies or were watching the fight take place. That shortcoming, plus the failure to interview all potential inmate witnesses shortly after the incident, means that there is no way to definitively determine whether inmate witnesses were truthful or were either mistaken or fabricating their observations. OIR has consistently urged the Department to address the issue of the need for investigators to think outside the box and project what fallout could occur from not addressing possible evidentiary issues. To its credit, the Custody Division has made

significant strides toward improving force investigations – including the effort to interview all potential inmate witnesses on video and to preserve relevant video surveillance footage in the force investigation package.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: The task force launched its investigation prior to and independent of the well-publicized filing by the ACLU on September 28, 2011, but Davis was coincidentally interviewed that morning in custody.

In addition to what he said during the force investigation the prior March, Davis alleged that he complied with all orders to get on the ground when Deputy 027 proceeded to kick him in the ribs numerous times. He said other deputies arrived and pinned him spread eagle to the floor where he was punched in the face and sprayed with O.C. He told investigators that he was then picked up off the ground (Davis is 6' 2" tall and weighs 200 pounds) and kicked an unknown number of times while in the air by unknown deputies. He said deputies dropped him back on the ground and tied his legs and together and handcuffed him and continued to punch and kick him. He said he did not resist even though deputies continued to strike him. Davis also alleged that deputies left the trusty alone and that only he, Davis, was sprayed with O.C.

During this interview with the Task Force, Davis said that because he was in and out of consciousness during the altercation he was unaware of when deputies scratched the mark on his head. He asserted that the marks were not placed on his head after the incident so it must have happened during the altercation. Davis also alleged that deputies set him up by having the trusty not give him a lunch.

Investigators asked Davis if he had any mental condition. He said he did have "some" but refused to identify them or to release his medical records to investigators.

Investigators located the nurse who treated the trusty. She said that the trusty did have injuries consistent with exposure to O.C. spray.

The doctor who treated Davis at the MCJ clinic (before he was sent to LCMC) said he did not recall seeing the marks on his head. He told investigators that had he seen the marks he would have noted them in the medical records. Apparently Davis was transferred to LCMC as a precautionary measure because he asserted that he lost consciousness during the use of force. When interviewed, deputies said that it never appeared Davis lost consciousness.

The nurse who treated Davis at the MCJ clinic was also interviewed. She said that had she seen such marks, she would have noted them.

Task force investigators located the other floor trusty who was on duty at the time. As other inmates, he was ordered to lie down on the floor when the altercation started. As a result, he was not in a position to see the incident, but could hear deputies yelling at someone to get down. The witness did say that the trusty who was involved in the fight with Davis told him afterwards that Davis had confronted him about a lunch. According to the witness, the trusty told him that he did hand a lunch towards Davis (this would contradict the statement he made to deputies) and that Davis snatched it out of his hand and threw a punch at him. The trusty told the witness that he then defended himself and the fight took place.

Task force investigators interviewed the trusty who was involved in the fight. He said that after the fight started deputies intervened and he was sprayed with O.C. After being sprayed he lay down on the floor and did not see any other of actions but did hear deputies yelling to get down. The trusty said that at some time after the incident, Davis accused him of setting him up for deputies. The trusty denied doing so.

Investigators also contacted two inmates who Davis provided as witnesses to the incident. Investigators located other witnesses as well. Some said they were ordered into the law library as the incident began and could hear the incident but could not see it. The law library door is perpendicular to and 28 feet 5 inches from the closet. The door has a glass window. Investigators located a third witness who also claimed he could see the incident take place. Here are their descriptions:

- Witness #1 claimed he was passing by the closet where Davis and the trusty were. First he said that he saw Davis reach for something and that the trusty tried to prevent him from doing so when the fight started. He then said that Davis went into the closet after reaching for something and that he couldn't see what happened next, but heard a fight. He went on to say that he saw deputies pull Davis out of the closet and into the hallway. He said several deputies were on top of Davis and kicked and punched him. The witness went on to claim that he believed something was carved into the side of Davis' head because he saw fresh blood on the side of his head running down his face.
- Witness #2 (a *pro per* inmate who has a separate allegation reviewed elsewhere in this report) said he was in cell B-3 during the entire altercation so could not see the incident. (It is also a distance further from the closet than the law library where many other potential witnesses were.) The witness asserted that he heard the fight and that a deputy said, "Get Davis." He also claimed he heard Davis screaming, "I am not resisting and they are doing something to my head.") He said that later other unnamed inmates told him that they saw deputies doing something to his head.

- Witness #3 said he was inside the law library. He said that Davis asked the inmate worker about his lunch as the worker was inside the closet and Davis stood outside. The witness said he could see the fight start. He said that a custody assistant pulled Davis into the hallway by his legs. He said that other deputies arrived and began to punch and kick the inmate. The witness said he also saw deputies slam Davis' head into the floor. He said deputies were yelling, "stop resisting" while Davis was saying he wasn't resisting. The witness said that he could smell O.C. spray. Finally, the witness recalled that a deputy used a TASER device on Davis. Investigators brought photographic line-up cards to a second interview. During this interview, the witness said that a second custody assistant kicked Davis in the face two to three times. He positively identified Employee 017 in a photo lineup as the second custody assistant. (*This witness is the only person interviewed who reported this employee's involvement. The employee was interviewed by investigators. He said he vaguely recalled the incident and had heard about it but was not present.*) Investigators showed him two other line-ups where he chose the wrong subject (i.e. not a deputy or custody assistant on duty at the time). In a fourth line-up he identified a deputy who was present but who did not report using force.
- Witness #4 was in the law library. He saw the fight begin. He said deputies ordered everyone into the library and told them to get on the ground. He saw deputies take Davis to the ground. He also saw hands swinging towards Davis which led the witness to believe Davis was being struck. He said he did not see Davis resisting. He described four deputies and one custody assistant involved in using force. The witness said that he saw Deputy 027 strike Davis in the upper body with a flashlight three times.
- Witness #5 was in the hallway near the closet. He said he saw Davis and the inmate worker start a confrontation about a lunch. He saw the worker attempt to hand Davis a lunch and that he "snatched" it out of his hand. The inmate said he immediately moved away from the door towards the library but heard the sounds of a physical fight. He said that deputies arrived and he was ordered into the library. The witness saw both inmates in the hallway and a deputy deploying O.C. spray towards both inmates. He then heard deputies issue commands of "stop resisting," and heard Davis say at some point, "OK, OK, that is enough." The witness said that he did not hear any other portions of the incident. He said that days later Davis was asking other inmates to be witnesses to the incident.

- Witness #6 said that he was outside the law library. He saw the worker and Davis talking. He said he was ordered into the law library and told to lie on the floor. He saw nothing else take place.
- Witness #7 was at the front of a line of inmates that were heading to the law library. He recalled seeing Davis in a closet with two inmate workers. He said deputies ordered the inmates into the library and told them to lie on the ground and he followed the orders. He then heard deputies arriving and orders to “stop.” He said he could smell the odor of O.C. spray and heard Davis yelling. He did not see any of the altercation.
- Witness #8 was also walking to the law library and he saw Davis inside the closet with a worker. He said that Davis was upset about a lunch. A deputy, possibly Deputy 027, told Davis to exit the closet. He said Deputy 027 entered the closet and used O.C. spray. He then heard Davis screaming from inside the closet. He said deputies were ordering Davis to exit the closet as he continued to scream. At that point he was ordered into the library and told to lie on the floor. He complied and did not see anything further.

Investigators separately interviewed two City of Los Angeles Fire Department EMTs who took part in transporting Davis to the medical center. Both firefighters said that their standard is to conduct a medical assessment with a Pre-Hospital Care Report where they note any observed injuries. They were shown photographs of the marks or scratches on Davis’s head which were taken at the medical center. Both firefighters did not recall seeing the injuries but said that had they seen them they would have been documented in their report. Investigators next contacted a Fire Captain who located the Pre-Hospital Care Report and provided a copy. The only injury noted to the head area was described as “bruising.”

Investigators also interviewed a number of LASD employees. The Sergeant on duty that day said that he arrived about 30 seconds after the initial radio broadcast of a deputy involved in a fight. When he arrived he saw deputies on the ground with Davis, attempting to handcuff him. He said Davis was trying to kick the deputies. He ordered Davis to stop fighting and Davis was handcuffed. The sergeant said that Davis was then out of his sight for 10 to 15 minutes and that he next saw him in the clinic. He said he did not notice the marks which were seen at the medical center on Davis.

Investigators then interviewed the on-duty watch commander. He said he participated in the interview of inmate Davis in the clinic and observed his injuries. He did not see the injuries depicted in the later photographs and said that their unusual markings would have been noticeable had they been present.

Task force Investigators also contacted twelve deputies and/or custody assistants. Three deputies declined to be interviewed. Four employees either did not recall the incident or were on duty but were not present during the altercation. Davis had claimed that two deputies had seen the markings when he arrived at LCMC. Both of these deputies said they did not recall seeing the injury and believed they would have remembered it had they seen it.

The remaining three deputies provided statements. Deputy 028 said he arrived towards the end of the incident with Davis already on the ground. He said he pulled Davis's left arm out from under his body. He said that Davis grabbed his key lanyard and wouldn't let go. Deputy 028 said he yelled out to his fellow deputies that Davis had his keys and punched him in the upper back or left shoulder several times. He said that Davis let go of the lanyard and the deputy gained control of his left arm and held it behind his back until he was handcuffed. He said he did not see anyone place marks on Davis's head.

Deputy 030 said that when he arrived on scene he saw Deputy 027 struggling on the floor with Davis. Deputy 030 said he placed his left knee on Davis's back and told him to stop fighting. He said Davis continued to kick and throw elbows. He said he was able to pull an arm from underneath his body and that he was the deputy who handcuffed Davis. He said he did not see anyone place marks on Davis's head.

Deputy 037 said he was in the security cage when he saw Davis grab an item from the inmate worker who in the worker closet. The Deputy saw Davis punch the inmate worker between 5 to 10 times and that the worker punched Davis back. Deputy 037 said that he put out the radio broadcast of a fight. He said that he moved towards the closet and saw Davis fall out of the closet as a deputy was trying to subdue him. Deputy 037 detained the inmate worker inside the closet. He said he could hear the sounds of a struggle and deputies telling Davis to stop fighting but that he could not see that part of the altercation because of his positioning. He saw Davis on the gurney after the incident and did not see the letters marked into his head and denied seeing anyone put marks on Davis's head.

The completed criminal investigation was sent to the District Attorney and United States Attorney. The D.A. declined to file criminal charges on the grounds there was insufficient evidence that a crime was committed. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: The Internal Affairs Bureau (IAB) began its administrative investigation after the District Attorney rejected the case. Three deputies were named as potential subjects.

IAB investigators attempted to interview Davis in state prison, but he declined to speak about the case on advice of his legal counsel.

Deputy 030 was named as a witness and interviewed. He did not add much more to his interview with ICIB other than he was the deputy who handed his hobble restraint to Deputy 029 and that he did not recall Deputy 028 make any comments that his key lanyard had been grabbed.

IAB interviewed Deputy 027, the initially involved deputy. He said that when he saw the fight begin he first secured other inmates in the library and closed the door. He then described using O.C. spray on Davis and the inmate worker after they refused his commands to stop fighting. His statements about the altercation were consistent with the information contained in prior reports. He described punching Davis in the face after Davis swung at him. Deputy 027 said that he did not use any impact weapons, that he did not have a TASER in his possession and that he did not see any personnel scratch anything onto Davis's head. He also said that he had no prior contacts with Davis before the incident.

IAB interviewed Deputy 028. He recounted his involvement and reiterated that Davis grabbed his key lanyard, that he yelled out that Davis had his keys and that he punched Davis in the left shoulder. He said that he didn't see any impact weapons or kicks used against Davis. He also did not see anyone use force on his face or head or scratch anything onto the inmate's head. He maintained that he had no prior contacts with Davis.

Deputy 029 said when he arrived that Deputies 028 and 030 were on top of Davis trying to control him. Davis was not handcuffed and had his hands underneath his body. He said that he saw Davis try to kick him so he punched him three times in the ribs. He said that from the time he arrived to the end of the struggle about 30 to 45 seconds went by. He denied using any impact weapons or striking Davis in the head area. He denied seeing anyone use force on his face or head and did not see someone scratch something into his head.

The Custody Division reviewed the case and determined that the charges against the subject deputies were unresolved as it was apparent from the photos taken at LCMC that some form of injury was present but that no evidence was established which attributed the injury to the deputies involved in the altercation in the *pro per* module.

OIR INVOLVEMENT/REVIEW: OIR reviewed the ICIB investigation before it was sent to the District Attorney. We suggested that further efforts be expended to try to interview the doctor at LCMC who made the initial observations of the markings or scratches on Davis's head. The doctor was then located by ICIB investigators and he said he recalled the incident but refused to make any statements citing doctor-patient confidentiality.

OIR reviewed the administrative investigation and concurred with the Department's decision to close the matter as "unresolved." The injuries seen at LCMC did establish that something occurred. The source of the injuries, though, was never established. Thus, there was insufficient evidence to establish either version of the incident.

While OIR applauds the Department's initiative to inform the Task Force and conduct a criminal investigation, it was unfortunate that an intensive investigation was not launched closer in time to the incident, when the doctor at LCMC first noted the injuries. Not immediately conducting an ICIB investigation and interviewing all potential inmate witnesses was a significant lapse. We are encouraged that improved protocols designed to prevent a reoccurrence are now in place.

INVOLVED PERSON'S NAME: ALEXANDER FUENTES

DATE OF INCIDENT: 11/20/10 – 1/7/11

LOCATION OF INCIDENT: MCJ 3500

DECLARANT: Fuentes, Alexander

DATE DECLARATION SIGNED: March 17, 2011

CLAIM/LAWSUIT FILED? N/A

DISTRICT ATTORNEY STATUS: N/A

ADMINISTRATIVE OUTCOME: UNRESOLVED

SYNOPSIS OF ACLU DECLARATION: Fuentes alleged that he only received two showers between November 2010 and January 2011. He states that "day shift" deputies cheated the Title 15 scanner system by walking down the row and scanning inmate wristbands while they remained in their cells rather than allowing them to have a shower. Fuentes identified Deputy 012 and Deputy 014 as two of the participants in the alleged falsification of records. (The handheld scanner reads a barcode on an inmate's wristband as well as a barcode at the shower.) Fuentes declared that he saw the fraud take place on more than five occasions.

Fuentes alleged that AM shift (6 a.m. to 2 p.m.) deputies are supposed to give showers to inmates in cells 1 through 13 while PM shift (2 p.m. to 10 p.m.) deputies give showers to inmates in cells numbered 14 and above. He asserted that while PM deputies did provide showers to those inmates, AM deputies instead engaged in the fabrication and only provided him with two showers from November 20, 2011 until January 7, 2011.

[The *Minimum Standards for Local Detention Facilities, Title 15 § 1266* states "Inmates shall be permitted to shower/bathe upon assignment to a housing unit and at least every other day or more often if possible." The *LASD Custody Division Manual* states the same requirement in Section 5-13/040.00.]

WAS LASD AWARE OF ALLEGATIONS PRIOR TO RECEIPT OF ACLU DECLARATION? No, but it is notable that another inmate, Mani Sadri -- who was in another module on the 3000 floor during roughly the same time period, claimed in his ACLU declaration that he had filed a complaint about not receiving showers either and that Deputy 012 retaliated against him as a result.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: Because this allegation was not brought to LASD's attention, no prior investigation took place.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: This is one of nine allegations filed by the ACLU on September 28, 2011 which was not investigated for criminal conduct by the criminal task force but was instead assigned to the Internal Affairs Bureau (IAB) for an administrative investigation with the understanding that if any information was developed that a crime occurred it could be sent back to the task force for further investigation.

SYNOPSIS OF INTERNAL AFFIARS INVESTIGATION: The administrative investigation was started in February 2012. Mr. Fuentes was released from local custody in March 2011 and returned to a foreign country on June 6, 2011. Efforts to locate him through known local contacts were unsuccessful. OIR reviewed the IAB logs of the efforts made to find Mr. Fuentes and found them to be thorough.

An employer of a peace officer has one year from the discovery of an allegation to complete an investigation. (California Government Code § 3304(d)(1)). The time limitation is tolled when the allegation of misconduct is also the subject of a criminal investigation (Calif. Govt. Code § 3304(d)(2)(A)). In Mr. Fuentes' instance, the Department became aware of the allegation on September 28, 2011. The Internal Affairs Bureau investigator received the case on February 2, 2012. This was several months after ICIB had already decided not to pursue a criminal investigation. The investigator first tried to locate Mr. Fuentes and interviewed Deputies 13 and 14 on May 22, 2012. In the interim, the investigator had other cases to work on with upcoming statutory deadlines. Further efforts were made to locate Mr. Fuentes in August and then the case was written, reviewed and completed in the latter half of September 2012. By the time the case was submitted to Custody Division and OIR, only two days remained to review the investigation.

OIR found deficiencies in the investigation for which no time was left to correct with further investigation. IAB only interviewed the two deputies named by Mr. Fuentes. The only exhibits attached to the investigation summary were the transcripts of the two interviews, deputy assignment sheets, and Unit Daily Activity Logs which purported to show when showers were given to inmates. The deputies denied failing to provide showers.

The IAB investigations apparently did not include any logs which list the other inmates housed in Module 3500, Row A. It appears that no effort was made to contact the other inmates on the row and learn whether they saw or experienced similar misconduct even though Mr. Fuentes said his entire section was not receiving showers. In their criminal investigations, ICIB investigators commonly used interviews of fellow inmates to develop evidence. Why IAB did not use similar methods here is not clear. Had OIR received the investigation package with more than two days before the statutory deadline, this reviewer would have recommended additional investigation as described above.

Following the completion of the investigation, the matter was closed as "unresolved." Because the investigation was, in OIR's view, not thorough, it is the only reasonable conclusion that Custody Division decision-makers could reach.

INVOLVED PERSON'S NAME: JASON GREEN

DATE OF INCIDENT: March 18, 20, and 22, 2011

LOCATION OF INCIDENT: MCJ 1700

DECLARANT: Jason Green

DATE DECLARATION SIGNED: April 11, 2011

CLAIM/LAWSUIT FILED? No.

DISTRICT ATTORNEY STATUS: N/A

ADMINISTRATIVE OUTCOME: FOUNDED as to one deputy for (1) Obedience to Laws, Regulations and Orders and (2) Conduct Towards Others; UNRESOLVED as to a second deputy.

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Green's declaration states that on March 18, 2011, he learned from a Deputy 025 that a medical visit pass had arrived. The deputy told him that he could either have his shower or be given his medical pass for care but not both. The deputy tried to convince Green to refuse the medical pass. Green relented and did not go to Medical. Later, however, he tried to obtain a complaint form from another deputy. Instead the deputy allegedly said, "Why? So you can snitch to the ACLU?" An ACLU representative had visited Green a few days earlier. Later on the 18th, a nurse came to his cell and asked why he didn't go to Medical. According to Green, Deputy 026 insisted that Green had refused to go. The nurse was persistent and Green said he wanted to get his medical care. Deputy 026 reportedly declared that Green was not going anywhere and that if she, the nurse, didn't like it, "Write me up. I don't give a shit." The nurse left. After the argument with the nurse, both deputies with whom Green had been in a dispute threatened him with physical harm in the showers.

On March 20, 2011, Green learned that the two deputies had written him up for being disruptive and that he would be housed in the discipline module for 15 days. He asked for but never received copies of the write-up for discipline.

The declaration states that on March 25, 2011, Green was moved to the disciplinary module without the opportunity to appeal the matter to "Sergeant's Court."

WAS LASD AWARE OF THE ALLEGATION PRIOR TO RECEIPT OF ACLU DECLARATION? No. The Department learned about the matter with the filing of the declaration.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Because the ICIB task force concluded that no criminal conduct was alleged or was likely to be developed, the matter was submitted to the Custody Division for a unit level investigation for possible administrative violations. The Department has since changed its practice, so that all administrative investigations related to the ACLU declarations are investigated by the Internal Affairs Bureau.

SYNOPSIS OF ADMINISTRATIVE INVESTIGATION: Investigators interviewed Deputy 025 and 026. Both denied telling Mr. Green that he had to choose between a shower and going for medical care. Deputy 025 said that Green refused the pass, saying he wanted to take a shower instead. The only people present were Green and the deputies. Therefore this part of the allegation was concluded as “unresolved.”

The deputy who allegedly asked Green if he was going to “snitch to the ACLU” could not be identified. Therefore there was no way to confirm or disprove that the statement was made.

Investigators interviewed the nurse. She recalled contacting Green on the row after his purported refusal to come to his medical appointment. She was following through on Medical Service’s established procedure that refusals of treatment need to be documented. She said that Green denied refusing to accept the pass and that he wanted to go to his treatment. She asked the deputy who escorted her down the row if Green could go to Medical right away and that he said, “That is not going to happen.” He also told her that he “didn’t care” what her paperwork said and that if she didn’t like it she could take his name down. She then left the row.

Deputy 025 acknowledged that he escorted the nurse to Green but stated that he couldn’t recall who the other deputy was who went with him. He claimed that Green refused the medical pass and would not sign the refusal form. According to the deputy, it is for that insubordination that the deputy sent Green to discipline. Deputy 025 denied that he made any of the statements claimed by Green and the nurse but also could not recall if the other deputy with him made any such statements.

Deputy 026 denied that he was present – contradicting Green’s claim. The nurse could not identify who the deputies were who were on the row with her.

The investigation did demonstrate that incorrect information was included by Deputy 025 in the discipline write-up and that Green was not afforded an appeal to the Sergeant’s Court.

Investigators found that there were systemic flaws in the appeals process which the leadership of Men's Central Jail has since addressed.

During the investigation, Green told investigators that he had attempted to file a complaint about how he was being treated by deputies. He said he gave the complaint form to deputies to place in the complaint box, but that Deputy 026 instead read it and handed it to another deputy to read. He said deputies refused to place the complaint form in the box for him and he was returned to his cell when he became angry about their treatment. Deputy 026 denied reading the complaint and said that he received it from Green and tried to put it inside the complaint box but that the multiple page complaint was too thick. He said that Green became angry and caused a commotion so that he was returned to his cell. Deputy 026 assumed that a sergeant would have eventually retrieved the form from on top of the complaint box.

As a result of the investigation, Deputy 025 was found to have violated policies of Obedience to Laws, Regulations and Orders (specifically pertaining to the jail order Inmate Access to Medical Care). He was also found in violation of the Conduct Towards Others policy for his treatment of the Department nurse.

The allegations against Deputy 026 were concluded as "unresolved" due to a lack of corroboration that he was present.

The unit made Performance Log Entries documenting the deficiency of three deputies in the handling of Green's complaint form.

OIR INVOLVEMENT/REVIEW: OIR reviewed the administrative investigation and found that it was thorough. OIR agreed with the findings of the allegations and the discipline that was imposed.

INVOLVED INMATE NAME: RODOLPHO MENDOZA

DATE OF INCIDENT: 4/18/2011

LOCATION OF INCIDENT: MCJ 3500

DECLARANT: Mendoza, Rodolpho

DATE DECLARATION SIGNED: July 28, 2011

CLAIM/LAWSUIT FILED? Yes, as part of *Rosas*

DISTRICT ATTORNEY STATUS: N/A

ADMINISTRATIVE OUTCOME: UNFOUNDED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Mendoza claims that he was in his cell when he discovered two bindles of methamphetamine in his mattress. He claimed that he threw the bindles into the toilet. A few minutes later, deputies searched his cell and found the bindles.

Mendoza's eleven page declaration alleged three distinct incidents:

1. His cell door was left open allowing other inmates to attack him. (This allegation is being investigated separately.)
2. Deputies deliberately ignored his pleas to be housed in protective custody to prevent other assaults. (This allegation is being investigated separately.)
3. A deputy threatened to place him in general population unless he signed a confession falsely admitting to the possession of controlled substances.

WAS LASD AWARE OF ALLEGATIONS PRIOR TO RECEIPT OF ACLU DECLARATION? No.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: N/A

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: ICIB initially investigated the allegation as a criminal matter. Mendoza's jail term began on April 13, 2011 and he was assigned to MCJ the next day. The bindles were found on April 18, 2011, and Mendoza admitted to possessing them. Mendoza was charged with possession of a controlled substance in a jail facility.

Mr. Mendoza pled no contest to the felony charge of possession of a controlled substance in a prison or jail facility on August 3, 2011 – six days after signing his declaration to the ACLU under penalty of perjury – and was sentenced to four years in state prison.

ICIB investigators interviewed Mendoza on June 18, 2012 regarding the coerced confession allegations. Mendoza explicitly recanted his allegations and admitted that he brought the bindles into the cell purportedly for his personal use. He disavowed his claim that deputies coerced him into making the confession.

ICIB investigators also interviewed Mendoza's cell mate from that period of time. He said that Mendoza admitted to him that he had smuggled the drugs into jail.

ICIB closed its investigation without referring the involved deputies for a possible criminal filing.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: The matter was referred to IAB for an administrative violation as all other ACLU-related investigations. No additional interviews were conducted and the matter was forwarded to Custody Division for disposition. The Department concluded the allegations were unfounded and the matter was closed.

OIR INVOLVEMENT/REVIEW: This investigation was thorough. Once Mr. Mendoza recanted his allegation and admitted fabricating his accusations against deputies, and his former cellmate confirmed his earlier admission, no additional investigation was necessary.

ICIB presented to OIR its investigation and recommendation to not present the case to the District Attorney. Because Mendoza disavowed the allegations he made in his declaration, OIR concurred with the decision to close the criminal investigation without a referral for prosecution. OIR also found that no further IAB investigation was necessary and that the finding of "unfounded" was the correct disposition.

INVOLVED INMATE: SHAWN MEYERS

DATE OF INCIDENT: January 21 – 30, 2011

LOCATION OF INCIDENT: MCJ 2500/7200

DECLARANT: MEYERS, SHAWN

DATE DECLARATION SIGNED: February 4, 2011

CLAIM/LAWSUIT FILED: No

DISTRICT ATTORNEY STATUS: N/A

ADMINISTRATIVE OUTCOME: UNRESOLVED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): In his declaration, Meyers alleges that after he met with an ACLU representative on January 21, 2011 about Title 15 compliance and the conduct of a deputy, he was subjected to harassment. On January 24, a deputy told Meyers that he was taking his *pro per* status away because he had been talking to the ACLU. On January 25, two inmates in the law library told Meyers that the same deputy had told them his *pro per* status would be revoked because of the ACLU and talked to them about his cases. On January 30, Meyers was going on an elevator from Visiting to his housing area when two unknown deputies got onto the elevator and threatened him. According to the declaration, one of the deputies shoved Meyers against a wall of the elevator.

WAS LASD AWARE OF ALLEGATIONS PRIOR TO RECEIPT OF ACLU DECLARATION? No.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Unfortunately, Mr. Meyers died in prison prior to the start of the criminal investigation of the alleged assault in the elevator. The matter was closed and not submitted to the District Attorney.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: Investigators spoke to a deputy and custody assistant. The deputy said he did not recall Meyers or any such incident as that described in the declaration as taking place. The custody assistant did recall Meyers in the law library. He said that Meyers was violating rules by playing cards and dominoes in the library, and he warned him about complying with the rules.

Following the completion of the investigation, the matter was closed as “unresolved.”

OIR INVOLVEMENT/REVIEW: OIR reviewed the ICIB investigation and found it to be thorough in the limited scope it necessarily had due to the inmate's death. Without the ability to interview Mr. Meyers, the allegations could not fully be explored and the finding of unresolved was appropriate.

The administrative investigation was also limited by Mr. Meyer's death. However, investigators could have exerted more effort by trying to the seek out the two former inmates who Meyers claimed told him that the deputy had said he was revoking his *pro per* status in retaliation for speaking to the ACLU. Regardless, the claim was undercut in that Meyers retained *pro per* status after those statements were allegedly made.

INVOLVED PERSON'S NAME: RAUL PEDROZA

DATE OF INCIDENT: June 10, 2011

LOCATION OF INCIDENT: MCJ 1750

DECLARANT: Raul Pedroza

DATE DECLARATION SIGNED: Sept. 9, 2011

CLAIM/LAWSUIT FILED? No

DISTRICT ATTORNEY STATUS: N/A

ADMINISTRATIVE OUTCOME: UNRESOLVED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Mr. Pedroza was a *pro per* inmate who claimed in his declaration that on June 10, 2011 he was leaning on his cell gate with his arms through the bars, trying to get a deputy's attention to go to the law library. He alleged that an unknown deputy opened the gate without warning and that his right arm was painfully pinned by the opening gate. He yelled out in pain and within seconds the gate was closed again. Mr. Pedroza pointed out in his declaration that inmates are never removed from the cells in the high security module without being handcuffed first, so in his mind there was no reason why the gate suddenly opened. Mr. Pedroza asserted that he was provided medical attention for his injured arm only after both his girlfriend and the ACLU complained to the Sheriff's Department.

Mr. Pedroza alleges that he saw a representative from the ACLU about three weeks after he was injured. After the visit from the ACLU, Mr. Pedroza asserts that Deputy 050, who works in the Attorney Room, made comments about the visit such as, "The ACLU think they can do whatever they want." Mr. Pedroza said shortly after the visit, in early July, deputies moved him to a higher security cell which had poor ventilation, a leaky toilet, trash which inmate workers did not collect and so accumulated on the floor, and large rats. He alleged that there was no reason for the move as he had not been involved in any incidents or violence while in his prior cell.

Mr. Pedroza also asserted that deputies would not allow *pro per* inmates to receive their allotted law library time. They did so by entering booking numbers into the scanner to fabricate a visit. Mr. Pedroza alleged that he witnessed Deputy 048 teach a Custody Assistant (047) how to input booking numbers directly into the scanner without actually scanning the barcode of the wristband and thus avoid even taking inmates out of their cells.

WAS LASD AWARE OF ALLEGATIONS PRIOR TO RECEIPT OF ACLU DECLARATION? No.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: N/A

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: This is one of the nine cases that ICIB sent to IAB without a criminal investigation as ICIB concluded that no crime was alleged to have occurred.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: An Internal Affairs investigator interviewed Mr. Pedroza. He reiterated the nature of his allegations but said that he did not tell the ACLU that Deputy 050 made derogatory comments about him receiving a visit from the ACLU and that the deputy had nothing to do with his complaint.

The investigator asked about the incident where his arm was caught in the gate as an unknown employee opened it. Mr. Pedroza downplayed the nature of his injury. He claimed that he told a deputy the next day that he was injured, but the deputy ignored him. When he was eventually seen in the clinic, he was treated for a bruise.

Mr. Pedroza said he was upset that no one told him why he was moved to a higher security row. He also said that inmates in the high security modules were not being taken to the law library every day and that his wristband was never scanned – even when he went to the library.

Investigators obtained Mr. Pedroza's discipline records. They show two serious disciplinary violations. On May 25, 2011, a search of his property revealed bindles of heroin, methamphetamine and marijuana. On May 31, 2011, he received an additional 20 days of disciplinary housing for creating a disturbance. He received loss of privileges for a total of 49 days as a result of both discipline incidents. Thereafter he was moved to the more secure row.

Deputy 050 told investigators that he was familiar with Mr. Pedroza because he was often in the Attorney Visiting Room. He denied ever having a conversation with Pedroza about the ACLU.

Internal Affairs investigators interviewed Custody Assistant 047. He explained that his primary duties were inside the control booth and that he would maintain the paper log of inmate movement – including visits to the library. He said that his duties do not include scanning inmates to go to the Law Library. He asserted that he never denied Pedroza a visit to the library.

Deputy 048 stated that he recalled inmate Pedroza and that he went to the Law Library almost every day. He said that deputies would scan inmates' wristbands and that the time of leaving and returning would be logged. Deputy 048 explained that the entire MCJ facility had on-going issues with barcode scanners which often stopped working correctly. Deputy 048 denied ever scanning Pedroza's wristband without taking him to the Law Library.

A print-out of Mr. Pedroza's Law Library visit report shows frequent visits to the law library. For example in the first two weeks of July 2011 records show he visited the library eight times.

Following completion of the investigation, Custody Division determined that the matter should be closed as unresolved for all deputies on September 27, 2012 – the last statutory day available.

OIR INVOLVEMENT/REVIEW: This investigation was delivered to OIR on September 25, 2012 (two days before the statutory deadline) and was not as thorough as it could have been.

Regarding his alleged injury by the gate – it does not appear that IAB attempted to obtain records called “in-service sheets” which would show what deputies were on duty at the time the injury was sustained. Medical records do show his complaint of what turned out to be a minor injury, but more could have been done to determine who was working in the control booth at the time and to interview the relevant jail staff.

Regarding the law library complaint – Mr. Pedroza alleged that the failure to comply with the law by providing regular law library time for *pro per* inmates was widespread in the module and on-going. The investigation would have been more thorough had investigators attempted to identify and interview other *pro per* inmates housed on that row. Unfortunately, the investigation was finished so close to the deadline that such additional efforts could not be made.

Despite concerns about the quality of the investigation, OIR concurred with the “unresolved” finding.

INVOLVED PERSON'S NAME: JUAN PABLO REYES

DATE OF INCIDENT: December 12 – 13, 2010

LOCATION OF INCIDENT: MCJ3500/3700, 3600-B

DECLARANT: Juan Pablo Reyes

DATE DECLARATION SIGNED: September 12, 2011

CLAIM/LAWSUIT FILED? A claim was filed and denied. No lawsuit has been filed to date.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNFOUNDED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): In his claim Reyes alleges he was beat up by “at least two deputies,” after being removed from trusty status. After the assault, two of the deputies moved him to a different module, 3600, and paraded him naked on his newly assigned row before placing him in a cell with three other inmates. According to Reyes, deputies allegedly used the row’s PA system to make statements suggesting Reyes was a homosexual. According to Reyes, two of the cellmates began to physically assault him throughout the day and night. He asserts he never left the cell until he fled the following morning. Later, the two cellmates sodomized him multiple times during the night while the third cellmate covered the noise up by repeatedly flushing the cell’s toilet. The next morning, another inmate ran into the cell when it was opened for pill call and also physically assaulted him. Reyes states he then ran out of the cell and hid in the laundry room. The deputy who put Reyes in the cell the prior day discovered him, took him to the clinic and initiated a criminal investigation of the inmates who allegedly assaulted Reyes. Reyes did not allege that deputies abused him until he filed his claim. In his ACLU declaration he alleged that he did not implicate the deputies at the time of the incident because the deputy who assaulted him the prior day was always present while he was interviewed.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION? On the date of the incident, December 13, 2010, a criminal investigation of three inmates was initiated based on the allegations made by Reyes of physical and sexual assault. A separate criminal investigation was initiated of the inmate who allegedly ran into the cell to physically

assault Reyes. LASD first became aware of the allegations of an alleged assault by deputies after Reyes filed his claim on June 3, 2011.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: The initial investigation was into the alleged criminal conduct of the four other inmates. Injuries from a physical assault were observed. Reyes' left eye was bleeding. Both eyes were swollen to the point that he could not open them and he had several abrasions to his forehead. Later that day, Reyes was transported to the LA County Violence Intervention Program (VIP) Forensic Urgent Care Center. Medical staff conducted a thorough examination, including a search for DNA from other contributors, but could not verify that a sexual assault took place. No DNA belonging to a contributor other than Reyes was found with the exception of a dried secretion swab from his face and a dried secretion swab from his right hand, which could have been deposited during the physical assault. Department personnel seized the bedding and clothing belonging to Reyes' cell mates. Those items, along with pictures and video of Reyes' injuries, were placed into evidence.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Investigators completed the following interviews:

Juan Pablo Reyes

Employees - 15

Civilian witnesses - 2

Inmates & former inmates - 25

- Reyes was arrested on July 6, 2010 in Lancaster and charged with stalking, making a false report of a crime, petty theft, domestic battery and making a criminal threat. He was subsequently convicted of making a criminal threat (a felony strike offense) and the other charges were dismissed as part of a plea negotiation. He was placed on probation.
- Reyes provided additional information when interviewed by the task force investigator. He added to his account by saying that four deputies beat him after he was seen picking up a letter off the floor after it fell off a deputy's desk. According to Reyes, three other trustees saw the assault as he cried out for help and the deputies were laughing.
- Reyes stated that the two cellmates would only stop to rest a few minutes before resuming their assault on him in his new jail cell.

- When interviewed in October, Reyes was unable to tell investigators how long the sexual assaults lasted because he claimed he lost consciousness two to three times during the incident.
- The deputy who moved Reyes, Deputy 011, was interviewed and denied using any force on Reyes. Deputy 011 said that he went to module 3500/3700 to get Reyes after another deputy, Deputy 012, told him he was revoking Reyes' trusty status. Reyes' trusty status was revoked after he was observed going through other inmates' mail. Deputy 011 escorted Reyes by himself to 3600 while Reyes was fully clothed in his green trusty jump suit at about 11 a.m. Once inside 3600, he ordered Reyes to strip down to his boxers and he searched his property. He then issued Reyes a new blue jump suit (the color worn by general population inmates) and saw Reyes walk to his new cell wearing boxers, socks and shoes while holding the blue outfit. That was the last time he had contact with Reyes until the following day. Deputy 011, who received Reyes and moved him to 3600, told investigators he was not told that Reyes had been caught going through inmate mail.
- Twenty-five inmates or former inmates were interviewed about Reyes' arrival on the row. Only the two inmates who were his cellmates and allegedly assaulted him stated Reyes was naked when he arrived and that he was first told to walk to the end of the row of cells and then told to walk back to cell B-4. They also recounted that Reyes had marks on his face or head like he'd been involved in an altercation. Other inmates either didn't recall Reyes or didn't see him naked when he arrived. No inmates, including the cellmates, corroborate Reyes' claim that deputies were saying things about him over the intercom.
- Two inmates specifically recalled seeing Reyes standing fully clothed in front of cell B-13 in the early evening of December 12th. According to the witnesses, Reyes was trying to locate an inmate who was angry because Reyes had allegedly called the inmate's wife and teen-aged daughter and asked them to come see him (Reyes). Both inmates said Reyes had no visible injuries when they saw him in front of their cell.
- Reyes claimed that he never left the cell once he was housed in B-4. However, investigators found visiting records that indicate Reyes received a visit from his mother during the five o'clock hour on December 12th. This was after he lost his trusty status and was moved to the new cell. According to Reyes' account, by the time of this visit he would have already been beaten by both deputies and his cellmates. According to the mother, Reyes was wearing a green jump suit. Once he lost his trusty status, however, he would not have remained in a green suit but would have been in a blue suit signifying

he was in general population. Reyes' mother further stated that Reyes had injuries on his face but that he did not want to talk about how he got them.

- Reyes' two Latino cellmates admitted receiving two written notes instructing them to beat up Reyes. According to them, they assaulted Reyes twice for thirteen seconds each time. The inmates deny sexually assaulting Reyes. One of the inmates speculated that Reyes made up the sexual assault story to get into protective custody. The cellmates said that Reyes was told to stay in his bunk and he never came down other than when he was told to wash one of his cellmates' clothing in the sink. They never indicated that Reyes left for a visit after any of their assaults.
- The African-American cellmate of Reyes says he only saw Reyes naked as he was lying on his bunk between six and seven p.m. complaining of pain. The inmate told investigators that one of the Latino cell mates was upset when Reyes was not able to set up three-way phone calls for him and then ordered Reyes to perform jumping jacks as punishment. The African-American inmate denied witnessing a sexual assault or facilitating it by flushing the toilet. He admitted hearing sounds of a fight but didn't watch to avoid getting involved.
- Deputy 012, who revoked Reyes' trusty status and allegedly assaulted him, declined to be interviewed by the ICIB investigators.
- Reyes provided first names of the three trusties who allegedly saw deputies assaulting him: Juan, Ezekiel and Javier. Investigators found that there were no trusties by the name of Juan or Ezekiel assigned to 3500/3700 when the assault allegedly took place. The third name provided by Reyes was "Javier," and a trusty by that name was identified but not located.
- An inmate who was in a cell that had a view of where Reyes was allegedly assaulted by deputies outside of 3500/3700 was interviewed. He did not recall seeing any physical altercation.
- The inmate who ran into the cell and assaulted Reyes the next morning admitted doing so because he was upset Reyes had inappropriately contacted his wife and daughter. While he saw Reyes the previous early evening without injuries, he saw Reyes had injuries to his face when he entered the cell that morning to beat him up. According to the inmate, he was once housed on 3500 A-Row and had asked Reyes to call his wife to put money on his account because he did not have access to a telephone. Later the inmate was re-assigned to 3600 B-Row on November 26, 2010 and once again had

access to a telephone. According to this inmate, when he called his wife he learned that Reyes had called her on two occasions. The second time Reyes asked the inmate's wife to bring their fourteen year old daughter to jail to visit Reyes.

- Investigators located a recorded phone call where Reyes asked the other inmate's wife to visit him in jail on October 30, 2010. Movement history records show that the other inmate was housed on 3500 A-Row at the time Reyes was assigned to the 3700 trusty module. Trusties for both 3500 and 3700 sleep in the 3700 trusty module. The other inmate recognized Reyes when he later saw him on the 3600 row on December 12, 2010.
- One inmate who was on the row told investigators he recalled seeing an older inmate walking naked on the row while holding his belongings because he hadn't dressed quickly enough. Reyes was 30 years old at the time of the incident.
- Investigators obtained the Title 15 logs and identified eight deputies or custody assistants as making row checks on the day and night in question. All eight were interviewed and provided statements. No one recalled seeing or hearing anything unusual during the checks or Reyes asking for help. One custody assistant recalled seeing Reyes emerging from his cell fully clothed in his blue jump suit on the morning of December 13, 2010. The custody assistant saw that Reyes was injured and immediately directed Reyes to the adjacent laundry room and notified a deputy (Deputy 011). Reyes told the custody assistant in Spanish that he had been sodomized.
- The District Attorney declined to prosecute the two cellmates because he opined that with the denial by the suspects, a lack of physical evidence to substantiate the sexual assault, and a lack of corroborative DNA evidence, there was "insufficient evidence to prove" the charge of sodomy. The District Attorney also declined to file charges against the other inmate for the physical assault in the morning.

The ICIB Task Force completed its investigation into all of the allegations made by Mr. Reyes in his civil claim and ACLU declaration and submitted its investigation to the District Attorney and the United States Attorney. The District Attorney declined to file charges against either involved deputy. The District Attorney found that he would have had to largely rely on Reyes' credibility. No one witnessed the alleged assaults of Reyes by deputies. The only inmates who claim Reyes had injuries when he entered the cell also deny sexually assaulted him as Reyes alleged. Finally, no evidence corroborated a sexual assault or that derogatory statements were made over the P.A. system. The U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: Following the completion of the ICIB investigation, the matter was forwarded to IAB for investigation into potential policy violations by the involved deputies. IAB initiated the administrative investigation in April of 2012. Since ICIB's inmate interviews were comprehensive, IAB focused on interviewing the two subject deputies.

IAB interviewed Deputy 012. He stated that Reyes was the lead trusty in module 3500/3700. Deputy 012 said that on December 12, 2010 he returned to the security cage and saw Reyes putting both his arms through the bars into the security cage. Reyes had his hands right over a stack of inmate mail and quickly pulled his hands back exclaiming, "I wasn't gonna steal them." Once he conferred with Deputy 011, Deputy 012 decided to rescind Reyes' trusty status. He had Reyes gather his property from trusty housing and obtained a new housing location from the 3000 floor control booth. Deputy 011 then escorted Reyes away to 3600. Deputy 011 denied ever striking Reyes. He said that Reyes was clothed in his green jumpsuit when he left 3500/3700 and that he didn't hear any announcements over the P.A. system. Deputy 011 said that he didn't learn about the inmate assault on Reyes until he returned from his regular days off a few days later.

Deputy 011 had been previously interviewed by ICIB, but he was interviewed again by IAB. He said that Deputy 012 advised him about Reyes reaching into the security cage. Deputy 011 also recalled that Deputy 012 told him he had heard rumors that Reyes was making phone calls on behalf of inmates who didn't have phone privileges. Deputy 011 took Reyes to Module 3600 and searched his property, had Reyes remove his green trusty jumpsuit, and issued him a general population blue jumpsuit. He then watched as Reyes walked down B row wearing his boxer shorts, jail issued shoes and carrying his new outfit. He said he saw Reyes enter his cell and that was the last time he saw Reyes on December 12th. Deputy 011 recalled seeing Reyes during a Title 15 check the next morning as Reyes laid on the top bunk of his cell. He did not recall seeing Reyes with any injuries. Later that morning, Deputy 011 opened the cell gates for pill call when he saw Reyes run out of his cell to a pastor standing on the row. He noticed that Reyes had swelling on one of his eyes. At that point Deputy 011 moved Reyes to the recreation room and asked him what happened. Reyes told Deputy 011 that he had been physically and sexually assaulted. (Deputy 011 was the author of the criminal report documenting Reyes' allegations of assault against the other inmates. Since he was the initial investigator of the criminal allegations against the cellmates, it would explain why he was often in the vicinity of Reyes - who later alleged that Deputy 011's presence is why he didn't allege the assault the prior day.)

OIR INVOLVEMENT/REVIEW: OIR learned of Mr. Reyes' civil claim shortly after it was filed. On June 28, 2011, OIR provided the captain of Men's Central Jail a copy of the claim. The Risk Management Bureau had also transmitted the claim to the unit with its normal instructions for processing a claims investigation, however OIR learned that the captain had not yet been made aware of the nature of the claim and believed that he should be aware of it and give the claims investigation greater than typical scrutiny.

OIR initiated regular contact with the captain of Men's Central Jail who assigned a lieutenant with extensive investigation skills to review the claim. The unit provided OIR with the original reports which were prepared during the criminal investigation in December, 2010 and briefed OIR on the current investigation. Through July and August, the lieutenant kept OIR apprised of the investigation. When questions emerged about the prior activities of Mr. Reyes with another inmate's family, OIR suggested that investigators examine Mr. Reyes' visiting logs and telephone calls. In September, 2011, the lieutenant provided a briefing to OIR which disclosed new information, parts of which were discovered through a review of Reyes' visits and telephone calls. The ICIB task force took over the investigation of the allegations when the declaration was filed by the ACLU.

OIR has reviewed the investigative reports prepared by the ICIB task force. At the outset, OIR emphasized the need to assure that witnesses were interviewed about Mr. Reyes' physical condition when he entered the row to which he was transferred, how he was dressed when he went onto the row, and whether employees were making inappropriate statements over the P.A. system. These issues were all addressed. Other than Reyes, only the two cell mates who admitted assaulting Reyes claimed he was naked on the row and had injuries when he was brought to his new cell.

OIR later asked ICIB investigators to update the efforts to locate the trusty named Javier who, according to Reyes, saw him being assaulted by deputies. Investigators advised OIR that the trusty named "Javier" was deported to Mexico. Based on information they learned from his mother that Reyes was in contact with "former trusties," investigators asked Reyes, through his attorney, for information about the whereabouts of Javier but he failed to cooperate. Investigators also asked Reyes' attorney about information Reyes may have to help identify the other two purported trusties, however that information was never provided by the attorney.

OIR reviewed the completed IAB investigation and found it to be a thorough examination of the allegations. Custody Division concluded that the allegations were *unfounded* – there was insufficient evidence to believe that deputies used force on Reyes, made Reyes walk down the cell row naked, or placed him in a cell with the intention or direction that other inmates would

assault him. No evidence was established that either deputy was aware that other inmates were angry at Reyes. OIR concurred with the disposition.

INVOLVED PERSON'S NAME: MANI SADRI

DATE OF INCIDENT: January 11, 2011

LOCATION OF INCIDENT: MCJ 3300

DECLARANT: Mani Sadri

DATE DECLARATION SIGNED: April 12, 2011 (filed Sept. 28, 2011)

INDIVIDUAL CLAIM/LAWSUIT FILED: No.

DISTRICT ATTORNEY STATUS: N/A

ADMINISTRATIVE OUTCOME: UNFOUNDED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): In January 2011, Deputy 012 escorted Sadri, who was waist-chained, to see a nurse who wanted to share medical test results with him. The nurse gave Sadri a sealed letter and shared the content of the letter with him. Upon escorting Sadri back, Deputy 012 said to Sadri "Let me see your letter." Sadri stated it was confidential and he would not show it to the deputy who then said to him "Shut up and give it to me. You know I can just beat you up." Deputy 012 then told Sadri "If you contact the ACLU one more time or if I see any letters being sent there, I can open up your cell and say that it was a mistake. I'll have inmates come into your cell and have them finish you. Do your time. Don't complain to anyone if you want to make it out of here alive." Sadri states that he knows Deputy 012 had seen one of his letters that he had sent to the ACLU.

Sadri also stated in his declaration that he had been threatened by Deputy 013 in December 2010 in retaliation for submitting a written complaint about not receiving showers, not receiving all of his meals and not being placed on the doctor's line for medical care. Sadri alleged that after he complained to a sergeant, Deputy 012 treated him even more unfairly.

WAS LASD AWARE OF ALLEGATIONS PRIOR TO RECEIPT OF ACLU DECLARATION? Partially. According to Sadri, he told a sergeant, who he described as a short male, about Deputy 013's neglect. It appears that the declaration was the first time he alleged that either deputy threatened to retaliate against him for making complaints.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: There is no indication that Mr. Sadri's alleged complaint to a sergeant led to a formal investigation. A search of the Custody Division's tracking system revealed that Mr. Sadri filed fifteen complaints while he was an inmate in 2010 and 2011. Most were for medical service and hygiene issues. One complaint was filed in October of

2011 and was investigated and concluded as “unfounded.” None of the complaints were related to the facts in his declaration.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: This is one of nine allegations filed by the ACLU on September 28, 2011 which was not investigated for criminal conduct by the task force but was instead assigned to the Internal Affairs Bureau (IAB) for an administrative investigation with the understanding that if any information was developed that a crime occurred it would be sent back to the task force for further investigation.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: The administrative investigation was started in February of 2012. Mr. Sadri had been out of custody since May 2011 and efforts to locate him through offender registries, public records and last known addresses in East Coast states were unsuccessful.

The investigator identified the nurse who was assigned to morning pill call for Mr. Sadri’s module. She had no recollection of sharing information with Mr. Sadri. She did note, though, that only doctors provide medical test results and that consultations regarding test results take place in the clinic.

Investigators were unable to identify the sergeant who Mr. Sadri purportedly gave the verbal complaint too. Five sergeants were interviewed who were assigned to the unit during December of 2010.

Investigators interviewed Deputy 012. He denied escorting Mr. Sadri on the date in question for a medical pass and denied ever threatening him regarding complaints to the ACLU.

Investigators also interviewed Deputy 013 who had no recollection of Mr. Sadri or of any inmate complaining about not getting showers in January of 2011.

Following the completion of the investigation, the matter was closed as “unfounded.”

OIR INVOLVEMENT/REVIEW: OIR reviewed the administrative investigation and found it to be thorough. Without the ability to interview Mr. Sadri, the allegations could not be explored and the finding of “unfounded” was appropriate.

INVOLVED PERSON'S NAME: WILLIAM TILLMAN

DATE OF INCIDENT: March 25, 2011

LOCATION OF INCIDENT: MCJ 2500/2700

DECLARANT: TILLMAN, WILLIAM

DATE DECLARATION SIGNED: 8/22/11

DECLARANT: ALEXIK, BRIAN

DATE DECLARATION SIGNED: 8/19/11

DECLARANT: LOVE, THADDEUS

DATE DECLARATION SIGNED: 8/19/11

DECLARANT: NELSON, FLOYD

DATE DECLARATION SIGNED: 8/19/11

DECLARANT: GRAYSON, JASON

DATE DECLARATION SIGNED: 8/19/11

CLAIM/LAWSUIT FILED? Yes. Claim filed 6/2/2011. Lawsuit filed 12/23/2011.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNRESOLVED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Tillman alleges the incident began when a deputy pushed his head against a wall, causing a laceration. The impact caused him to fall to the floor where he was kicked and punched. He was tased and then sprayed with OC spray only after he was handcuffed. In his claim Tillman asserts that he suffered a deep laceration to his forehead which required 30 stitches to close. Tillman also claimed that two weeks before, he had heard the sounds of pornography being played in the control booth. He said the noise kept the inmates awake. Tillman said that Deputies 013 and 015 and Custody Assistant 017 were working at the time. Tillman said that inmates began to yell that what the employees were doing was "gay," and that the employees became upset at the slurs being directed towards them.

Inmate Grayson filed a declaration where he described seeing the force deputies used on Tillman. Grayson said that he saw deputies grab Tillman by the head and slam him against the

wall. He said he then observed Tillman fall to the floor and three deputies converged on him. Grayson further said he observed one deputy use O.C. spray on Tillman's face and saw a custody assistant fire his Taser at Tillman and use the Taser three to five times.

Inmate Love alleged in his declaration that he heard and saw a deputy threaten Tillman and ask him if he had been badmouthing deputies. Love also alleges that the deputy said, "We're the 3000 boys."

The term "3000 Boys" was first used publicly in the KTLA news report in February 2011. OIR is not aware of any incident where an employee of the LASD or an inmate referred to or used the term "3000 Boys" prior to the KTLA broadcast. Mr. Love's declaration, signed in August 2011, is the only one OIR is aware of which refers to "3000 Boys."

Like Grayson, Love said he saw Tillman's head slammed against the wall and then watched as deputies and a custody assistant assaulted Tillman. He stated that Tillman seemed unconscious. Love told investigators that Tillman was resisting earlier but that the pepper spray and Taser were used only at the end of the force after any struggle ended.

Inmate Floyd alleged in his declaration that two of the deputies and the custody assistant involved in the force were consistently hostile towards users of the law library. Floyd stated he observed Tillman facing the wall outside the library surrounded by the two deputies and the custody assistant. He said while one of the deputies and Tillman were talking back and forth at each other, the deputy suddenly grabbed Tillman's head and slammed it against the wall. Floyd alleged that he observed Tillman fall to the floor and the deputy handcuffed Tillman behind his back. According to Floyd, it was only after Tillman was handcuffed that the two deputies began to punch and kick Tillman about the head, face, legs and the side of his body. Floyd alleged that he then observed the deputies back away and one of the deputies then sprayed Tillman's face with O.C. spray. The custody assistant then fired his Taser at Tillman's back. According to Floyd, by the time other deputies came running in, the use of force had already ended.

Former inmate Alexik alleged in his declaration that he observed Tillman facing a wall and holding a plastic bag in one hand. He observed that Tillman's mouth was moving while his head was slightly turning towards the deputies. He could not hear what Tillman or the deputies were saying. Alexik alleged that that while Tillman still stood facing the wall, a deputy grabbed Tillman's head and slammed it against the wall. Tillman immediately fell to the floor. At that point, Alexik's view was blocked by other inmates who were looking to see what was happening. When he had a view again, Alexik alleged that the custody assistant was using the Taser on Tillman and that he could see blood all over the floor and wall. According to Alexik, Tillman had rolled into the fetal position and had apparently urinated in his pants.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

Yes. Deputies reported their use of force on the date of the incident.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: A deputy reported that Tillman initially refused an order to face a wall when returning from an attorney room visit. When the deputy reached to take legal papers out of his hand, the inmate raised his right fist and swung his left elbow, striking the deputy in the shoulder. Three deputies were involved in the use of force, which involved a takedown, OC spray, punches and the use of a Taser in an attempt to subdue Tillman.

IAB was notified of the force and that Tillman was sent to the hospital. However, according to Tillman's claim, he was *admitted* to LCMC for two days. By Department policy, IAB is to roll out and assume responsibility for the investigation when an inmate is admitted to the hospital. Because IAB was not notified of an admission, it did not take over the investigation.

Tillman told the force investigator that the force was unprovoked. Tillman stated that deputies were upset over purported rumors that an inmate was calling a deputy a "homosexual," and that he was now the focus of their suspicions. A deputy pushed him against the wall, causing the injury to his head. He described that he was then thrown to the ground and punched about the head and neck and kicked.

The sergeant completing the force package did not interview any potential inmate witnesses. It is not apparent from the force report whether any efforts were made to locate inmate witnesses, whether attempts were made to interview witnesses and whether any inmates refused to cooperate. The unit found the force used to be within policy.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Task force investigators interviewed fourteen inmates or former inmates. Interviews took place in Los Angeles, at Men's Central Jail, Norco State Prison and Lancaster State Prison. Three of the inmates said they were not witnesses to the event. Other inmates gave varying versions of what they saw. For example, most stated they only saw parts of the incident. One inmate stated he saw most of the incident from inside the law library. He said he heard one of the deputies referring to a prior force incident when asking Tillman how tough he thought he was. Another inmate also told task force investigators that he heard a deputy making similar statements to Tillman. There was also inconsistency between some inmate witnesses over which deputy grabbed Tillman and forced his head against the wall.

Investigators attempted to interview five LASD employees, however, all said they wanted to consult with a legal representative before consenting to an interview and were not interviewed by ICIB. A sergeant who was in a position to interview inmates immediately after the force was

interviewed as was a lieutenant who began an investigation into the incident prior to the formation of the task force.

During the task force investigation, Tillman told investigators that two of the involved deputies and a custody assistant had recently moved to the *pro per* module from the 3000 floor and were claiming that the deputies who had worked the *pro per* module before them were “soft.” According to Tillman, one deputy said that “We can fuck anybody up and get away with it. Lee Baca has trained me to fight. All we do is get paid to fight.”

Tillman denied that he ever turned away from the wall before force was used. When interviewed by task force investigators, Alexik was the most ambiguous about whether Tillman made movements that could be interpreted as moving away from the wall, but no inmate witness supported the deputies’ version that Tillman made aggressive or threatening moves against deputies.

The ICIB Task Force completed its investigation and submitted it to the District Attorney and the United States Attorney. The District Attorney declined to file any charges against the involved deputies, citing numerous inconsistencies undermining the credibility of the inmate witness’ statements, including the fact that Tillman discussed the incident with them. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF ADMINISTRATIVE INVESTIGATION: IAB interviewed Deputy 018. He stated that he saw Tillman swing his left elbow at Deputy 015. Deputy 015 put out a radio broadcast of a deputy involved in a fight. He saw Deputy 012 take Tillman to the ground. Once he arrived at the location, he saw Deputy 015 and Deputy 013 on top of Tillman. He then saw Deputy 016 use his Taser on Tillman by firing it into his back. He said Tillman was then handcuffed without further incident.

IAB interviewed Deputy 016. He initially heard a radio broadcast of an uncooperative inmate. He responded to the area and while en route heard a radio call for deputies involved in a fight. When he arrived he saw Deputy 015 and Deputy 013 in a struggle with Tillman. He saw Tillman try to get off the ground. Deputy 016 said he gave verbal commands to stop fighting and then yelled out, “TASER, TASER, TASER!” and fired into Tillman’s upper back. Deputy 016 recalled that the Taser was not effective, so he applied a second charge in the direct drive-stun mode. Tillman then stopped fighting with deputies and submitted to commands.

IAB interviewed Custody Assistant 017. He said he heard a commotion from outside the control booth he was occupying. When he went to assist, he saw Deputy 015 and Deputy 013 trying to control Tillman as he tried to get off the ground. Within seconds of his arrival, the custody

assistant saw Deputy 016 use a Taser on Tillman who then stopped fighting. He denied ever watching pornographic material in the module control booth.

IAB interviewed Deputy 015. He said he told Tillman that he was going to conduct a random search of his paperwork. When he reached for it, Tillman pulled away from Deputy 015 and uttered an expletive. When he reached a second time, the deputy said Tillman swung his left elbow towards him and struck him in the left shoulder. The deputy said he pushed Tillman against the wall and then pulled him to the ground. Once on the ground, Tillman began to kick at him and tried to get back up. Deputy 015 then saw Deputy 013 direct O.C. spray at Tillman. He said the spray had little effect so he punched the inmate twice in the upper torso. Deputy 015 said that Deputy 016 used his Taser on Tillman in drive stun mode and it appeared to cause him to stop fighting and he was handcuffed. Deputy 015 denied ever watching pornographic material in the control booth. He denied that inmates directed derogatory language at him and that he retaliated against Tillman by setting him up in the altercation.

Finally, IAB interviewed Deputy 013. He said he was in the control booth and heard Deputy 015 order Tillman to face the wall. He exited the booth to assist Deputy 015. He heard Tillman direct an expletive at his colleague. Deputy 013 said he saw Deputy 015 reach for Tillman's paperwork and then saw Tillman swing his elbow at the deputy and strike the deputy's shoulder. He saw Deputy 015 push Tillman into the wall and then took him to the floor. Deputy 013 ordered Tillman to put his hands behind his back but instead he tried to stand up. Deputy 013 sprayed O.C. into his face. Tillman tried to grab his leg as if to try to cause the deputy to lose his balance. Deputy 013 punched the inmate in the face three to five times until Tillman let go of his leg. He said that Deputy 016 used his Taser and Tillman was handcuffed with no further incident. The deputy denied ever kicking Tillman. He also denied telling inmates he was going to run the module like the "3000 Boys" do it and denied watching pornographic material in the control booth or retaliating against inmates for making derogatory statements.

The Custody Division reviewed the case and determined that the charges against the subject deputies were unresolved.

OIR INVOLVEMENT/REVIEW: OIR reviewed a draft of the criminal Task Force investigation and requested that investigators conduct a follow-up with an inmate witness to clarify a possibly significant contradiction. He allegedly told a prior investigator from MCJ that he only heard and did not see the incident while he told the Task Force investigators in explicit detail about what he purportedly saw. The task force was responsive to OIR's suggestion and re-interviewed the inmate about the discrepancy. He claimed that any discrepancies between statements were insignificant and that he had refused to answer specific questions because of fear of retaliation when he was first interviewed by the lieutenant from MCJ.

This case, along with many others we have reviewed, pointed to significant deficiencies in the initial force investigation. Notably, there was a clear failure to at least attempt to interview potential inmate witnesses at the time of the incident. That lapse hurt the current fact gathering process because now witnesses may no longer be relying on their own recollection and because memories fade. OIR has made recommendations to Custody Division and the Commanders Management Task Force (CMTF) on steps to take to improve this historical systemic shortcoming with force investigations and has emphasized the need to interview every potential witness when it has participated in sergeant orientations. OIR has also reviewed all newly prepared force investigations at MCJ since June 2011 to learn whether potential witnesses have been identified and interviewed.

OIR also brought to the Department's attention the failure to advise IAB that Tillman was apparently admitted to the hospital, which would have led to a roll-out response, a more robust initial investigation, and a review of the force by OIR and a Department commanders' panel. With the creation of the Custody Force Response Team, OIR has seen greater efforts made to obtain and communicate information about inmates' medical condition and treatment after a use of force.

OIR agrees that the force allegations were unresolved as the employees gave statements which were consistent with each other and their prior statements. Mr. Tillman's statements to the task force investigators were also consistent with his prior statements. Inconsistencies were apparent between his statements, though, and that of other inmates.

With recent changes, the use of force which took place would be classified per today's use of force policies as a Category 3 use of force because Mr. Tillman's head was deliberately shoved against a hard fixed object – the wall. Thus IAB would not even have had to wait until Mr. Tillman was admitted to the hospital to begin its investigation. Furthermore, the presence of surveillance cameras in the location of this incident would have helped investigators to determine whether the use of force was in or out of policy. In addition, the Department has placed a renewed emphasis on the quality of supervisor's force investigations at the unit level with the establishment of the Custody Force Review Committee.

INVOLVED PERSON'S NAME: MICHAEL TOPETE

DATE OF INCIDENT: August 20, 2010

LOCATION OF INCIDENT: MCJ, 2000 floor

DECLARANT: Michael Topete

DATE DECLARATION SIGNED: May 10, 2011

CLAIM/LAWSUIT FILED? No.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNRESOLVED

SYNOPSIS OF ACLU DECLARATION: Inmate Topete signed a declaration where he alleges that he was attacked by Southsider gang members while at Soledad State Prison in 2003. The attack left him with a scar on his face and thus, he alleges, permanently marked as a "green lighter" in jails and prisons. (In jailhouse lingo, a "green lighter" is a person whose murder has been authorized by gang leaders.) This, he claims, qualified him to be in "protective custody." He alleges at various times, from August 2010 through February 2011, he had an ongoing struggle with LASD to maintain K-10 or protective custody status. On or about August 20, 2010, he alleges that while he was moved from the unconfirmed protective custody module to general population, he and other protective custody inmates were escorted down a hallway when a deputy loudly announced, "Here come some PC's." The next day, he was given a pass for court. While he was telling a custody assistant that he belonged in protective custody, two other inmates walked up and assaulted him. Topete claims that he heard a deputy later say that a custody assistant told him that Topete had started the fight and he was then placed in the discipline module for fighting along with one of the other inmates. Topete alleges he saw the inmate who had attacked him speaking to a "shot caller" from a Southsider gang. He heard the inmate tell the shot caller that he had beaten up a "green lighter."

The next day, August 21, 2010, Topete gave a note to a custody assistant saying that he feared for his life and needed to be placed in protective custody. The custody assistant said, "Don't do this. Don't report this to me." Less than five minutes later, the same shot caller he had seen the previous day came to his cell and said, "What are you doing in here? Why are you trying to get out of here? I should just get your cell racked right now and blast you" and then left. Topete was scared and believed the other inmate was threatening to stab him. Less than five minutes later, the custody assistant returned to his cell and said, "Hey, did you talk to the 'shot caller'? Did he get at you? Did he set you straight?" The next day, a female custody assistant told Topete that he was not supposed to be in her module

and said “I don’t want no part in this.” She then escorted Topete out of the 2400 module to his prior location (module 2700). According to Topete, on or about September 4th and again September 13 or 14, 2010, a judge ordered the Department to keep him in Protective Custody.

WAS LASD AWARE OF THE ALLEGATION PRIOR TO RECEIPT OF ACLU DECLARATION? While the Department was aware of the assault on Topete by the two other inmates at the time it occurred, the Department was not aware prior to the filing of the declaration that Topete alleged a custody assistant may have conspired with an inmate to threaten him.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: The Jail Investigation Unit initially investigated the August 21 assault on Topete and the inquiry by the Jail Liaison Unit into his appropriate classification.

OIR reviewed the Jail Investigation Unit incident report. Topete is the named victim and the two assailants are listed as the only suspects. The assault was witnessed by a deputy, not a custody assistant as Topete asserted. In the report, the deputy describes the event similarly to Topete’s declaration – namely that Topete was speaking to the deputy about his status as green lighter when the two other inmates approached Topete and attacked him. The deputy was inside the booth when this occurred. The deputy wrote that the attack lasted for 7-10 seconds until the suspects followed his orders to stop the assault. According to the deputy’s report, Topete told him that another inmate had told the two suspects to attack him because of his green lighter status. The deputy’s report states, “It should be noted that at no time did I see the victim confront or attack any of the two suspects.” He also noted that neither of the suspects had any injuries, while Topete had a small laceration on his nose, blood coming out of his left nostril and scratches on his right forearm. The report also noted that Topete “is not desirous of prosecution.” There is no indication in the incident report of any discipline received by any of the inmates.

The inquiry by the Jail Liaison Unit was to determine if it could verify Topete’s green lighter status. The end result of the inquiry was that the JLU found that Topete did not meet the criteria for protective custody status and Topete was approved for the general population.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Investigators completed the following interviews:

Michael Topete

Interviews with Department personnel – 2

Interviews with Department personnel who did not provide a statement - 1

Interview with CDCR personnel – 1

Other inmate contacts who did not provide a statement – 1

- Topete was interviewed regarding his complaints that he was not housed in protective custody, that a deputy announced “here come the PCers,” the assault and the subsequent alleged conduct by the custody assistant and the inmate who threatened him, allegedly at the custody assistant’s behest. Topete was unable to identify the deputy who made the announcement of “here come the PCers.” Topete alleged that after he was assaulted an Asian deputy left to find out where Topete was going to be housed. The deputy returned and told Topete that he was going to “the hole,” because he was a trouble maker. He also identified another deputy who responded, “hell no” when asked if Topete was going to protective custody. Topete’s interview with the investigators was consistent with the contents of his declaration. He identified the custody assistant who allegedly had the shot caller threaten Topete after he requested to be moved to protective custody. The investigators found that there were no discipline records against Topete during this time which would explain why he was in the 2400 module. Topete positively identified the custody assistant who he says threatened him through the other inmate. Topete also identified a cell mate who heard his contact both with the custody assistant and the “shot caller” inmate. According to Topete, the cell mate overheard the conversations and offered to help protect Topete if the shot caller came to attack Topete.
- Investigators identified the inmate “shot caller” who allegedly threatened him if he asked the custody assistant to be moved to protective custody. The inmate refused to provide a statement and the interview was terminated.
- Investigators were able to identify Topete’s cell mate. At the time of the criminal investigation, however, the cell mate was not in custody, and a warrant for his arrest is outstanding. They were able to find a recent possible address for the former inmate in another state but were not successful in contacting him.
- Criminal investigators attempted to interview the identified custody assistant; however he refused to provide a statement.

Task force investigators completed their investigation and submitted it to the District Attorney and United States Attorney. The District Attorney declined to file charges, citing insufficient evidence that the employee conspired with an inmate. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: IA began its investigation while the District Attorney’s decision was still pending. The custody assistant against whom the allegation was made was named as a subject. Investigators from the Internal Affairs Bureau interviewed the custody assistant and the deputy who first saw Topete fighting with two other inmates. The custody assistant did not recall Topete or a trusty inmate with the moniker Topete referred to. He denied threatening an inmate with physical harm if he continued to request to be moved to protective custody.

The deputy who saw Topete fighting said that he was handing out passes for court when Topete told him he was a “GL,” a green lighter. Shortly thereafter, Topete was assaulted by two other inmates. The Deputy said the fighting ended quickly after he ordered the inmates to the ground and called for assistance. He said that he saw Topete back in the module a few days later but that he was now housed in a one-person cell. The deputy also said that Topete never said anything to him about the Custody Assistant.

IAB investigators were able to locate and contact Topete’s former cellmate, now living in another state. He said that Topete had told him that he was a green lighter and that he was in fear of his life. He said that Topete showed him a note that said that he, Topete, wanted to be moved to protective custody. The inmate witness said he saw Topete hand the note to a *deputy*. Investigators specifically asked if the employee was dressed like a deputy or a custody assistant and the witness clearly understood the difference and was adamant that a deputy received the note. The witness said that the deputy read the note and walked away. A few minutes later, two trusties appeared at their cell, asked Topete questions and ordered him to stop complaining or they would “do you ourselves.” The witness said that the deputy did *not* return to the cell to speak to Topete after the trusties left.

The Custody Division reviewed the case and determined that the charges against the subject custody assistant were unresolved.

OIR INVOLVEMENT/REVIEW: OIR reviewed the ICIB investigation. While it was important to interview the cellmate, ICIB investigators could not locate him, and OIR found the criminal investigation complete.

OIR agreed that the allegation of directing another inmate to threaten an inmate was “unresolved.” Inmate Topete assumed that the custody assistant went to the trusties to encourage them to threaten him, but there was no evidence establishing this connection. Furthermore, while his cellmate corroborated Mr. Topete’s fear and the existence of the note, the inmate witness’s recollection differs widely – namely that he thought a deputy was involved rather than a custody assistant and that he said the deputy never returned after the trusty threatened Topete. Both the witness and Mr. Topete, though, said that the trusties arrived at the cell within minutes after the employee left. Given these circumstances, “unresolved,” is the appropriate outcome.

INVOLVED PERSON'S NAME: ARTHUR TOWNSEND

DATE OF INCIDENT: July 20, 2011

LOCATION OF INCIDENT: MCJ 3400

DECLARANT: Arthur Townsend

DATE DECLARATION SIGNED: 8/22/2011

DECLARANT: Kenneth Griffin

DATE DECLARATION SIGNED: 8/26/2011

CLAIM/LAWSUIT FILED? No.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: FOUNDED charges and discipline against one deputy for Conduct Towards Others for "singling out one group of inmates over another." All other charges UNRESOLVED.

SYNOPSIS OF ACLU DECLARATION: Townsend filed a declaration in which he alleged that a Hispanic inmate worker or "trustee" was looking at him aggressively, so Townsend said, "What are you looking at?" Moments later, a Hispanic deputy approached Townsend, who is African-American, and asked who he was talking to. Townsend told the deputy he was talking to the inmate worker. The deputy told Townsend, "not to fuck with his trustees." He then announced loudly, "Look, all Blacks! I've been having a lot of problems with the Blacks and all my Hispanic trustees. If you mess with my trustees, I'm going to shut down you guys' program and toss your cell." The deputy then had Townsend face the wall and hit him in the kneecap with his flashlight. He then pepper sprayed Townsend's eyes and hit him again with the flashlight. The deputy then yelled out "415" (the deputies' radio code to refer to a fight) and told Townsend to get on the ground, which Townsend did. Several deputies and a custody assistant ran over and began kicking, punching and striking Townsend with flashlights. All the deputies and a custody assistant were Hispanic with the exception of a white deputy. Townsend alleged that he recalled the Hispanic custody assistant striking him in his face with a flashlight and that he then blacked out. The next thing he recalled was waking up in LCMC.

Townsend alleges that he had facial fractures, bruises all over his back, legs and face and large abrasions and cuts on both legs. He also had bruises under his eyes and a blood clot in his right eye. He also alleges that afterwards he suffered from double vision.

Inmate Kenneth Griffin wrote a declaration where he essentially corroborated Townsend's allegations about the statements made by the deputy before the force occurred. He also declared that Townsend did not use any force or act aggressively before he was struck by the deputy. He declared he saw more than ten deputies run over and participate in punching kicking and striking Townsend with flashlights.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION? While the force was reported on the date of the incident, July 20, 2011, Mr. Townsend did not make any allegations of misconduct during the initial force investigation. The Department was thus not aware of his misconduct allegations until the declaration in *Rutherford v. Baca* was received by the Department in September 2011.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: The use of force was reported to supervisors. A force investigation was initiated by the watch commander. According to Deputy 001, Townsend was outside his cell for pill call. Deputy 001 saw him taking his hands in and out of his waistband. Suspecting that he was hiding contraband or a weapon the deputy pulled him aside to conduct a strip search. After Townsend took off his jumpsuit, he turned on the deputy and punched him on both sides of his face and mouth with both fists. Deputy 001 responded by spraying Townsend in the face with O.C. spray and then wrapped his arms around the inmate and conducted a takedown. Other deputies came to assist. Deputies used flashlight strikes, O.C. spray, and punches to gain control over the inmate. Deputies did not report any flashlight strikes to the head – which would have required a roll-out response by the Internal Affairs Bureau. Townsend was charged with resisting an executive officer and battery on a peace officer, a felony. On August 17, 2012, Mr. Townsend was convicted after pleading *nolo contendere* to resisting an officer and sentenced to two years of county jail with credit for time served for the entire sentence.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Investigators conducted the following interviews:

Arthur Townsend

Kenneth Griffin

Other inmate witnesses – 7

Other inmate contacts who did not provide a statement – 21

Interviews with Department personnel – 2

Other Department personnel who refused to provide a statement – 7

Interviews of civilian witnesses – 1

- Townesend said the incident began when he was leaving the 3400 module for “pill call” and seeing a Hispanic inmate worker staring at him. The two had a previous verbal altercation because, Townesend claims, the inmate worker hadn’t provided enough food trays for all the inmates in his cell. Townesend told investigators that Deputy 001 ordered Townesend out of the pill call line and conducted a pat down search. According to Townesend, the deputy kicked his legs apart and asked him who he was talking to. Townesend told Deputy 001 he was talking to the inmate worker. At that time, Deputy 001 made an announcement to the black inmates who were in the pill call line, “I have been having a gang of problems with you guys fucking with my trustees. If you all keep fucking with my trustees, we are going to have a problem.”

Townesend says he was then told to take his clothes off for a strip search. He took off his jail pants and turned to hand them to the deputy – which he says is how it is done in prison – and was told to turn back around. He then took off his shirt when Deputy 001 reached around to his front and sprayed Townesend in the face with O.C. spray. He told the deputy he has asthma and turned around again, with his hands clasped behind his back. The deputy told him to shut up, sprayed him again and put out a radio broadcast for an inmate fighting with a deputy. Townesend insisted that he wasn’t fighting, and the deputy hit Townesend twice in the left kneecap with his flashlight. Other deputies came out of the modules and ordered all inmates to the ground. As Townesend started to get on his knees, Deputy 002 arrived and punched him on the right side of his face. Even though an unknown deputy had by this time handcuffed him, Deputy 002 continued to punch him in the face and Deputy 001 struck him with a flashlight on the back of his shoulder. Townesend also said that a custody assistant kicked him in the ribcage after he was handcuffed, Deputy 001 continued to hit him with the flashlight and Deputy 002 continued to punch him in the face. Townesend said he was then struck in the back of the head with a flashlight and lost consciousness. In his ACLU declaration he alleged that a Hispanic custody assistant struck him on the right side of his face causing him to black out and the next thing he remembered was being in the hospital. He told investigators from the task force, though, that he regained consciousness while on the ground and remembered speaking to a sergeant.

Townesend denied ever punching, kicking or elbowing deputies during the incident. He does admit moving his legs around to avoid getting hit by the flashlight but denies he was kicking anyone. Townesend also specifically accused Deputy 002 of using racially derogatory statements during the incident.

- Inmate Griffin was interviewed while in custody in January 2012. At the time of the incident, he was housed in the same cell as Townesend. Griffin heard Townesend say, “What are you looking at?” He thought Townesend was speaking to another inmate inside a cell. Moments later, Griffin was then standing next to Townesend on the “pill call” line in the 3000 hallway when a *custody assistant* approached Townesend and told him to put his hands behind his back. (Griffin describes

the employee as a custody assistant because he recalls the employee as wearing an all-green uniform. This contradicts both the account of Townsend and Deputy 001.) Griffin described the custody assistant pulling Townsend back by his arms and kicking his legs apart. Griffin heard the custody assistant tell Townsend, "Don't fuck with my trusties." Griffin said he heard the custody assistant say, "this goes for all you blacks." Griffin heard Townsend respond that he had not done anything.

Griffin then described inmates being told to get on the ground and "green pants" running and hearing Townsend say he was sorry. While he didn't see force being used, he heard someone saying, "Stop resisting. Stop fighting." He could smell O.C. spray and later saw Townsend sitting on a bench in the hallway bleeding on the side of his face. He denied hearing any racial slurs being used.

Griffin's statement to investigators contradicts the ACLU declaration in which he states that he saw the force being used. In his declaration, Griffin described seeing punches, kicks and flashlight strikes. Griffin told investigators that he likes to keep to himself and the only reason he was involved is because Townsend gave his name to "the lady from the A.C.L.U." Griffin said, though he signed the declaration, he had told the ACLU that he did not see anything after Townsend was pulled back out of the "pill call" line.

- Inmate #3 described hearing Townsend have an argument with an inmate worker. He said a short Hispanic deputy (Deputy 001 is about 5'6" tall) pulled Townsend from the "pill call" line. Inmate #3 was now about 6 to 8 feet away from Townsend. Inmate #3 heard the deputy tell Townsend to place his hands behind his back. He heard Townsend deny doing anything and then heard the deputy say, "I'm gonna start beating the black's asses. I'm not having problems with the Hispanics, I'm having problems with the blacks."

Inmate #3 said that the deputy ordered Townsend to the ground and began beating him with his flashlight on the legs repeatedly. The deputy ordered other inmates to the ground and then other deputies came running. Inmate #3 complied with the order and then heard deputies say, "Stop resisting," and Townsend saying, "I'm not resisting." He said he could not see any of the force used by other deputies because deputies were standing over the other inmates making sure they did not look over.¹

¹ Having inmates lie down and look away during an incident is standard Custody practice. The LASD says that it helps maintain control of inmates and discourages them from getting involved. When inmates are not contained, for example in their cells, this is an understandable concern, even though having inmates look away decreases their opportunity to be reliable witnesses to the incident.

- Inmate #4 was assigned to the cell next to Townsend. He saw Townsend have an argument with a Hispanic inmate worker. Later, he saw Deputy 001 approach Townsend asking if Townsend was talking to him (the deputy). The deputy asked Townsend if he was talking to the trusty because he was Mexican. Townsend said he was talking to the inmate worker about his food. The deputy responded, “Man, you don’t know who you are messing with,” and told Townsend to strip.

Inmate #4 states that Townsend was stripped down completely naked before Deputy 001 repeatedly hit Townsend on the right leg with his flashlight. He did not recall hearing any racial slurs being used. He saw other deputies present and Townsend being hit and kicked, but he could not identify which other deputies were using force because he was not able to look up from where he was lying on the ground.

Inmate #4 said his only contact about this incident was with Townsend’s criminal defense attorney.

- Inmate #5 said he was at the pill call window when he heard an “officer” say he had no problems with the “Southsiders” (Hispanic gang members) but that “the Blacks needed to check their people.” He said the officer removed an inmate from the pill call line. Next he heard the inmates being told to get on the ground and saw nothing afterwards. He did not hear any racial slurs being used.
- Inmate #6 recalled a “serious” incident taking place during pill call in July and that it was “racial.” He did not see the incident because he was afraid to look, and it occurred at the opposite end of the line from where he was, but he heard what he thought was the sound of flashlights hitting tissue and hearing an inmate “hollering.” He did hear a deputy say that he didn’t have a problem with the Hispanics but there were problems with the Blacks. He also heard the inmate ask, “Why are you doing this?”
- Inmate #7 heard Townsend exchange words with someone and then heard the deputy tell him to stop talking and keep walking. Inmate #7 saw Townsend look back at the deputy as he was walking and then the deputy pulled Townsend out of the line to search him. The inmate saw the deputy search Townsend and then escorted him to the back of the pill call line and ordered him to strip his clothes off. According to Inmate #7, after Townsend stripped down to his boxers, the deputy began to beat him. Inmate #7 was about ten feet away from where the force occurred. He described another deputy present when the force began standing about 15 to 20 feet away from Townsend.

Inmate #7 said he was positive that Townsend was handcuffed after he was stripped down to his boxer shorts. He said he saw that Townsend was facing the deputy while he stripped. He did not hear the deputy give any further commands to face the wall. He saw that the deputy and

Townesend were talking, but could not hear what was being said, when the deputy began attacking Townesend. Inmate #7 said he saw Townesend go to the ground after he was struck but that Deputy 001 continued to hit him. He said he saw another deputy arrive and slide on his knees across the floor and begin punching Townesend. Inmate #7 then says he saw Deputy 001 stand up and retrieve his hand-held radio and began to strike Townesend about the ankles. Inmate #7 did not see deputies kick anyone. He saw Deputy 001 try to strike Townesend's ankles about ten times with the radio. There were times that the deputy missed as the inmate reports he could hear the radio striking the floor. He also saw Townesend moving his legs around trying to avoid the strikes but that he was not kicking deputies.

Inmate #7 heard deputies give Townesend commands, "Stop resisting, stop resisting." He then heard Townesend say, "I'm sorry, I don't know why you are doing this." The inmate alleges that Deputy 001 then took out his flashlight and struck Townesend multiple times in the head. He said he saw Deputy 001 strike Townesend eight times in the head and only then did deputies back away and spray him with O.C. spray. Inmate #7 said he did not hear any racial slurs but was adamant that Townesend was sprayed while on the ground and handcuffed.

- Inmate #8 was Townesend's cellmate until the force incident occurred. He also left the cell for "pill call" on the day of the incident. He stated that Townesend said something and that the deputy "took it the wrong way." Inmate #8 saw the deputy search Townesend and that the deputy was telling him to "stop resisting." He heard the deputy order Townesend to put his hands behind his back and that he then heard Townesend say, "Aw, man, you're squeezing my hands." Inmate #8 said that the deputy then threw Townesend to the ground. Inmate #8 said that he did not see the entire incident, that he did not know when Townesend was handcuffed, and did not see Townesend turn around and face the deputy.

Inmate #8 said that he saw punches and kicks but does not know which deputies were doing the punching and kicking. He also heard Townesend say, "What are you guys doing? I'm not resisting. I didn't do anything." He did not, however, hear any racial slurs.

- Inmate #9 is the only Hispanic inmate who consented to an interview. He was interviewed at a state prison in November 2011. In fact, he was moved off the row the day after the incident and was released the next day to the Department of Corrections. Inmate #9 stated that he was in the hallway and did not see the force incident but heard parts of it. He heard a deputy say, "I want to talk to you guys. I'm not having problems with the Hispanics, but you Blacks, I'm having problems with you harassing my porters. I'm tired of it, and I'm going to start disciplining you if it continues." Inmate #9 saw the deputy pull Townesend out of the line and take him down the hall. He heard Townesend say, "I'm sorry." He also heard the deputy give commands to "stop fighting." Inmate #9, however, did not see any force being used.

During the initial use of force investigation conducted by the unit at the time of the incident, all of the above inmate witnesses were among a group who were interviewed. According to the Use of Force report, “none of these inmates would admit they observed or heard the incident.”

Investigators interviewed a nurse who was in the pill call area, but she said she did not witness the force incident.

Investigators attempted to interview six deputies and one custody assistant. All of them refused to provide a voluntary statement. This included the three deputies who reported using some form of force during the incident.

The Watch Commander who oversaw the force investigation was interviewed. She recalled seeing injuries to the right eye, including swelling of the face, and abrasions to the left elbow and ankle of Townsend. She said she did not observe signs of injuries to the back of his head, back, chest or stomach area. She asked him if he was injured anywhere else, and Townsend said, “No.” It should be noted that the initial Use of Force report notes several injuries which the Watch Commander did not allude to. The nurse who treated him told the initial force investigator that she observed “redness to the upper left arm, abrasion on left elbow, redness on upper left back, redness on left leg, redness on left chest and a bleeding wound on the left ankle.” This report was signed and dated by the Watch Commander on August 12, 2011. Furthermore, the report notes that Townsend was transported to LCMC for “further evaluation,” without elaboration for the reasons.

The Sergeant who supervised the involved deputies, and who took part in preparing the force report, recalled seeing redness to Townsend’s face consistent with the use of O.C. spray. He did not, however, see injuries to the neck or head area consistent with flashlight strikes. The force report prepared by the sergeant contains an Internal Affairs Bureau Mandatory Notification Form which was required because Mr. Townsend had an injury resulting in a medical evaluation. The form, however, failed to note that Townsend was transported to LCMC for further medical evaluation. The same sergeant who participated in the force investigation prepared the notification form.

The Inmate Injury / Illness Report which was prepared on July 20, 2011 notes that Townsend was escorted to the “MCJ Clinic,” but also failed to mention that he was then sent to the hospital. On the second page of the report, though, it is notated that “follow-up treatment” at LCMC “was recommended.”

The medical records contradict Townsend’s claim that he suffered fractures as a result of this force incident. He was not admitted to the hospital.

When Townsend was arrested on June 7, 2011, he reportedly tried to escape from the back seat of the Sheriff’s patrol car by slipping his handcuffed hands in front of him and kicking out the rear window. Deputies had to use force to subdue him – which included OC spray, the use of flashlight

strikes to his legs and hands and then the use of a hobble restraint. The force was directed by a sergeant and witnessed by civilians who were interviewed and corroborated seeing deputies use flashlight strikes on Townsend's legs. When Townsend was treated at LCMC before booking (on June 7, 2011), however, he alleged that he had been stuck on the right side of his face with a flashlight and complained of a blurry image. No witnesses supported his claims and no fractures or other serious injuries were noted by medical staff.

Task force investigators completed their investigation and submitted it to the District Attorney and United States Attorney. The District Attorney declined to file charges against any deputy. The primary concern expressed was the inconsistency between Townsend's declaration and his statement made to ICIB. In addition, the statements provided by inmates were divergent from each other and from Townsend's and thus found not credible. It is notable, though, that in the District Attorney's declination, the troubling statements of Inmate #9 – the Hispanic inmate who transferred to prison the next day – are never mentioned. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: Following the completion of the ICIB investigation, the matter was referred to the Internal Affairs Bureau.

IAB completed its initial investigation on September 18, 2012. The IAB investigator interviewed 11 LASD employees, including the three deputies who reported using force. Following OIR's review of the IAB investigation, we expressed several concerns that we believed merited further follow-up:

- The potential for witness collusion among inmates is always present as inmates are often in close proximity to each other for extended periods of time. We asked that the inmates' movement histories be attached to the investigation so decision makers could determine the opportunities witnesses had to communicate with each other about what they saw. OIR noted, for example, that Townsend and the Hispanic witness who provided a statement were never in contact after the event because the latter was moved to a different row and then released to the prison system while Townsend was medically treated and then assigned to disciplinary housing.
- We asked that the Department prepare transcripts of the ICIB interviews so a decision-maker could more easily compare inmate witness statements rather than working through hours of audio recordings.
- Custody Division asked IAB to interview the doctor who examined Townsend at LCMC. OIR concurred with the request.

- Both OIR and Custody Division expressed a concern that Deputy 001 was asked insufficient questions about his statements where he allegedly singled out African American inmates and made other derogatory comments.
- OIR was also concerned that Townesend and some of the other witnesses were clear that the root cause of the incident was not that Deputy 001 saw Townesend fidgeting with his waistband, as the deputy claimed in his report, but that he had seen Townesend and the inmate worker have a verbal altercation on the row. OIR asked IAB to ask Deputy 001 further questions about that concern.

We expressed these concerns to IAB in October 2012, with more than three months remaining until the expiration of the statute of limitations in January 2013. IAB completed its supplemental investigation on December 31, 2012, with less than two weeks remaining for the Department to make a decision regarding findings and discipline.

IAB's supplemental investigation did not sufficiently address a number of our concerns. In particular, despite the three month delay, the investigator made no additional effort to question Deputy 001 more carefully about his statements and conduct leading up to the altercation.

- Transcripts of the ICIB interviews of inmate witnesses were not prepared; instead the reader was referred once again to the audio recordings contained on the attached CDs.
- The attending physician could not be interviewed "due to attending medical school."
- Regarding the critical issue of whether Deputy 001 made racially charged statements, the addendum IAB report referred the reader to the lone instance in the *original* IAB interview when the deputy was asked about racially derogatory statements during the incident. The interviewer asked whether he made those alleged statements and Deputy 001 simply replied, "No sir." No effort was made to follow-up or to challenge the deputy with the fact that seven inmates attributed some form of a racially-based statement to him when he contacted Townesend.
- Finally, the addendum report stated that OIR's questions regarding the differing accounts about what led up to the force (Townesend fidgeting or Townesend arguing with an inmate worker on the row) were answered throughout the interview of Deputy 001. However, the interviewer never challenged the deputy with the statements by several witnesses that an argument with the inmate worker preceded Deputy 001's contact with Townesend and that the deputy was talking to Townesend about that altercation and the behavior of African Americans.

OIR INVOLVEMENT/REVIEW: OIR first learned of this incident while reviewing non-roll-out force reports at MCJ in early September 2011. The initial report reflected that neither Townesend nor other

inmates provided any statements that could have contradicted the reports of the involved deputies. The matter was notable, though, for the use of flashlights as impact weapons. OIR had recognized that the use of flashlights in force incidents was resulting in serious injuries and had been engaged in on-going conversations between OIR and MCJ command and training staff about the use of flashlights as impact weapons. By the end of September, the incident was presented as one of the ACLU declarations and the Department referred it to the ICIB task force. Once OIR learned through the declaration about the possibility that the force was racially motivated, rather than a response to the assaultive conduct of Townsend, OIR encouraged the task force to make this incident a high priority investigation. ICIB agreed and its investigation was as thorough as possible considering the involved employees and employee witnesses did not consent to interviews.

OIR viewed this case as particularly important and revelatory. It was unusual for an inmate of another ethnicity to voluntarily come forward and corroborate what several of the African American inmates alleged: that the deputy directed his statements to the African American inmates in general and suggested that the conduct towards Townsend was to make an example of him. While the inmate witness statements were inconsistent as to some aspects of this incident, there was broad agreement by the witnesses that the deputy initiated the incident because of his perceptions about Townsend's interaction with a Hispanic inmate worker.

OIR had active and regular involvement in the investigations surrounding this incident, so we were surprised to learn in January 2013 that the Division was planning on a finding of "unresolved" for all three involved deputies without any consultation with OIR. Because this was contrary to Custody Division's agreement to consult with OIR before rendering a decision in any of the ACLU-related administrative investigations, we quickly scheduled a meeting with managers at Custody Division on the last day available under the statute of limitations to bring discipline. We expressed serious misgivings about the conclusions being drawn, and our belief that there was sufficient evidence for a finding of "founded" for at least some, if not all, charges. (The assault under color of authority being the most difficult to prove.)

OIR's view is that if the witness allegations are believed credible, the deputy's entire claim for why he used force falls apart. The Hispanic inmate witness left the facility for prison without ever being in the same location as Townsend again. The opportunity for him to collude with Townsend to claim there was a racial motivation behind the incident is virtually non-existent. In that case, the justification for the use of force evaporates and the truthfulness of Deputy 001 is highly suspect.

Once Custody Division heard OIR's concerns, its managers decided to enter a finding of "founded" for conduct towards others for "singling out one group of inmates over another." Deputy 001 received a written reprimand. The finding, though, ignored its logical end that if the deputy did single out Townsend for being a member of a particular ethnic group, his explanation for what led up to the use of force was at the very least incomplete, if not false. While OIR was not satisfied with the disposition

of this case, there was no time in which to initiate further discussions at higher levels of the Department's chain of command because of the looming statute of limitations date.

OIR reminded Custody Division of the importance to consult with OIR prior to reaching a conclusion about proposed discipline. OIR continues to be concerned that Internal Affairs Bureau investigators are not always willing to asking probing and sometimes uncomfortable questions, instead letting a simple, "no sir," suffice.

INVOLVED PERSON'S NAME: EVANS TUTT

DATE OF INCIDENT: July 26, 2009

LOCATION OF INCIDENT: MCJ 3000

DECLARANT: Evans Tutt

DATE DECLARATION SIGNED: May 5, 2010

CLAIM/LAWSUIT FILED? Claim denied. Lawsuit filed in federal court August 22, 2011.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNRESOLVED

SYNOPSIS OF ACLU DECLARATION: Tutt alleges that the force used on him was an unprovoked assault in retaliation for complaints he had made about conditions at the jail. He claims deputies used racial slurs before and after the incident. Tutt alleges he was kicked, kneed, struck with a flashlight and stunned multiple times with a Taser. Tutt was hospitalized for metabolic complications which may have resulted from use of the Taser or from the struggle with deputies. He also asserts the assault continued after he was handcuffed. His injuries included a chipped tooth, fractured nose and bruises and injuries to his head, ribs and left knee. He alleges that the deputies then fabricated reports which led to the District Attorney filing criminal charges against him. In his declaration, Tutt specifically named several deputies who he believes were involved in the incident.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

Yes. The deputies reported using force right after the incident. During a videotaped interview by a Lieutenant shortly after the incident, Tutt made specific allegations that the force used against him was unprovoked and that deputies used racial epithets. In early August 2009, within weeks of the incident, the then-ACLU monitor complained to the Department that the force incident was in retaliation for complaints Tutt had made regarding showers and mail. She described in detail Tutt's assertions of how force was used against him and the injuries he sustained.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: Internal Affairs was notified of the use of force on the day it occurred. However, at the time of notification, Tutt was still being examined at the jail clinic and there was no report of use of impact weapons to the head (such as flashlights); therefore, the force investigation was initially handled by the watch commander.

The day after the incident, Internal Affairs learned that Tutt was at LCMC but was told that he had not been admitted and was likely not going to be admitted. Four days later, an Internal Affairs sergeant followed up with the medical staff at LCMC and learned that Tutt had in fact been admitted. As a result, and per protocol, Internal Affairs took responsibility of the investigation from that point forward. The force investigation involved interviews of Tutt while he was at LCMC as well as interviews of the four deputies who reported that they had used force.

Independently, the Jail Investigation Unit forwarded criminal allegations against Tutt to the District Attorney, who filed a felony resisting an officer charge in November 2009. Because Tutt had been released from jail a few days, the court issued a warrant and he was arrested on the resisting charge in February 2010. The case was dismissed in February 2011 after the District Attorney announced “unable to proceed” when he concluded that several of the involved deputies would not be available to testify because they subsequently had been fired by the Sheriff’s Department because of their conduct during the widely-publicized MCJ holiday party incident in December 2010

Consistent with his ACLU declaration, Tutt alleged during his interview by IA investigators that the use of force against him was unprovoked and in retaliation for complaints he made about the lack of showers, access to the commissary and the absence of mail delivery. Tutt and other inmates on the row had recently been moved to MCJ from Twin Towers. Tutt said he had his girlfriend call the jail to make complaints about the conditions. Tutt explained that two days before the force incident, deputies would not allow him to visit his girlfriend during the visiting hours, and a deputy took away the visiting pass that had been generated.

On the day of the incident, he was allowed to visit his girlfriend. He said during his interview that as he was walking through the hallway of the 3000 floor returning from that visit, a deputy told him to face the wall and asked, “Have you been here before?” Right after he answered “yes,” Tutt recalled being shot by a Taser, falling to the ground and then being repeatedly punched, kicked and struck with flashlights. During the interview with Internal Affairs, Tutt did not mention that racial epithets were made before, during or after the force. Tutt also did not mention when interviewed a deputy had threatened him, though that allegation is included in the e-mail which the ACLU monitor sent to the Department shortly after this incident.

The incident was reported by Deputy 023. He wrote a report in which he stated Tutt initiated an assault. According to the deputy, Tutt was returning from a visit and was told to face a wall in the 3000 hallway for a routine search. The deputy wrote that without warning Tutt turned and pushed into the deputy while simultaneously throwing his right elbow. The deputy wrote that he fired his Taser striking Tutt who then fell to the floor. Deputy 023 wrote that Deputy 019 arrived and he attempted to handcuff Tutt. Instead Tutt pushed up off the floor and rolled over

onto his back and began to kick at Deputy 019. Deputy 023 again activated his Taser. Tutt rolled back onto his stomach but continued struggling, so Deputy 023 tried to use the Taser again by using a “three point tase.” Deputy 023 wrote that Tutt instead tried to grab the Taser out of his hand. Deputy 023 then resorted to using the Taser in a drive stun mode (direct contact with the suspect rather than through the probe wires). Deputy 021 arrived and punched Tutt in the rib cage and face several times. According to Deputy 023, Tutt stopped his assault and the deputies were able to handcuff him. Deputy 024 arrived and sprayed O.C. onto Tutt’s face.

Deputies 019, 021 and 024 provided supplemental reports.

According to the supervisor’s use of force report, there were no other Department or non-Department witnesses to the incident.

Because of Tutt’s claim that the deputies used force in retaliation for his complaints, the Department formally investigated the incident for administrative violations. IA investigators interviewed the involved deputies in November 2009. Their statements were consistent with use of force memos each wrote shortly after the incident. In addition to the recorded deputies’ statement and Tutt’s recorded interview, the investigators also collected data from the Taser which showed the Taser was activated six times during the incident.

The case was heard by the Executive Force Review Committee (EFRC) on April 29, 2010. The EFRC found the use of force in policy. It also determined that the allegation of retaliation was “unfounded.” EFRC recommended that the deputies receive additional training in the technique of handcuffing a suspect while the Taser was still activated as the deputies reported that every time they moved in to handcuff Tutt after the Taser cycle stopped, he resumed his resistance. The investigation submitted to EFRC did not appear to contain the video recording of the interview of Tutt conducted by the watch commander right after the incident. As a result, since the only reference to racial remarks was contained in the video and it does not appear that the interviewing watch commander or sergeant reported the allegation of a racial remark, it was not investigated by Internal Affairs.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Task force investigators were unable to obtain statements from any of the participants in the incident and there were no admitted eyewitnesses to the force.

Tutt’s civil attorney informed investigators that Tutt would not participate in an interview. Therefore, they attached the transcript of his civil deposition as an exhibit to their investigation. During the deposition, Tutt went into great detail about the force incident which took place, what led up to it and its aftermath. There are, however, a number of notable potential discrepancies:

- He alleged that the deputy who had previously taken his pass away came to his cell and threatened to return with his “boys.” This varies from what was described in the 2009 email from the ACLU where it is written that the deputy said he was going to pay Tutt a visit. During the Internal Affairs investigation, Tutt was asked if he had any other verbal exchanges or confrontations with deputies other than having the pass denied and being sent back to his cell, and he stated that he had no other confrontations.
- Tutt alleged in his deposition that before the Taser was used the first time, after he had been told to face the wall, he was surrounded by deputies and racial epithets were directed towards him. When he was interviewed by Internal Affairs in 2009 and asked about what deputies said before the force, Tutt said that the only thing he heard was a deputy asking him if this was his first time on the floor.
- Tutt alleged that while he was escorted downstairs to the clinic on the escalators the same deputy who had taken his pass away wiped his bloody face off with a towel and then immediately sprayed him in the face with O.C. spray. OIR is not aware that he made that allegation before. He also alleged that deputies made racial epithets during this time. He did not make this claim when interviewed by Internal Affairs in 2009 and the ACLU e-mail from the same time period likewise makes no reference to racially derogatory language.
- In describing his injuries, Tutt said that he went in and out of consciousness about five times during the incident.

Task force investigators interviewed a former cellmate of Tutt who was in state prison. He did not see the force but knew that Tutt was upset because a visit was cancelled shortly before the incident. The inmate said that Tutt said he had an ongoing issue with the deputies and was “not going to back down.” The inmate said that every time deputies walked past their cell, Tutt would “talk shit to them. The inmate said that the deputies never responded to Tutt and he never saw them threaten Tutt. The former cellmate also said that he overheard a phone conversation (possibly with his girlfriend) where Tutt told her to make calls to try and get him moved and told her that he thought “something might happen to him.”

Tutt reported that another cellmate was walking directly in front of him when they returned from Visiting to the 3000 Floor. He said that the other inmate was directed to his module and that Tutt was held back by the deputies. Task force investigators located this inmate in prison and tried to interview him, however, he said that the FBI had instructed him not to speak to the investigators.

Task force investigators attempted to interview Tutt's former girlfriend. She initially agreed to schedule an interview, but then backed out at the last minute and said she wanted to have an attorney present. Investigators asked her to contact them once she had counsel, but they never heard back from her.

The sergeant who was part of the initial force investigation was interviewed. He said he directed two deputies who were not involved in the force to escort Tutt down to the first floor clinic. He said that he went along with them and Tutt. He said he was in a position to overhear if a deputy used any racial epithets against Tutt and did not see or hear that occur. He also did not see a deputy wipe Tutt's face with a towel and spray him with O.C. on the way downstairs to the clinic.

The nurse who initially treated Tutt was interviewed. Her documentation indicated that she asked Tutt if he ever lost consciousness and he denied it.

Task force investigators completed their investigation and submitted it to the District Attorney as well as the United States Attorney. The District Attorney declined to file any criminal charges against Department employees on the grounds of a lack of corroboration and Tutt's credibility regarding prior altercations with deputies. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: Three of the four deputies who reported using force against Tutt subsequently were discharged from the Department for an off-duty incident at a holiday party in December 2010. The fourth deputy was demoted for a different off-duty incident. The deputy who allegedly took Tutt's pass, later threatened Tutt at his cell and then sprayed his face with O.C. after the altercation, was demoted to custody assistant for a different off-duty incident.

IAB again investigated the incident involving Mr. Tutt after the ICIB Task Force investigation. Because other employees had been previously interviewed either by ICIB or IAB in the prior investigation, IAB conducted just three additional interviews.

Deputy 020 had been demoted to custody assistant since the incident. He denied ever directing a threat towards Mr. Tutt. He denied taking away Mr. Tutt's visitor pass and asserted that he was not present during the use of force incident. He said he heard the incident over the radio and responded to the location. By the time he arrived the use of force had ended. He could not recall any of the other involved deputies.

Deputy 021 had since been demoted and was a custody assistant at the time of the interview. His statements were consistent with his prior reporting. He said he could not identify any

deputy who was in the hallway at the time other than Deputy 023. He denied seeing any flashlight strikes or kicks to the head.

Deputy 022 said he did not take part in the use of force and did not witness the incident. He escorted Tutt to the clinic. He denied making or hearing any racial epithets or threats directed towards Tutt. He also said he did not see anyone use force, including O.C. spray, against Tutt during the escort and that he did not see any deputies wipe blood from Tutt's face.

Following the completion of the latest administrative investigation, the Department concluded the matter against the remaining Department employees (019, 020, 021 and 022) as unresolved.

OIR INVOLVEMENT / REVIEW: OIR monitored the EFRC process and encouraged additional training for the deputies and supported procedural changes at MCJ so that the reasons for any denials of visits are documented.

OIR reviewed the ICIB task force investigation and recommended that the investigators attempt to interview additional inmate witnesses who possibly saw or heard relevant information, all of whom Tutt named during his deposition. Follow-up interviews did not corroborate Tutt's assertions. Once the additional investigation was completed, the task force investigation was thorough.

The recent administrative investigation was limited because a number of the involved deputies are no longer employed by the Department and because Mr. Tutt would not participate in either investigation. In light of those circumstances, "unresolved" was the appropriate resolution.

INVOLVED INMATE NAME: Mr. UU (name not disclosed because of nature of case)

DATE OF INCIDENT: August 2010

LOCATION OF INCIDENT: MCJ 2700 / MCJ Visiting / OSJ / Court services

DECLARANT: Mr. UU

DATE DECLARATION SIGNED: 11/16/2010, filed 9/28/2011

CLAIM/LAWSUIT FILED? No

DISTRICT ATTORNEY STATUS: N/A

ADMINISTRATIVE OUTCOME: UNRESOLVED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Mr. UU claimed that another inmate confessed to participation in a jail murder. Mr. UU claims he told jail staff about what he learned and later spoke to a Homicide detective. He alleged that while he was assigned to MCJ 2700, Deputy 045 asked him inappropriate, probing questions about what he knew about the murder. He also alleged that Operation Safe Jails (OSJ) deputies failed to move him into protective custody. Finally he alleged that while he was in a courthouse for a court appearance, he heard a deputy say, "Dead man walking," and he thought the statement pertained to his status as having provided information about the murder.

WAS LASD AWARE OF ALLEGATIONS PRIOR TO RECEIPT OF ACLU DECLARATION? No.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: N/A

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: This is one of the nine cases that ICIB sent to IAB without a criminal investigation as no crime was alleged to have occurred.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: The IAB investigator learned that Homicide investigators had interviewed Mr. UU shortly after the inmate's death. Homicide investigators found that Mr. UU's statement was not consistent with the facts as they had learned them. Nevertheless, they had Mr. UU placed in protective custody after he told them he feared for his life.

Homicide detectives questioned the inmate who had allegedly made the admissions about the murder to Mr. UU. He denied doing so and said he did not see or participate in the murder – he was one of the victim's cellmates. The detectives later developed other information which led them to two other inmates and the inmate pointed out by Mr. UU was never shown to have any involvement.

When an inmate is first placed in protective custody, he is placed in temporary protective custody. Operation Safe Jails (OSJ) then evaluates the particular inmate to determine whether he meets the criteria for permanent protective custody housing. If he does not meet the criteria, he is returned to the general population. In the case of Mr. UU, his situation was evaluated by an OSJ deputy who had kept his original notes of his evaluation of Mr. UU. Based on the evaluation, the OSJ deputy determined that Mr. UU did not meet the criteria and he was returned to the general population.

IAB also interviewed Deputy 045 who said that he recalled Mr. UU from the time when he was assigned to Visiting Rear – not MCJ 2700. He said that Mr. UU told him that he knew something about a murder. Deputy 045 took the information to OSJ deputies. They told him that the Mr. UU was not a reliable informant and that the information he had given the deputy was not reliable. The deputy told Mr. UU that OSJ did not think he was reliable and that was the end of his involvement.

The IAB investigator learned that 30 to 35 deputies were on duty in the courthouse where the “dead man walking” statements were allegedly made. There were six deputies assigned to the floor where he said the statements occurred. All six deputies were interviewed and did not remember Mr. UU. None of them recalled hearing the statement being made.

Mr. UU’s co-defendant was supposed to have been walking directly behind Mr. UU when the statements were made. The IAB investigator tried to contact him in a state prison, but he refused to participate in the interview.

Following completion of the investigation, Custody Division determined that the matter should be closed as unresolved. OIR concurred with the finding.

OIR INVOLVEMENT/REVIEW: This investigation was thorough. It appears that the information Mr. UU had shared about the inmate death was not accurate. This was confirmed by what Deputy 045 told Mr. UU and what the OSJ deputy recalled doing after Mr. UU demanded to be placed in protective custody.

It appears that the decision to not provide him with permanent protective custody housing was appropriate, as OSJ’s standard was applied and the inmate’s circumstances failed to meet the standard.

Finally, there was no evidence to corroborate his claim that his status as an informant was used against him in the courthouse.

Twin Towers
Correctional Facility

INVOLVED PERSON'S NAME: JAMES BOWMAN

DATE OF INCIDENT: January 16 and 23, 2011

LOCATION OF INCIDENT: Twin Towers 152

DECLARANT: James Bowman

DATE DECLARATION SIGNED: April 12, 2011

CLAIM/LAWSUIT FILED? No.

DISTRICT ATTORNEY STATUS: N/A

ADMINISTRATIVE OUTCOME: UNRESOLVED; systemic issues surrounding cell searches addressed

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): On two different dates, deputies searched the cells in Mr. Bowman's pod. Every inmate's property was tossed, including Mr. Bowman's Bible, which was destroyed because it was thrown in a puddle of liquid. Mr. Bowman alleges that both searches were in retaliation for his meeting with the ACLU the previous week. He alleges that inmates normally face some sort of retaliation for speaking with ACLU representatives.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

N/A. There were no force allegations made. The Department learned of the allegation regarding retaliatory searches and treatment when the ACLU presented the declaration (one of a group of five) on August 5, 2011. The same declaration was re-filed along with 77 other declarations in September, 2011.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: None.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Because the allegations are not criminal, the ICIB Task Force did not investigate, but referred the allegations for administrative investigation. Twin Towers completed a Supervisory Inquiry on October 14, 2011, and the case was not referred to Internal Affairs.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: Because this case was received from the ACLU prior to its September, 2011 filing, the case was completed by Twin Towers as a Supervisory Inquiry and not referred to IA. A Twin Towers lieutenant conducted the inquiry.

He located the Custody Facility Search Reports and the Uniform Daily Activity Logs for January 16 through January 23 to identify whether any searches had been documented during this time frame. He found no record of any searches conducted on January 16. On January 23, deputies searched a number of pods in an unsuccessful attempt to locate a key ring of facility keys. Other searches in and around this time appeared to be routine based on the documentation.

The lieutenant and a sergeant conducted a video recorded interview of Mr. Bowman, who made a number of additional allegations not contained in his declaration. According to the statements Mr. Bowman made in his interview, the first search complained about actually occurred on January 9, 2011, in retaliation for an inmate requesting the ability to go to the recreation area to shave. During this search, Mr. Bowman's glasses were either taken or lost. After complaining about this to the ACLU during a visit two days later, the January 16 and January 23 searches occurred. Mr. Bowman stated that he did not know of any other reason for the searches, but the fact that the deputies searching were so destructive of inmates' personal property and religious materials made him feel like the searches were in retaliation for inmates' complaints. Mr. Bowman recognized that deputies needed to conduct searches, but was bothered by the disregard they sometimes showed for inmates' property. Mr. Bowman named two Custody Assistants who worked his floor at the time and were involved in the January 9 search, but did not allege any specific misconduct on their parts. One of those CAs has resigned from the Department and lives outside the country; the other has been relieved of duty in connection with a separate investigation. Neither CA was interviewed as part of this supervisory inquiry.

Except for the perception by Mr. Bowman, there was no evidence that any searches conducted were anything more than routine. Therefore, the case was closed as unresolved.

OIR INVOLVEMENT/REVIEW: The Supervisory Inquiry was completed and signed by the Captain of Twin Towers on October 14, 2011, before OIR had an opportunity to review it. The memo from the Lieutenant who conducted the inquiry to the Captain does not clearly lay out the allegations, summarize the inmate's interview, or describe the outcome of the inquiry. When OIR communicated these concerns to the unit, we learned that Mr. Bowman's declaration originally had been presented to the Department by the ACLU on August 5, 2011. Prior to the September 28, 2011 ACLU filing, the Department had been investigating allegations of retaliation presented to it by the ACLU via Supervisory Inquiries conducted at the unit. Prior to the declarations submitted on August 5, 2011, nearly all of these allegations had pertained to MCJ. Those investigations were completed by a lieutenant at MCJ, who followed a particular protocol that involved consultation with OIR. Because Twin Towers historically had not been involved in the investigation of these retaliation investigations, and because OIR normally did

not play a role in a unit's completion of supervisory inquiries, Twin Towers' personnel did not consult with OIR prior to finalizing its investigation into Mr. Bowman's allegations.

Notwithstanding our concerns about the investigative process, the failure to consult with OIR, and the final written product, we believe the interview of the inmate was fair and the "unresolved" disposition was appropriate.

OIR has used this case, along with several others stemming from ACLU declarations, to again emphasize to the Department the importance of supervising and documenting pod and cell searches, which are a source of numerous inmate complaints. We have in the past maintained that all cell and pod searches should be videotaped. We are hopeful that the introduction of cameras into Twin Towers will eliminate claims of indiscriminate destruction of inmates' property or at least create an objective video record by which such claims can be evaluated.

INVOLVED PERSON'S NAME: MICHAEL CAMPBELL

DATE OF INCIDENT: After April 20, 2011

LOCATION OF INCIDENT: Twin Towers 132

DECLARANT: Michael Campbell

DATE DECLARATION SIGNED: August 1, 2011

CLAIM/LAWSUIT FILED? No.

DISTRICT ATTORNEY STATUS: N/A

ADMINISTRATIVE OUTCOME: UNRESOLVED; systemic issues regarding cell searches addressed

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Mr. Campbell met with the ACLU Jails Project Coordinator in April, 2011, and signed a declaration on April 20, 2011 alleging he had been assaulted by a deputy. The allegations presented in that declaration were investigated by ICIB, presented to the DA, and then investigated by IAB under a separate case number. In this subsequent declaration, he alleges that following his April, 2011 meetings with the ACLU representative, a deputy to whom he had never before spoken told him he was going to make his life miserable. After that, deputies retaliated against him and all the other inmates in his pod by limiting access to television, subjecting the pod to more frequent searches, specifically targeting Mr. Campbell during searches, delaying completion of work orders to fix toilets, and leaving the lights on at night. He specifically alleged that a particular deputy (actually a Custody Assistant) who generally had left lights on all night only about once a week, making it difficult for him to sleep, had begun leaving them on five or six nights a week after he signed the ACLU declaration in April.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION? No allegation of force was made in this declaration. The Department was not aware of the allegations of retaliation until August 5, 2011, when the ACLU first filed Mr. Campbell's declaration, along with four others. The same declaration was filed again on September 28, 2011.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: The Department was not aware of Mr. Campbell's allegations until the ACLU filed his declaration on August 5, 2011.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Because the allegations are not criminal, the ICIB Task Force did not investigate, but referred the allegations for administrative investigation.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: Because this case was received from the ACLU prior to its September, 2011 filing, the case initially was investigated by a Twin Towers lieutenant as a Supervisory Inquiry. That inquiry was not complete as of September 28, 2011, so when the same declaration was included in the ALCU's filing of that date, the case was transferred to IA for investigation, consistent with the Department's handling of the other September 28, 2011 declarations.

The deputy and CA specifically named by Mr. Campbell in his declaration were both named as subjects. Investigators interviewed both. The deputy indicated he did not recall who Campbell was or remember having any contact with him. He was never advised that Campbell had complained about him or others. He flatly denied all of the allegations made by Campbell. The subject CA likewise denied all of Mr. Campbell's allegations. She did not recall any contact with Mr. Campbell other than the December 15, 2010 force incident (which was the subject of a separate declaration and investigation). Regarding the lights, she stated that there are lights inside inmate's cells and exterior pod night lights. The exterior night lights come on and remain on for safety reasons whenever the other lights are turned off, and that these night lights are brighter in some pods than in others. The interior cell lights are not controlled individually, so that leaving Mr. Campbell's lights on all night would affect all 16 cells in the pod. She noted that sometimes the lights had to be left on late or turned back on to accommodate nurses coming into the pod for pill call. She did not recall any complaints from inmates about the lights in the pod.

Investigators also interviewed three witness deputies who also were assigned to work the module in which Mr. Campbell was housed at the time. Each of the Department personnel denied any knowledge of Mr. Campbell's allegations or a reason to target him and denied knowing of any reason the two named subjects would have for wanting to retaliate against Mr. Campbell or others in the pod. They also described in general the policies and practices for cell searches, work orders, and control of the lighting, noting they did not know that any of these practices had been altered in Mr. Campbell's pod.

Mr. Campbell was interviewed by the Twin Towers Lieutenant to whom the initial supervisory inquiry had been assigned. His interview statements were consistent with the allegations made in his declarations. IA investigators deemed this interview to be sufficient, and OIR concurred.

IA investigators did not locate or interview any other inmates housed in Mr. Campbell's module at the time of the alleged retaliation, nor did they re-interview any of the 13 inmates who had been interviewed by ICIB in connection with the investigation into the force incident involving

Mr. Campbell that was the subject of a separate declaration. None of the inmates interviewed by ICIB mentioned the retaliation allegations made by Mr. Campbell. Because the IA investigation was completed just three days prior to the expiration of the statute of limitations, OIR did not object to closing this case without conducting these interviews, which would have required significant time and resources to complete.

The Custody Division reviewed the case and determined that the charges against the subject deputy and CA were unresolved.

OIR INVOLVEMENT/REVIEW: OIR did not disagree with the unresolved finding, given the involved and witness employees' adamant denials of Mr. Campbell's allegations and the lack of any other evidence to support his assertions. Ideally, IA would have interviewed some other inmates housed with Mr. Campbell regarding his allegations, but OIR understood that the resources involved made this difficult. We did not request that IA reopen its case to conduct these interviews because the time involved would have made it impossible to impose any discipline even if these interviews had led to any founded allegations.

OIR did discuss with Custody Division some systemic issues that arose as a result of this case, including the importance of strictly enforcing unit orders governing reporting and supervision of cell searches as well as the possibility of establishing unit orders regulating the hours during which lights must be turned off and limiting personnel's discretion on this matter.

INVOLVED PERSON'S NAME: MICHAEL CAMPBELL

DATE OF INCIDENT: December 15, 2010 (declaration states Dec. 22, 2010, but Mr. Campbell now agrees it happened a week prior)

LOCATION OF INCIDENT: Twin Towers 132

DECLARANT: Michael Campbell

DATE DECLARATION SIGNED: April 20, 2011

CLAIM/LAWSUIT FILED? No.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNRESOLVED as to force; performance issues surrounding cell search treated as a counseling/training issue

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): A female deputy entered Mr. Campbell's cell to remove a mattress, and he asked her if she also wanted his. A male deputy then ordered him out of the cell. As Mr. Campbell complied, the deputy grabbed and twisted his fingers, then ordered him to sit on the floor. The deputy then pressed down on Mr. Campbell's shoulders and put his knee in the inmate's back. As Mr. Campbell turned around, the deputy said, "Why are you fucking with the female deputies?" When Mr. Campbell complained that the deputy was hurting him, the deputy pushed down harder and punched him in the head approximately 15 times. While the male deputy punched him, the female deputy put him in a choke hold.

Mr. Campbell is 60 years old and claimed that he regularly suffers from back pain, which was aggravated as a result of this incident. Mr. Campbell had bruises on his head and around his wrists. He also suffered pain to his neck and the side of his head.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

Yes. Deputies reported a use of force on December 15, 2010.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: According to the reports submitted as part of the force package completed by Twin Towers' staff at the time of this incident, a male deputy and female Custody Assistant contacted Mr. Campbell and his cellmate to search their cell because staff had observed an extra mattress. The cellmate complied with the deputy's

order to place his hands behind his back and sit at a table. Mr. Campbell came out of the cell with his arms swinging, so the deputy walked behind Mr. Campbell and grabbed his hands. The inmate said, "Don't fucking touch me," then pulled away and raised his elbow as if to strike the deputy. The deputy punched Mr. Campbell twice in the face. Mr. Campbell then struggled to break free, and the deputy wrestled him to the ground. The deputy punched Mr. Campbell in the face several more times as the inmate continued to struggle. The female CA attempted to control Mr. Campbell's arms. Another deputy arrived to assist and was able to handcuff Mr. Campbell.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Investigators located Mr. Campbell at North Kern State Prison in Delano and interviewed him there. His statement to investigators is consistent with the allegations made in his declaration.

Investigators also located 13 inmates and former inmates who had been present in the module at the time of the incident. One inmate's account was similar to the deputy and custody assistant's accounts, where Mr. Campbell was struggling to stand up, and the deputy punched him repeatedly in the face. Four inmates stated they saw the deputy punching Mr. Campbell in the face, but did not see any action from Mr. Campbell to justify the force. Five said they did not see or did not recall the incident. One refused to speak with investigators. One inmate gave an account that varied from all the others, in that he said the female custody assistant was the only person he saw punching Mr. Campbell. Another recalled that this incident began on a different tier, and that Mr. Campbell did turn toward and try to break free from the deputy, prompting the deputy's punches, but that Mr. Campbell may have been handcuffed and it was difficult to understand how a deputy and custody assistant would struggle so much to control an older, handcuffed inmate.

Investigators may have been able to locate even more inmates who had been present at the time of the incident, but decided, with OIR concurrence, that a "sampling" of inmates was sufficient. Rather than expend significant additional time and resources tracking down former county jail inmates in various state prisons, investigators confined their interviews to these 13 inmates – three who are out of custody; one who remains in County Jail; and nine who are spread among five different state prisons.

Investigators also interviewed five LASD personnel – a trainee who was working as the module officer, a witness deputy, the sergeant who prepared the unit's force package, and the involved custody assistant and deputy. According to the investigative summaries, their statements to investigators were consistent with their written reports prepared at the time of the incident.

ICIB submitted its completed investigation to the District Attorney as well as the United States Attorney for filing consideration. The DA declined to file charges because of inconsistencies in

Mr. Campbell's statements. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: IA completed its investigation while the DA's prosecutorial decision was still pending. The involved deputy and custody assistant were both named as subjects. Investigators interviewed them, as well as the witness custody assistant and deputy, all of whom had also been interviewed by ICIB. All personnel made statements consistent with their prior written statements and interviews.

The Custody Division reviewed the case and determined that the charges against the subject deputy and custody assistant were unresolved.

OIR INVOLVEMENT/REVIEW: OIR reviewed the ICIB investigation before it was sent to the DA. We made one suggestion regarding clarification of the number of inmates and former inmates interviewed, to specify how and why investigators decided not to interview every inmate in the module at the time of the incident. Otherwise, we found the investigation to be complete. Likewise, we found the IA investigation to be sufficient and complete.

OIR agreed that the force allegations were unresolved because the Department personnel gave accounts that were consistent with each other as well as their contemporaneous written reports and at least one of the inmate witnesses. Other inmate witnesses reported seeing the deputy's punches and, while they did not see Campbell doing anything to justify this force, they also did not see the CA apply a choke hold. Given these conflicting accounts of the incident from the inmates, no finding of unnecessary force could be sustained. Nonetheless, we believed that the involved deputy and CA should have received written reprimands for their decision to search I/M Campbell's cell despite the presence of numerous unsecured inmates in the dayroom, as well for the CA's failure to put out radio traffic regarding the fight.

Custody Division concluded that discipline was inappropriate because such searches were routine at the time, but agreed to formally counsel and train the involved personnel. While OIR disagreed with the decision not to issue written reprimands, it also did not believe the decision to treat this as a training issue was unreasonable. If this incident had occurred in 2013, LASD would have considered whether its personnel violated the force prevention policy, which instructs deputies to utilize tactics aimed at preventing the use of force.

INVOLVED PERSON'S NAME: CHARLES CELESTINE

DATE OF INCIDENT: July 12, 2011

LOCATION OF INCIDENT: Twin Towers 141

DECLARANT: Charles Celestine

DATE DECLARATION SIGNED: August 26, 2011

CLAIM/LAWSUIT FILED? No

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNFOUNDED; systemic issues regarding cell searches addressed

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Mr. Celestine, who has very limited vision and was housed with deaf and/or blind inmates, states deputies instructed him to return to his cell for a search. Two male deputies and a female deputy were in his cell. One of the male deputies slammed him into a wall during the search, causing his prosthetic eye to pop out. He was unable to find the prosthetic eye and the jail has not replaced it. As a result, he suffers frequent headaches and pain around his eye socket. He states he filed a complaint on July 31, 2011. Pursuant to an ACLU complaint filed contemporaneously with the incident, he was provided an LASD Claim for Damages form. He submitted a claim, which the County denied pending receipt of further information. Mr. Celestine never followed up with the additional information requested.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

No. Mr. Celestine filed a complaint with the Department via the ACLU's complaint process on 7/19/11 that made no mention of any alleged force. The complaint states that the inmate's prosthetic eye was taken from him during a search. On 7/22/2011, the ACLU submitted another complaint form which also fails to mention any force allegation but requests immediate medical treatment for Mr. Celestine. The Department apparently first learned of the allegation of force upon the filing of declarations by the ACLU on Aug. 28, 2011.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: Twin Towers' inquiry into the ACLU complaints lodged on July 19 and 22, 2011 confirmed that Mr. Celestine had lost his prosthetic

eye. He was provided with a claim form to make a claim to the County for replacement, and was sent to see an ophthalmologist.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Investigators first interviewed Mr. Celestine regarding this incident. He reiterated his claim that his eye popped out when a deputy slammed him into a wall during a pod search, but his account of the force incident differed in some key ways from his declaration, including the exact location of the incident (on the tier rather than in his cell) and the timing of when he realized his prosthetic eye was missing (in his interview he said he immediately told the deputy his eye had popped out, but in his declaration he stated he only realized it later, when another inmate asked where his eye was).

Investigators next interviewed eight other inmates who were housed in the same pod as Mr. Celestine at the time of this incident, all of whom were identified by Mr. Celestine as either having witnessed the force incident or having some knowledge of it. None of those inmates corroborated Mr. Celestine's account. All but one remembered the pod search, and recalled that Mr. Celestine complained about losing his eye following the search. Several inmates specifically recalled seeing Mr. Celestine in the outdoor recreation area (where inmates typically are sent during pod searches) and commenting on the fact that he was missing his prosthetic eye. One inmate recalled that Mr. Celestine realized he accidentally left his eye behind when he left the pod and was concerned about it getting lost during the search. One inmate, Mr. Celestine's bunkmate, told investigators he remembered inmates talking after the search about how Mr. Celestine should write his inmate complaint to get the most money from the County.

Investigators also interviewed two custody assistants who worked the pod that day as well as two sergeants and a lieutenant who supervised the floor and had responsibility for responding to Mr. Celestine's inmate complaint. One CA remembered Mr. Celestine and the lost prosthetic eye; the other had no memory of any incident. The supervisors all stated that no force was reported by deputies or alleged by Mr. Celestine. Two deputies who were identified by Mr. Celestine as having used force declined to be interviewed by ICIB.

Following these interviews, investigators decided to re-interview Mr. Celestine. They confronted him with the inconsistencies between his ACLU declaration and his prior interview. He acknowledged numerous discrepancies, and blamed the declaration-writing process for these. Because Mr. Celestine stated he could not read because of his disability, he said other inmates wrote his account and then sent it to the ACLU. Following some written correspondence, an ACLU intern visited him. She had a prepared declaration, which another inmate read aloud before Celestine signed the document.

The case was submitted to the District Attorney and the United States Attorney. The DA declined to file charges, citing Mr. Celestine's inconsistent statements, inmate witness accounts that contradict Mr. Celestine's assertions, and the fact that Mr. Celestine's prior ACLU complaint did not allege an assault by deputies. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: The IA investigator did not conduct any independent investigation in this case. OIR did not object to this mere repackaging of the ICIB case because ICIB conducted a thorough investigation, all of the deputies and employees identified as potentially involved in this incident had consented to be interviewed by ICIB, and there were no other investigative angles to pursue.

Custody Division determined the allegations to be unfounded. OIR concurred.

OIR INVOLVEMENT/REVIEW: Following ICIB investigators' initial interview with Mr. Celestine, they contacted the OIR attorney handling this case to discuss investigative strategy. Particularly given the inconsistencies between Mr. Celestine's declaration and interview statements, investigators were concerned they would not be able to establish a criminal case against involved personnel and were also interested in conserving resources. OIR understood both concerns and agreed it would be appropriate to interview a small number of inmates and then re-assess the case before deciding whether to attempt to locate and interview all inmates in the pod. Given the outcome of these initial inmate interviews, it was clear the case could be completed without seeking out any additional witnesses.

Administratively, this case provided yet another opportunity for OIR to discuss with the unit and Custody Division the importance of deputies exercising restraint and showing respect for inmate property during cell and pod searches. It seems clear that Mr. Celestine's prosthetic eye was lost during the pod search. While we do not know the exact circumstances behind this, it is possible that the loss of Mr. Celestine's prosthetic and the subsequent allegations could have been avoided altogether had deputies exercised greater care during the search. We are hopeful that the installation of cameras in Twin Towers will reduce or eliminate future careless or disrespectful behavior by personnel conducting searches.

INVOLVED PERSON'S NAME: MELVYN FOSTER

DATE OF INCIDENT: Dec. 29, 2010

LOCATION OF INCIDENT: Los Angeles County + USC Medical Center Jail Ward

DECLARANT: Melvyn Foster

DATE DECLARATION SIGNED: June 7, 2011

CLAIM/LAWSUIT FILED? Yes. Civil Claim filed June 23, 2011.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNRESOLVED as to force; performance issues addressed through counseling

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Mr. Foster was taken to the jail ward for treatment following a force incident at MCJ. A deputy came into his room, referred to the incident with his partners at MCJ, and then cuffed both of Mr. Foster's hands to the bed. About an hour later, the same deputy returned and Mr. Foster asked him to loosen the cuffs. Instead, he tightened them. Mr. Foster yelled at the deputy, and then the deputy punched his head and face 15-20 times. He tried to defend himself by kicking, and other deputies came into the room to strap his legs down. Mr. Foster was examined by an LAC + USC doctor. According to currently available medical records, he had no visible injuries and did not complain of pain.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

Yes. The deputy reported use of force.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: According to the accounts provided in the force package, a nurse asked a deputy to move Mr. Foster because he was being disruptive and hostile to staff. The deputy approached Mr. Foster, who was already handcuffed to the bed, and explained that he was to be moved to another area of the jail ward. According to the deputy and a nurse witness, Mr. Foster sat up and spat in the deputy's face and then kicked him in the face. The deputy punched Mr. Foster several times in the face and then grabbed his leg. A custody assistant responded and grabbed his other leg. Mr. Foster spat at the deputy three more times, once more hitting him in the face. Another deputy responded to assist, restraining Mr. Foster's head and applying a spit mask over his head to prevent him from spitting on staff.

Another deputy responded and cuffed Mr. Foster's leg to the bed to prevent further kicking. While in transport, Mr. Foster was able to wiggle out of the spit mask and spat at a custody assistant.

When interviewed by the lieutenant preparing the force package, Mr. Foster admitted to kicking at and spitting on the deputy, but said these actions were an effort to defend himself against the deputy's assault. In this interview, Mr. Foster said there were nurses present at the time. Mr. Foster also admitted to spitting at the custody assistant, but said it was because the CA had pushed his head down.

Two nurses who witnessed the incident prepared memoranda that day. They both stated that the deputy arrived to help them move Mr. Foster to another room. As the deputy approached the gurney, Mr. Foster spit on him and tried to kick him. One nurse wrote that she saw the deputy punch Mr. Foster in response.

Some of this incident may have been captured on video, but the lieutenant responsible for the force package did not document whether he reviewed the video footage and did not preserve the video.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Investigators interviewed Mr. Foster, two nurses who witnessed the incident, a witness deputy, and the lieutenant responsible for the initial force package. Mr. Foster told the ICIB investigators that he asked the deputy to loosen his handcuffs. The deputy told him he first needed to see why he had been admitted, and then left. When he returned, the deputy stated, "You want to fight my partners in the county jail. I have something for your ass." The deputy then approached Mr. Foster's bed and punched him in the head 10-20 times, while yelling at him to stop spitting and resisting. Other deputies responded, put a spit mask on him, and wheeled him out of the room. During transport, a custody assistant hit him twice in the head. He denied ever kicking or spitting on a deputy, or doing anything other than attempting to pull his knee up toward his face to protect himself from the deputy's punches.

When confronted in a second interview with inconsistencies between his video recorded interview with the lieutenant at the time of the incident and both his declaration and initial statements to ICIB, Mr. Foster said he did not give an accurate statement to the lieutenant because he was distraught and hurt and the lieutenant was coaching him. In his interview with the lieutenant, he did not mention any statements made by the involved deputy and he acknowledged the presence of the nurses in the room at the time of the incident. He also admitted to spitting and kicking at the deputy, but only in self-defense. When asked about this during his second interview, Mr. Foster said that he did not remember spitting or kicking at the

deputy at the time of his first interview, but that he did remember it after reviewing the video of his interview with the lieutenant. He glossed over other inconsistencies by saying he did not remember some parts of the incident at the time he talked with the ACLU.

Investigators also interviewed both of the witness nurses. One nurse remembered Mr. Foster because he was yelling and screaming in the booking area, with hostilities aimed at the deputies. She wanted to move him to a location where he would not see the deputies. She asked a second nurse to help, and when Mr. Foster began arguing with them, a deputy stepped in to help. As the deputy began to move the gurney, Mr. Foster spit on him and kicked at him. Both nurses backed out of the room as the deputy fought with Mr. Foster as other deputies came in to restrain him. The nurse saw the first deputy strike Mr. Foster, but did not see any other deputies use force. The second nurse also remembered the incident, but with less specificity. His recollection was consistent with the first nurse's.

Investigators interviewed one deputy who assisted in moving Mr. Foster's gurney and witnessed Mr. Foster spit on the custody assistant during transport. The CA pushed Mr. Foster's face down and away, but did not strike him.

Investigators also interviewed the lieutenant responsible for writing the force package. He did not have any independent recollection of the incident, nor could he remember if this incident had been captured on video. He stated that if the video had any evidentiary value, he would have watched and retained it.

The other deputies involved in this incident all declined to be interviewed by ICIB.

ICIB submitted the case to the District Attorney and United States Attorney for filing consideration. The DA declined to file charges, citing the lack of any corroborating witnesses, Mr. Foster's inconsistent statements, and inmate discipline reports referencing Mr. Foster's history of being combative. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: IA investigators interviewed all of the involved personnel who had declined to be interviewed by ICIB. The deputy primarily involved in this incident gave a statement consistent with his report at the time of the incident: He was at the side of Mr. Foster's bed preparing to move it when Mr. Foster spit in his face and kicked him on the side of his head. In response, he punched Mr. Foster three times on the side of his head and then attempted to control his legs as other deputies arrived to assist in restraining Mr. Foster and placing a spit mask over his head. During these efforts, Mr. Foster spit at this deputy three more times.

The involved custody assistant likewise provided a statement consistent with his earlier report: He assisted in securing Mr. Foster as he spit and kicked at the primary deputy. As he assisted with the transport of Mr. Foster to another room, Mr. Foster spit at the CA, who responded by pushing the gurney away from him. Other witness personnel reported that the CA actually pushed Mr. Foster's head down and away.

Two other witness deputies and a custody assistant provided accounts consistent with their written reports and the statements made by other personnel.

Custody Division determined all charges to be unresolved. Given the inconsistencies in Mr. Foster's own accounts of the incident and the consistent statements of the involved personnel and witnesses, coupled with the fact that the Department's Force Prevention Policy was not in effect at the time, OIR concurred.

OIR INVOLVEMENT/REVIEW: After reviewing the initial draft ICIB report, OIR asked the ICIB investigator to more clearly document the issues surrounding the existence of any video recordings of the incident and the failure to retain the video. Following this change, OIR believed the ICIB investigation to be thorough and complete. Likewise, OIR determined the IA investigation to be thorough and complete.

While we concurred with the unresolved finding, OIR believed there were administrative issues that OIR asked Custody Division to address informally with the involved personnel. First, OIR recommended that the lieutenant who prepared the force package be counseled regarding his failure to capture and retain the video evidence. OIR also recommended counseling for the primary involved deputy to ensure that he understands how the Department's recently-enacted Force Prevention Policy would likely lead to an outcome different than "unresolved." The deputy stated throughout the investigation that he had no good opportunity to retreat, so had to punch the inmate in the face in response to his spitting and kicking, despite the fact he was cuffed to the gurney. That explanation was deemed acceptable and within policy in 2010, but likely would be found to be inconsistent with the principles that govern in-custody force incidents today.

INVOLVED PERSON'S NAME: GORDON GRBAVAC

DATE OF INCIDENT: Aug. 27, 2009

LOCATION OF INCIDENT: Twin Towers 152

DECLARANT: Gordon Grbavac

DATE DECLARATION SIGNED: June 15, 2011

CLAIM/LAWSUIT FILED? Yes.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNFOUNDED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Mr. Grbavac alleges he was placed in general population rather than protective custody despite the fact he has two cousins who work for the Sheriff's Department. In general population, an inmate threatened him. Later, two deputies removed him from his housing area and forcefully shoved him into the attorney visiting room, where one deputy repeatedly slammed his head into a partition and said "We're going to teach you a lesson you fat motherf***er." A sergeant responded and Mr. Grbavac told the sergeant the deputies had assaulted him. When the sergeant left to retrieve a video camera, deputies threatened him and told him to say he caused the injury to himself. He believed deputies would kill him if he didn't do what they said, so he told the sergeant upon his return that the injury was self-inflicted. He stated the deputy who assaulted him was standing behind the sergeant at the time of the interview. The two involved deputies then escorted Mr. Grbavac to the nurses' station, where one deputy used his handcuff key to puncture both of Mr. Grbavac's arms while he was handcuffed to a gurney. Mr. Grbavac states that his eye was cut and badly bruised and that he had bleeding in the front lobe of his brain.

During transport to LCMC by two different deputies, one deputy contacted Mr. Grbavac's cousin, who instructed the deputies to "BBQ him," which Mr. Grbavac took as a threat to kill him. At LCMC, another deputy threatened him and, he believed, instructed a nurse to kill him.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

Yes. On the date of the incident (Aug. 27, 2009), a Twin Towers deputy documented in an Inmate Injury Report that Mr. Grbavac alleged he had been hit by deputies. No force was reported or admitted by deputies.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: The involved deputies documented Mr. Grbavac's injury and the surrounding circumstances in an Inmate Injury Report. In it, a deputy wrote that Mr. Grbavac ran out of his pod during distribution of commissary screaming that he needed to see a psychiatrist. Deputies handcuffed him, placed him in visiting, and requested mental health staff to respond. When deputies returned later to check on Mr. Grbavac, they noticed a cut above his eye and some blood on his face. When they questioned Mr. Grbavac about the injury, he stated he had purposefully struck his head on a metal counter, but then stated that the deputies had hit him. The involved deputies notified a sergeant, who responded and interviewed Mr. Grbavac. Mr. Grbavac initially claimed that deputies had caused his injury by slamming his head into a wall. When the sergeant pressed Mr. Grbavac for details, though, Mr. Grbavac stated that he had intentionally banged his head because he needed to see a psychiatrist. Because Mr. Grbavac reported the injury to his eye was self-inflicted, the sergeant chose not to fully investigate the incident. He told the deputies to complete the Inmate Injury Report but did not prepare a memo regarding the incident or require the deputies to prepare memos. He did not interview any other potential witnesses to the incident. In a claim filed February 22, 2010, Mr. Grbavac again alleged the deputies caused his injury by slamming his head into a wall. The Department's response to the claim simply repeated what was contained in the Inmate Injury Report.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: ICIB investigators interviewed the sergeant who interviewed Mr. Grbavac immediately after the alleged assault by deputies. The sergeant stated that he responded to the location because deputies reported that Mr. Grbavac had accused them of assault. He noted Mr. Grbavac had a cut above his eye, with blood on his face, and that there was blood smeared on the countertop in front of Mr. Grbavac's seat. The sergeant interviewed Mr. Grbavac on video. While Mr. Grbavac initially stated the deputies caused the injury to his face, when pressed for details he admitted the injury was self-inflicted by him striking his head on the metal counter in front of him. According to the sergeant, Mr. Grbavac stated he injured himself in order to draw the attention of a "psych" (psychiatrist). Unfortunately, Twin Towers has been unable to locate the video recording of Mr. Grbavac's initial statement to the sergeant. However, in his ACLU declaration, Mr. Grbavac acknowledged that he told the interviewing sergeant on video that his injury was self-inflicted.

Investigators identified and interviewed the custody assistant who worked the control booth at the time of this incident. She remembered the incident and stated Mr. Grbavac was agitated, yelling, and rocking his head back and forth while in the visiting area. She said she saw him strike his head on the countertop in front of him 5-10 times, and never saw the deputies use any force on him. Unfortunately, this custody assistant was not interviewed and her observations not otherwise documented contemporaneously with the incident.

Investigators located and interviewed three inmates who had been in the same module as Mr. Grbavac at the time of the incident. None of these inmates had been interviewed previously in connection with this matter and, perhaps because of the passage of time, had no specific recollection of the incident. Investigators also located the contractor who had been present in the module distributing commissary items at the time Mr. Grbavac allegedly ran out of the module. He had never been interviewed previously and had no recollection of Mr. Grbavac or this incident.

Investigators also interviewed the deputies who transported Mr. Grbavac to LCMC, neither of whom recalls Mr. Grbavac or remembers anything unusual about this one of many trips between the jail and LCMC.

Additionally, investigators interviewed medical staff at Twin Towers, none of whom remember Mr. Grbavac. Staff at LCMC declined to speak with investigators.

In addition, investigators have interviewed Mr. Grbavac on three occasions, for a total of approximately eight to nine hours. During these interviews, Mr. Grbavac reiterated the allegations made in his ACLU declaration, but also made numerous additional allegations not contained in his declaration, including, among others: His cousin, an LASD sergeant, orchestrated his arrest and his assault in custody as part of an attempt to damage Mr. Grbavac's business. While at LCMC, he believed a nurse was going to give him a lethal injection and claim that it was a suicide. When he returned to Twin Towers from LCMC, he saw some inmates with a duffel bag and believed they were going to cut off his head and put it in the bag. Later, he said a medical staff attempted to poison him by giving him unidentified red pills, which he concealed and later disposed of. Upon his release several days later, Mr. Grbavac stated he was followed home by several unmarked police cars. Subsequent to his release, the Department began directing helicopters to fly over his home to harass him. Mr. Grbavac also alleged that he was falsely arrested and that deputies who executed the search warrant stole several valuable items from his residence.

Investigators obtained and reviewed Mr. Grbavac's medical records, which indicate Mr. Grbavac had a small laceration above his eye and no bleeding in his brain. The medical records also indicate he expressed suicidal intent.

Finally, investigators attempted to interview the deputies who allegedly assaulted Mr. Grbavac at Twin Towers, both of whom declined to be interviewed.

ICIB submitted the case to the District Attorney and United States Attorney for filing consideration. The DA declined to file charges, noting that a successful prosecution of the involved deputies would depend entirely on Mr. Grbavac's testimony. Given his conflicting

statements about how he was injured and issues raised by his mental health status, the DA concluded there was insufficient evidence to prove the deputies committed an assault.

ICIB still has an open pending investigation into other allegations made by Mr. Grbavac during his ICIB interview that are not part of his ACLU declaration. In that case, investigators still have to interview Mr. Grbavac's cousins, who are members of the Department, to explore the allegation that they were involved in his arrest, as well as deputies who participated in the search of Mr. Grbavac's house and allegedly stole property during the service of the search warrant.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: IA investigators interviewed the two deputies involved in the incident with Mr. Grbavac. Neither had more than a passing recollection of Mr. Grbavac specifically, and their memories of the incident comported with the information contained in the Inmate Injury Report. Both denied ever punching or in any way striking Mr. Grbavac, and both denied witnessing the other commit any such assault.

Custody Division closed this case as "unfounded."

OIR INVOLVEMENT/REVIEW: The work done by Custody staff to investigate and document Mr. Grbavac's allegations at the time this incident occurred was not exemplary. Mr. Grbavac initially alleged that deputies had caused his injury. When interviewed by the sergeant, though, he said it was self-inflicted. The sergeant then simply treated the matter as an inmate injury and documented it as such. Ideally, that sergeant should have investigated and documented the matter as an alleged use of force. He should have interviewed all potential witnesses, including other inmates in the module who may have seen Mr. Grbavac leaving the module, the outside contractor who was delivering commissary supplies at the time, and the custody assistant who now states that she saw Mr. Grbavac slamming his head on the counter but who did not document that observation at the time of the incident. At OIR's urging, the unit examined these shortcomings in the initial investigation and counseled the involved sergeant regarding his performance failures.

In addition, the Department did an insufficient job of reviewing and responding to the claim Mr. Grbavac filed in February 2010. As noted above, at the time of the incident, a sergeant interviewed Mr. Grbavac on video. For the claim response, that tape was retrieved and an attempt made to transfer the contents onto a DVD. That DVD was sent to Twin Towers operations and then onto Risk Management with a recommendation to deny Mr. Grbavac's claim. When ICIB investigators retrieved that DVD, they discovered it was blank. It is not clear whether the tape was ever burned onto the DVD or the wrong DVD was included with the claim package, but what is clear is that no one reviewed the DVD when investigating Mr. Grbavac's claim. Even more troubling, Twin Towers staff has been unable to locate the original video.

As a result of this, and particularly in light of the fact that many more incidents will be documented on video in the future, OIR has recommended that LASD adopt a policy requiring unit operations staff to review all recorded evidence that accompanies a claim response or use of force package. The Department is working to implement this recommendation.

Shortly after the ACLU filed Mr. Grbavac's declaration and the ICIB Task Force began its investigation, Mr. Grbavac's attorney (not associated with the ACLU, but retained to pursue his civil lawsuit) contacted OIR regarding the investigators' desire to interview Mr. Grbavac. After several phone contacts with both OIR and the ICIB investigators, the attorney eventually consented to have his client be interviewed but requested the OIR attorney be present. The OIR attorney attended each of the three interview sessions to observe and facilitate, and then subsequently remained in regular contact with investigators to receive updates on the status of their efforts.

OIR reviewed the ICIB investigation into the allegations of force and misconduct by Custody staff and found it to be thorough and complete. The IA investigation into Mr. Grbavac's force allegations likewise was complete. OIR believes it is important for the Department to fully investigate all of Mr. Grbavac's allegations, including his assertion that Department members related to him were involved improperly in his arrest, and that deputies who participated in the search of his stole property during the service of the search warrant, and urges the Department to move forward quickly with this investigation.

The IA case was sent to OIR only after it was completed, and at the same time it was sent to Custody Division for disposition. The assigned OIR attorney met with the Custody Division lieutenant tasked with reviewing the case to discuss the case disposition. At the time, OIR was not sure that ICIB still intended to investigate Mr. Grbavac's non-force allegations and believed that the case should not be closed until additional investigative work was done by either ICIB or IAB. The lieutenant agreed to put the case disposition on hold. Unfortunately, OIR later learned that the case was closed as "unfounded" within a week of our meeting with the lieutenant. Given OIR's deep involvement in the ICIB investigation in this case, Custody Division's decision to exclude us from the decision making regarding disposition was disappointing. Nonetheless, had we been consulted, we would have agreed that the only disposition that could be reached with regard to Mr. Grbavac's force allegations is unfounded because of the inconsistent versions of events provided by Mr. Grbavac and the lack of any corroboration of his account.

INVOLVED PERSON'S NAME: KEVIN HIGHSMITH

DATE OF INCIDENT: January 9, 2011

LOCATION OF INCIDENT: Twin Towers 151

DECLARANT: Kevin Highsmith

DATE DECLARATION SIGNED: April 12, 2011

CLAIM/LAWSUIT FILED? No.

DISTRICT ATTORNEY STATUS: N/A

ADMINISTRATIVE OUTCOME: UNRESOLVED; systemic issues surrounding cell searches addressed

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Two inmates asked two deputies if they and the other inmates in the pod could have additional recreation time, so that they could shave in preparation for court appearances. The deputies denied this request, as well as a subsequent request to speak with a sergeant, and instead called other deputies. All of the inmates were then required to go into the outdoor recreation area and were subjected to strip searches. Deputies then searched the pod while the inmates waited in the outdoor recreation area. When they returned to their pod, they found all of their property thrown about. The whole pod was then put on lock-down for the rest of that day and all of the next day.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION? No allegation of force was made in this declaration.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: None. The Department had not received a complaint and was not aware of Mr. Highsmith's allegations until the ACLU first filed his declaration on September 28, 2011.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Because the allegations are not criminal, the ICIB Task Force did not investigate, but referred the allegations for administrative investigation.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: The IA investigator interviewed Mr. Highsmith. His statement to the investigator was generally consistent with his declaration. He

could not remember the name of the inmate who requested recreation time, but did name the Custody Assistant and a Deputy to whom this inmate directed his request. When asked why he did not complain to a supervisor at the time of this incident, Mr. Highsmith said that inmates were generally treated very badly in jail and supervisors did not want to be bothered with inmate complaints. He also said the inmate complaint box in the module was rarely checked by supervisors, and that blank complaint forms were rarely available.

Investigators also interviewed four witness inmates who were also housed in the module on that day, including James Bowman, who filed a separate declaration complaining about retaliatory pod searches. (That declaration was investigated and summarized separately.) Mr. Bowman's statements to investigators were consistent with Mr. Highsmith's, and also consistent with the earlier interview he gave to the Lieutenant who investigated the allegations made in his own declaration. At the time of the earlier interview, however, he could not remember the name of the inmate whose request for recreation time sparked the incident, whereas he provided that inmate's name to the IA investigator. That inmate was interviewed and largely corroborated Mr. Highsmith's account of a January, 2011 search and concerns that it was in retaliation for his request for recreation time. This inmate, though, did not name the CA and deputy Mr. Highsmith complained of, but rather named a different deputy. The in-service report for January 9, 2011 indicates this deputy was not scheduled to work and did not work that day.

Investigators interviewed two additional inmates who had been housed in 151 F-pod with Mr. Highsmith in January, 2011. Both remembered a search that occurred sometime around January, 2011; one could not remember any further details, and one said that nothing unusual happened during the search or any other searches.

Investigators also interviewed all personnel who were assigned to work 151 F-pod at the time of this alleged incident and all personnel who had been named by the inmates – two CAs, two deputies, a senior deputy, two sergeants, and a lieutenant. They all described the policy and practice regarding pod searches, as well as the requirement that they be logged and reported. While some of them recognized Mr. Highsmith, none remembered the incident about which he complained.

The investigator's search of the Uniform Daily Activity Logs and Watch Commander's Log for January 9 and 10, 2011 revealed no mention of inmates being locked down on those days. Custody Facility Search Reports indicate that the only documented search of 151 F-pod during the month of January was January 23, 2011. The personnel named by Mr. Highsmith were not on duty during the time of that search. In addition, there was no contemporaneous complaint made to Custody supervisors about a January 9, 2011 search.

The Custody Division reviewed the case and determined that the charges against the subject deputy and CA were unresolved.

OIR INVOLVEMENT/REVIEW: The IA investigation in this case was thorough and complete, and the investigators conducted professional, thorough interviews. Despite our general concern (based on the number of complaints regarding pod searches that we have seen) that personnel sometimes behave unprofessionally while searching inmates and their cells, we concurred with the Department's finding that the specific allegations in this case were unresolved because there is no documentary evidence to show that a search occurred on January 9, 2011 or that any inmates complained about it. In addition, the deputies consistently deny the allegations, and two of the five inmates interviewed remembered nothing unusual about any January, 2011 search.

OIR has used this case – along with several others stemming from ACLU declarations – to again emphasize to the Department the importance of supervising and documenting pod and cell searches, which are a source of numerous inmate complaints. We have long maintained that all cell and pod searches should be videotaped. We are hopeful that the introduction of cameras into Twin Towers will eliminate the type of indiscriminate destruction of inmates' property complained of here.

INVOLVED PERSON'S NAME: FRANK MENDOZA

DATE OF INCIDENT: June 27, 2006

LOCATION OF INCIDENT: Twin Towers 162

DECLARANT: There is no declaration. The allegations are contained in paragraph 160 of the Complaint for Injunctive Relief filed by the ACLU in January, 2012 in *Rosas v. Baca*.

DATE DECLARATION SIGNED: N/A

CLAIM/LAWSUIT FILED? Yes. Mendoza's allegation is part of the *Rosas v. Baca* class action.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNRESOLVED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Paragraph 160 of the Complaint states:

In June 2006, a deputy assaulted and raped Frank Mendoza, a gay inmate, in Twin Towers. Earlier in the day, the same deputy was escorting a line of inmates including Mr. Mendoza and said to them "you all walk like girls." When Mr. Mendoza said to another inmate in the line, "There's a male who's unsure of his masculinity," the deputy grabbed Mr. Mendoza, shoved him against the wall, and threatened him stating, "You better watch it. I will show you my masculinity. I will come get you." Later that day, when the inmates returned to their pod, Mr. Mendoza's cell door was left open. Shortly after the deputy in the tower outside the pod left his post, the deputy who had previously threatened Mr. Mendoza force him into his cell, tore off his clothes, threw him to the ground, shoved a gag in his mouth and raped him. After the rape was over, Mr. Mendoza lay shivering and naked in his cell until another deputy found him and asked what had happened. After Mr. Mendoza reported that he had been raped, the deputy responded, "I do not see anything wrong with you." No LASD personnel interviewed Mr. Mendoza about the incident or took any forensic evidence to investigate whether he had been raped. Mr. Mendoza had been arrested for public drunkenness and was being held in LA County jail on a warrant for failure to appear that later proved to have been issued in error.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

Yes. Upon Mr. Mendoza's release, he reported to the incident to the LAPD, who referred him

back to the Sheriff's Department, where he lodged a complaint with the Twin Towers watch commander.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: The Twin Towers watch commander who received the call from LAPD interviewed Mr. Mendoza and collected memos from three deputies who were involved in escorting Mr. Mendoza on the date of the alleged incident, including the deputy who allegedly raped Mr. Mendoza. That deputy recalled having to use a firm grip to escort Mr. Mendoza, who was being disruptive and ignoring direct orders. He said Mr. Mendoza was unhappy with this, and said to him, "oh you are going to pay for this, just you wait Deputy ---, I can remember that name." Another deputy escorted Mr. Mendoza back to his cell. All three deputies remembered Mr. Mendoza for his uncooperative behavior. The watch commander wrote a three-page "Alleged Use of Force Complaint" memo. According to the memo, Mr. Mendoza said in 2006 that the deputy assaulted him because he had been overheard telling another inmate that the deputy had a problem with his masculinity after the deputy said that Mendoza and the other inmates walked like a bunch of girls. He said the deputy escorted him to his cell, told him to remove his clothes, forced him to the ground, and, according to the memo, placed his hand "down the center of his buttocks violating his private parts."

The watch commander's memo concluded the complaint was without merit. The watch commander stated she turned in the memo, along with the deputies' memos and the recording of Mr. Mendoza's interview to Twin Towers operations staff in July, 2006. Unfortunately, Twin Towers could not locate this information, surmising that it may have been destroyed due to the passage of time. The watch commander, however, was able to locate a copy of her memo on an old hard drive.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Investigators interviewed Mr. Mendoza twice. During the first interview, Mendoza reiterated that the deputy stated the gay inmates walked like girls, prompting Mr. Mendoza to comment to another inmate that the deputy was unsure of his masculinity, which in turn prompted the deputy to threaten Mr. Mendoza. This happened, he stated, when inmates were out of their cells lining up for dinner. (According to the watch commander's memo, Mr. Mendoza said in 2006 that this incident happened when he returned from court; records show Mendoza did, in fact, spend the day in court on June 27, 2006, and returned to the jail late in the evening, well after dinnertime.) Later that night, the deputy went to Mendoza's cell, tore off his clothes, stuffed something into his mouth, and threw him to the ground. The deputy then used his fingers to penetrate Mr. Mendoza's rectum approximately three times. The deputy then threw his food tray into the day room, and left.

When the deputies changed shift, another deputy came to Mendoza's cell and Mendoza reported the incident. That deputy told him it did not look like anything had happened, but allowed him to shower and gave him a new set of clothes. Mr. Mendoza said he also reported the incident to other inmates in the module. When Mr. Mendoza was released the next day, he said he was walking on the street crying when he encountered a homeless woman, and told her he had been sexually assaulted while in jail. She walked him to an LAPD station, where Mr. Mendoza reported the incident

Investigators contacted LAPD in an attempt to obtain a log or report detailing Mr. Mendoza's contact, but did not receive any information from LAPD.

Investigators identified 19 other inmates housed in the same module as Mr. Mendoza at the time of this incident. Investigators were able to locate 12 of these former inmates, none of whom remembered this incident or Mr. Mendoza.

Investigators also interviewed the watch commander who completed the "Alleged Use of Force Complaint" memo in 2006. She remembered interviewing Mr. Mendoza at the time, and said he was hesitant to elaborate and would only say he was sexually assaulted. He did not, at the time, specifically allege that his rectum had been penetrated. Based on this interview, the lieutenant formed the opinion that Mr. Mendoza had mistaken a routine strip search for a sexual assault. She said it was routine for a deputy to have an inmate strip down, lay flat on the ground, and then physically search him from his neck down to his buttocks area. Based on her opinion that Mr. Mendoza had been searched, not assaulted, the lieutenant did not conduct a sexual assault investigation or generate a criminal report.

Based on the lieutenant's interview, investigators asked a Sheriff's Department force expert to provide an opinion as to whether the actions of the deputy accused of rape were within the Department's policies for conducting searches. Based on his review of the investigative file, he opined that the deputy's search was in policy, and that Mr. Mendoza may have formed the opinion that a routine, thorough search was a sexual assault.

Investigators then contacted Mr. Mendoza to interview him a second time. For this second interview, Mendoza refused to be recorded. According to the summary of that interview, investigators confronted Mr. Mendoza with the fact that they had not located any witnesses to corroborate his account, and then asked him to define "rape." They then corrected his definition and informed him that digital penetration, or penetration by a foreign object, is not within the legal definition of rape. They read to Mr. Mendoza from the ACLU complaint and told him it is important to distinguish between an allegation of digital penetration and an allegation of rape. They also told him the lieutenant had said that Mr. Mendoza had specifically denied having anything inserted in his rectum, and asked him why he now is saying something

different than what he told the lieutenant in 2006. Mr. Mendoza became defensive and ended the interview.

The case was submitted to both the District Attorney and the United States Attorney for filing consideration. The DA declined to file criminal charges based on the fact that no independent witnesses confirm that the deputy was in or near Mr. Mendoza's cell and the opinion that Mr. Mendoza's testimony alone is insufficient to prove the allegations beyond a reasonable doubt. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: This case was referred to IA and , but because Mr. Mendoza reported his allegations in 2006, the one-year statute of limitations for internal affairs investigations expired well before the ICIB investigation ever began. Nonetheless, IA completed an investigation. Investigators interviewed the deputies alleged to have been involved in the incident as well as the lieutenant who investigated Mr. Mendoza's allegations in 2006. All had vague recollections of some contact with Mr. Mendoza but denied any wrongdoing. Investigators also obtained public statements Mr. Mendoza had made about the incident and attempted to locate a transcript of his testimony during congressional hearings. Unfortunately, the IA investigation relied on the work of the ICIB investigators, which OIR found to be less than thorough. Given that the statute of limitations date had already passed and the ICIB investigators had twice interviewed Mr. Mendoza, the IA investigation was sufficient.

OIR INVOLVEMENT/REVIEW: OIR reviewed the ICIB investigation after it had been submitted to the DA. We concluded it was not a fair and thorough investigation and communicated our concerns to the investigators and ICIB management. We noted the following concerns:

- *Testimony with the Stop Prison Rape/Just Detention International.* Mr. Mendoza stated in his interview with ICIB investigators that he had traveled to Washington to testify at congressional hearings as part of a delegation from Just Detention International (formerly called Stop Prison Rape). This fact is not mentioned in the summary of the investigation, though the investigators told me they confirmed he had been part of the delegation. Investigators said they could not locate a transcript of Mendoza's testimony, but the investigative report does not document what efforts were made to locate one. This is particularly important because the investigation highlights inconsistencies between what Mr. Mendoza says now about the incident, and what the lieutenant remembers that he told her back in 2006.
- *Watch commander interview.* In her February, 2012 interview, the lieutenant provides considerably more details about Mr. Mendoza's 2006 statements to her than she did in

her July, 2006 memo. Specifically, she says she formed an opinion that Mendoza mistook a routine search for a sexual assault. Her description of a “routine search,” in which the inmate would have been instructed to strip naked and prone out while a deputy physically touched his buttocks, is not believable. Investigators did not question this description, but accepted it as the lieutenant’s justification for not contacting criminal investigators or initiating any kind of sexual assault investigation. Further, the 2006 memo does not say anything about a search, and none of the deputies mention this possible scenario in their 2006 memos or reports.

- *Opinion by the Department’s force expert.* Not only did investigators not question the lieutenant’s description of a “routine” search, they sought an expert opinion from an LASD force expert, in which he used the investigators’ summary of their interviews with the lieutenant and Mr. Mendoza, as well as the lieutenant’s 2006 memo to “determine whether or not the actions of [the deputy] were within the policy of the [LASD] as it pertained to searches of persons.” There are several problems with this use of “expert” opinion. First, interview summaries are not an appropriate basis for the formation of this type of expert opinion. Second, the lieutenant’s assertion about Mendoza mistaking a search for a sexual assault is mere speculation, and again is an inappropriate basis for an expert opinion. No one ever asked the deputies whether they had searched Mendoza, nor did investigators ask Mendoza whether he had been searched. Finally, the force expert’s opinion that the alleged search described by the lieutenant (in which the inmate is stripped naked, told to lay on the ground, and physically searched) was within policy is not an opinion shared by anyone in Custody Training. The force expert further opined that Mendoza “may have mistakenly formed the opinion that the routine, thorough search of his person by [the deputy] was a sexual assault.” It is not clear how his expertise as a force instructor qualifies him to provide this opinion, or how anyone could provide this opinion, given the very sparse record here.
- *Discussion regarding statute of limitations.* In their report, the investigators summarize a portion of their interview with Mendoza in which they asked whether Mendoza would be willing to testify. Mendoza told them he believed the statute of limitations had expired, so that the case would not be prosecuted. Investigators informed him there was a good possibility the case would go to court, at which point the summary states “Mendoza became very upset and began to cry.” One implication to be drawn from this is that Mendoza was upset that he might have to testify. Upon listening to Mendoza’s interview, however, we developed a different view. He seemed surprised that the statute had not run, but when investigators asked whether he’d be willing to testify, he said enthusiastically, “yeah!” and, according on one investigator, shook his head “yes,”

when asked whether that was good news to him. This information is not included in the summary.

- *Second interview of Mendoza.* When investigators returned for a second interview of Mendoza, he did not want to be recorded. According to the summary, they informed Mendoza that the lieutenant told them that Mendoza had never made any claim of being raped or sexually assaulted. They then asked him to define rape and challenged his definition because it was not legally correct. According to the summary, investigators "told Mendoza it would be false for him to allege he had been raped if in fact he was claiming he had instead been digitally penetrated." Mendoza "became defensive." Mendoza then said he wanted to contact his attorney before he spoke with investigators any further. According to the summary, investigators then "told him it is unusual for a victim of a crime to request his lawyer be present during an interview with the investigators that are working on his behalf to prove his case."

The description of this interview is beyond troubling. While we do not have the benefit of a recording, the investigators' summary makes it sound more like an interrogation than an interview of an alleged sexual assault victim. While it may be unusual for a victim of a crime to request a lawyer, it is also unusual for an investigator to accuse an alleged victim of making a false statement because he doesn't know that digital penetration is not included within the legal definition of rape. In addition, confronting the alleged victim with the statements of another witness with what seemed to be the intent to accuse him of changing his story also seems to be an unusual tactic for sexual assault investigations.

By the time OIR reviewed this case, it had been submitted to the District Attorney, and little could be done to correct the problems we identified. In the end, Custody Division inactivated the case due to the statute of limitations, but indicated that it would have made the case "unresolved" had the deadline not passed.

INVOLVED PERSON'S NAME: JAMES PARKER

DATE OF INCIDENT: Jan. 24, 2011

LOCATION OF INCIDENT: Twin Towers 142

DECLARANT: Esther Lim and Christopher Brown

DATE DECLARATION SIGNED: Feb. 4, 2011 (Lim) and Feb. 2, 2011 (Brown)

CLAIM/LAWSUIT FILED? Yes. Claim filed June 8, 2011.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNRESOLVED as to force; FOUNDED charges against one deputy for violation of the recalcitrant inmate policy

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): ACLU Jails Project Coordinator Esther Lim was in the visiting room with inmate Christopher Brown, and both witnessed a portion of this incident. Ms. Lim alleges that she saw two deputies beat and Taser Mr. Parker while he was lying on the ground, not moving or resisting, for approximately two minutes. Mr. Parker appeared to be unconscious. Deputies repeatedly yelled "stop resisting" and "stop fighting" during the beating, as if they were reading from a script. Ms. Lim left the facility and was not interviewed as a witness.

Inmate Christopher Brown says essentially the same thing regarding the deputies' use of force on Mr. Parker, except that Mr. Brown also states he saw one deputy kneeling Mr. Parker in the head, neck and face, bracing himself on a wall and then jumping up and dropping his knee onto Mr. Parker's face. According to inmate Brown, Mr. Parker was not resisting or fighting, and appeared to be knocked out. Mr. Brown was interviewed by two sergeants. They spoke with him at length off tape, and then began to video record an interview, but asked him less detailed questions than they had asked him off tape.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

Yes. Deputies reported their use of force on the date of the incident (January 24, 2011).

Allegations of excessive force surfaced when the ACLU filed the Declarations of Esther Lim and Christopher Brown in the U.S. District Court on February 7, 2011 and the L.A. Times published an article with Ms. Lim's allegations on February 8, 2011.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: Deputies reported that Mr. Parker was uncooperative during pill call, so they removed him to the outdoor recreation area. Following

pill call, they contacted the inmate regarding discipline for his prior behavior. Mr. Parker stated "I'm not going to the fucking hole!" and when deputies attempted to handcuff him, he turned and punched one deputy in the face, knocking him back. According to the deputies' reports, Mr. Parker advanced, punching the deputy in the torso. The deputy returned punches, and the second deputy grabbed him and was also punched by the inmate. Deputies took Mr. Parker to the ground. He fell face forward, striking his head. On the ground, the inmate continued to fight, throwing his elbows back toward the deputies and attempting to push himself up from the ground. One deputy kned Mr. Parker in the head approximately two times. The other deputy deployed his Taser. The prongs did not contact Mr. Parker's skin, so he used it in drive-stun mode, twice to Mr. Parker's back and once to his leg. The deputies then were able to handcuff Mr. Parker. Mr. Parker did not provide a statement to the sergeant preparing the force package.

Mr. Parker sustained a 2 cm laceration above his eye and a hematoma to the side of his head. When he was seen by medical staff, he was awake and there was no reported change in his level of consciousness.

Mr. Brown was subsequently found not competent to stand trial and was housed at Patton State hospital.

One deputy sustained redness and swelling to the side of his head, and fractures to his hand that required surgery.

The District Attorney filed criminal charges against Mr. Parker for his alleged assault of the deputies. The case against Mr. Parker proceeded to trial in September, 2011 and ended in a hung jury, with the jury voting 8-4 for acquittal. The District Attorney decided to re-try the case, and Mr. Parker changed his plea to no contest on the scheduled first day of the retrial and was convicted of a felony charge of resisting an officer on November 21, 2011.

SYNOPSIS OF ICIB INVESTIGATION: This case was initially investigated by Twin Towers as a regular use of force package, but was referred to ICIB immediately after Ms. Lim's allegations were reported to the Department and before the force package was formally completed.

The ICIB investigators interviewed the Twin Towers sergeant who was assigned to complete the force package, the deputy responsible for maintaining the Taser download data, and an inmate trusty who stated he witnessed the entire incident. That inmate states Mr. Parker started the fight by punching a deputy and then continued to fight with deputies while they tried to take him to the ground. He described the entire incident fairly consistently with the deputies' written reports, and said the inmate continued to fight and struggle during the whole incident. He did not initially come forward as a witness, but said when he saw the ACLU witness' account

on the news, he had to come forward because he thought the deputies were being unfairly accused.

Investigators reviewed the downloaded Taser data and the Taser video taken at the time of the incident. While the video shows a very limited part of the inmate's body, it appears the inmate is yelling and moving throughout the incident.

Both involved deputies wrote reports at the time of the incident, but declined to be interviewed by ICIB investigators.

Ms. Lim, Mr. Brown, and Mr. Parker all refused to be interviewed by ICIB investigators. Investigators attempted to obtain Ms. Lim's interview with FBI investigators, but the U.S. Attorney's office declined to release it.

This case was completed and sent to the Justice System Integrity Division of the District Attorney's office for filing consideration. The DA declined to file charges against the involved deputies, citing a number of reasons:

- Ms. Lim refused to be interviewed for purposes of the investigation.
- Ms. Lim's declaration is inconsistent with Mr. Brown's in a number of ways.
- Mr. Parker's injuries were consistent with the statements given by the involved deputies and one inmate witness, and inconsistent with the beating described in Ms. Lim's declaration.
- The Taser video corroborates the deputies' statements and calls into question the accuracy of Ms. Lim's declaration.

ICIB also submitted the case to the United States Attorney. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: IA investigators interviewed the two involved deputies as well as a senior deputy whom the deputy had notified regarding his intent to write a discipline report on Mr. Parker. The senior deputy also heard and responded to the deputies' assistance request during their fight with the inmate, but the incident was over by the time she arrived. Regarding their uses of force, both involved deputies made statements during their IA interviews that were consistent with their written reports. They were also questioned about their compliance with policies and procedures regarding pill call, inmate discipline, and the handling of recalcitrant inmates. Unfortunately, investigators did not question the deputies regarding Esther Lim's allegations of intimidating or retaliatory conduct during the incident and on the following day. Specifically, Ms. Lim alleged in her declaration that the deputies noticed her and signaled to her to back away from the window through which she was watching the

incident. She also alleged that when she visited the facility the day after the incident, one of the involved deputies stared at her in an aggressive manner.

IA investigators also attempted to contact and interview Esther Lim, but she declined, through her attorney. Investigators also attempted to obtain transcripts of the FBI's interview of Ms. Lim but received the same negative response ICIB investigators received. Unfortunately, investigators did not obtain or review the transcripts of Ms. Lim's testimony that were available – from her testimony in Mr. Parker's criminal trial; from a deposition given during Mr. Parker's civil lawsuit; and in a public, recorded statement made to the Citizen's Commission on Jail Violence.

Custody Division determined that all charges against one deputy were unresolved; the other deputy received a three day suspension for violating the Division's policy regarding the handling of recalcitrant inmates. That suspension was later reduced to a written reprimand. Custody Division did not consult with OIR prior to determining the disposition in this case.

OIR INVOLVEMENT/REVIEW: OIR first learned of this incident when the ACLU filed its declarations of Esther Lim and Christopher Brown on Feb. 7, 2011. Three OIR attorneys met with Ms. Lim on Jan. 26, 2011, two days after the incident, during which we discussed force and misconduct issues in the jails, but she did not mention this incident to us at that time. When OIR learned of Ms. Lim's allegations, we immediately pushed for the incident to be investigated criminally, and the Twin Towers unit commander requested ICIB to handle the case. ICIB initially wanted the unit to complete its force package before sending the case for criminal investigation, but OIR pressed ICIB to begin its investigation immediately. The OIR attorney handling the case received regular updates as the investigation progressed and reviewed the entire investigation file, including all videotaped interviews and the Taser video. The ICIB investigation was as thorough as possible, given the key witnesses' refusal to participate in the Department's investigation.

When OIR received the completed IA investigation, we noted several deficiencies – the failure to question the deputies about the alleged interactions with Ms. Lim, and the failure to obtain or review available transcripts of Ms. Lim's testimony regarding this incident. We met with the IA sergeant and lieutenant to discuss these deficiencies, and they agreed to do additional work necessary to remedy the investigative shortcomings. The OIR attorney handling the case communicated with Custody Division regarding the plan to have IA do additional work and requested that any discussion regarding disposition be put off until the investigation was complete. When OIR later checked the status of this case, we learned that no additional work had been done by IA, and Custody Division had completed its dispositions without consulting with OIR.

INVOLVED PERSON'S NAME: ANTHONY PENMIK

DATE OF INCIDENT: March 2011

LOCATION OF INCIDENT: Twin Towers 141

DECLARANT: Anthony Penmik

DATE DECLARATION SIGNED: July 15, 2011

CLAIM/LAWSUIT FILED? No.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNFOUNDED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Sometime in March 2011, after Mr. Penmik heard inmates in the cell next to his banging on the door, two deputies – a male and a female – came to his cell, ordered him and his cellmate to get up and handcuffed them. Mr. Penmik assumed the deputies believed it was he and his cellmate that had been making the noise, prompting this treatment. The deputies then walked them to the dayroom. The female deputy dug her nails into his neck, leaving marks that lasted at least until the time he signed the declaration. The female deputy also was holding Mr. Penmik's cellmate by his neck. They had a crude verbal exchange and the deputy threatened to whack him with a flashlight. The male deputy then kicked him in the leg and butt and hit him on the leg with a flashlight, leaving bruises. Deputies then left and searched his cell, taking some personal property as well as their mattresses, blankets, and sheets.

Mr. Penmik also complains about the poor quality of food served to inmates. He stated that the trusties would often mess with his meals by giving him lesser quantities or taking the protein shake that he was supposed to get as part of a special diet. Sometimes the milk would taste rotten, and once he was given milk that was three days past its expiration date and it made him throw up.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

No.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: Mr. Penmik never complained about a use of force prior to the filing of his ACLU declaration. No force was reported, and no investigation completed.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: ICIB investigators interviewed Mr. Penmik on three occasions. It was obvious from these interviews that Mr. Penmik has a developmental disability resulting in diminished mental capacity, limited verbal skills, and according to Mr. Penmik, an inability to read or write. In the initial interview, he said that as he was handcuffed in his cell, the male deputy nudged his buttocks with his knee but this, while offensive, did not cause any pain. He and his cellmate were then taken to the dayroom and told to sit at the table. The female deputy threatened to pepper spray them. She searched both inmates, then left them at the table while she searched their cell. When they finished searching, the deputies left and inmates returned to their cell. Mr. Penmik told investigators that other than the initial search, the female deputy did not put her hands on him in any way. He said the male deputy did not touch him, other than to nudge him with his knee. He said he never received any marks, scratches, cuts, or bruises on his body as a result of this incident. Investigators asked him about the exchange of names and crude comments between the deputies and Mr. Penmik, and he could not remember whether deputies called him names. As to the comments he allegedly made, he said, "I did or I didn't. I don't know." He said deputies took some of his personal property, and removed his sheets and blanket, but not his mattress.

When investigators asked Mr. Penmik if he remembered telling the ACLU representative that the female deputy had dug her fingernails into his neck, his answer wavered from, "I think she did," to "she didn't," to "I think she did, but I wasn't paying attention. I'll say yeah, she did." When asked why he had just told the investigators he had not been touched or injured in any way by the female deputy, he said the incident was a long time ago, and it may have happened or it may not have happened.

Investigators identified a deputy who matched the description provided by Mr. Penmik and who was assigned to work in his module during the relevant time period. They then returned to interview Mr. Penmik a second time and to show him a photo line-up. Investigators asked him again about the incident. Again, his statements wavered. He said he was never hit with a flashlight, but he could tell both deputies wanted to strike him. He said the declaration was wrong where it said that the male deputy hit him with a flashlight. When asked again whether the female deputy dug her nails into his neck, his story again went back and forth from, "she did it once," to "no," to "I'm just confused. I'm sorry." Ultimately, he said the declaration would be wrong if it said the female deputy had stuck her fingernails in his neck. Mr. Penmik was unable to identify the female deputy from the photo line-up.

Investigators located and interviewed Mr. Penmik's cellmate in the spring of 2011. Out of a selection of photos of his prior cellmates, Mr. Penmik confirmed that investigators had located the individual who had been his cellmate at the time of this incident. The cellmate also has a

developmental disability, as did all the inmates assigned to that pod at the time. He remembered only one incident where he and Mr. Penmik had contact with deputies. He said the entire pod was searched on one occasion – he believed it was April, 2011 – when he and Mr. Penmik were handcuffed, taken out of their cell, and told to sit at the dayroom tables along with all the other inmates in the pod. He said he sat at a table directly across from Mr. Penmik for the whole time the pod was searched, approximately an hour. He said there was no verbal or physical altercation before, during, or after the search involving the deputies and any of the inmates. He did not hear any of the deputies calling Mr. Penmik names. He was escorted from the cell first, so he did not see Mr. Penmik get handcuffed or walked out of the cell. Mr. Penmik never told him that the deputies had abused him or called him names.

Investigators located housing records that confirmed there was a search of Mr. Penmik's cell conducted by a male and female deputy matching the descriptions provided by Mr. Penmik in 141, C-pod in early April, 2011. Both deputies involved in that search consented to be interviewed, though one has resigned from the Department and now resides overseas. Neither deputy had any specific recollection of the search or Mr. Penmik. Both denied ever using the language alleged by Mr. Penmik or using force on an inmate in the way described by Mr. Penmik.

Investigators returned to interview Mr. Penmik a third time, to show him a photo line-up including the male deputy they had identified as having been involved in the search. Mr. Penmik was unable to identify the deputy. Investigators also asked him about statements made by his cellmate that Mr. Penmik had never told him that he had been grabbed by the female deputy, kicked by the male deputy or struck in the leg with a flashlight. Mr. Penmik again backed away from those statements. While he insisted he had been nudged in the buttocks by the male deputy's knee, he said he was mistaken about the female deputy digging her nails into his neck and being struck with a flashlight.

Investigators then interviewed the floor sergeant who had been working the night the search of Mr. Penmik's cell took place. He had no specific recollection of the search or any allegations of force coming out of it.

Finally, investigators interviewed three individuals who had been housed in cells near Mr. Penmik's around the time of the search. None of them had any recollection of hearing about or witnessing an incident similar to that described by Mr. Penmik.

The case was submitted to both the District Attorney and the United States Attorney for filing consideration. The DA declined to file criminal charges, citing the fact that Mr. Penmik's statements in his interview with investigators contradicted most of his declaration, as well as

the fact that Mr. Penmik's cellmate also contradicted his allegations. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: IA investigators appropriately relied on the thorough investigation completed by ICIB with regard to Mr. Penmik's allegations of unreasonable force, including the voluntary interviews given by deputies allegedly involved. IA did focus on Mr. Penmik's allegations regarding food distribution. Investigators interviewed four deputies and a CA who regularly worked Mr. Penmik's pod and were responsible for supervising the distribution of meals, including special diet items such as Mr. Penmik's protein shakes. One of these deputies specifically remembered Mr. Penmik; none of them recalled him ever complaining about not receiving his meals. The CA and two of the deputies interviewed worked the pod on the day of the search. They did not recall Mr. Penmik making any complaints about a use of force or property taken during the search.

Investigators also interviewed a head cook regarding Mr. Penmik's allegation of receiving spoiled milk. He said he never received a complaint that any inmates had received spoiled or expired milk. He stated that the date on the milk is always checked before it leaves the kitchen, and because the milk arrives in batches, if expired milk had been inadvertently served, it would have been served to a large number of inmates and he would have expected to receive many complaints.

Finally, investigators interviewed a Food Services executive about Mr. Penmik's allegation that he frequently did not receive his protein shakes. She confirmed that he was prescribed a protein shake but had no record that could substantiate that he was not receiving it.

Following this investigation, Custody Division determined that Mr. Penmik's allegations were unfounded. OIR concurred.

OIR INVOLVEMENT/REVIEW: OIR played its usual role in this case. We reviewed a draft of the ICIB investigation before it was finalized and sent to the DA's office, and then consulted with the IA investigator as her investigation began. OIR concluded that both investigations were thorough and complete, and concurred in the Department's finding that all charges were unfounded.

INVOLVED PERSON'S NAME: RONALD REEVES

DATE OF INCIDENT: January 21, 2011 (though the declaration states February 11, 2011, Mr. Reeves acknowledges now he had the wrong date)

LOCATION OF INCIDENT: Twin Towers 151 (though the declaration states the incident occurred in MCJ, Mr. Reeves acknowledges now that he was housed in TTCF at the time)

DECLARANT: Ronald Reeves

DATE DECLARATION SIGNED: July 22, 2011

CLAIM/LAWSUIT FILED? No.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNRESOLVED as to force; administrative issues regarding report writing addressed through counseling and training

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Mr. Reeves alleges he was housed in MCJ at the time of the incident. He was asleep in his cell at count time, so a deputy came into his cell and dragged him out of his lower bunk. According to Mr. Reeves' declaration the deputy did not try to wake him up, but dragged him by his shoulders, where he hit the metal stool and fell onto the floor. He tried to push himself up from the floor but the deputy knocked him back down. As a result of this incident, he had a 4-6" cut on his chin that required stitches and left a visible scar.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

No. There was a documented incident involving Mr. Reeves for which he received stitches on his chin. A custody assistant completed an Inmate Injury Report. In the section of that form completed by medical staff, the nurse indicated that the inmate "states he fell sideways from lower bunk & hit left ear/chin mandibular area to a stool." In the section that gives the inmate an opportunity to write a statement, Mr. Reeves wrote that he fell down, and signed his name.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: Other than completion of the inmate injury report, no investigation was conducted.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Investigators interviewed Mr. Reeves about the allegations made in his declaration. His interview statements were consistent with his

declaration – he was asleep in his cell when a deputy came and dragged him off his bunk, causing his face to strike the stool and, when he tried to push himself up, the deputy struck him in the shoulder with his hand to force him back to the ground. However, Mr. Reeves could not provide any specific details about the initial force used against him. He stated he did not “have a clue” how he went from sleeping to striking his face on the stool, but believed the only way it could have happened was for the deputy to have dragged him off the bunk. He did not have any specific memory of being dragged, but said it was not possible that he simply fell. He stated he did not report the force to medical personnel because he was in shock. He also stated that he had taken sleeping pills the night before, which likely caused him to sleep through the morning count. He did recall having filed an inmate complaint form about the incident, and said he was subsequently interviewed by a black female sergeant. Investigators could not locate his complaint, and learned that there were no black female sergeants assigned to or working Twin Towers around the time of this incident.

Investigators also interviewed 21 other current and former inmates. Many of them remembered the incident, though none were in a position to see what happened inside Mr. Reeves’ cell. One inmate said he saw the deputy throw the inmate to the floor via a shadow cast against the cell wall. Investigators returned to the cell in question to verify whether a shadow could be cast in the angle the inmate described, but could not recreate such a shadow.

Many inmates reported hearing “screaming,” “shouting,” or “a startled yell” coming from the cell, followed by statements like “what did you do that for?” or “what did I do?” A number of inmates stated that Mr. Reeves talked to them about the incident when he returned from the clinic after receiving stitches. He reportedly told some inmates that the deputy dragged him off his bunk; another that he was struck by a flashlight; another he that was startled awake, and another that he had fallen to the floor.

ICIB investigators interviewed the involved deputy. He did not remember much about the incident, but denied striking, pushing, or using any force on the inmate. He said he recalled lightly tapping the inmate’s body while he told him to wake up, and that the inmate then began thrashing around.

Investigators also interviewed the CA who was in the pod assisting with count, and who wrote the inmate injury report. He did not witness anything inside the cell. In addition, investigators interviewed the sergeant who approved the inmate injury report and the nurse who treated Mr. Reeves, neither of whom had any specific recollection of Mr. Reeves.

ICIB submitted the case to both the District Attorney and the United States Attorney for filing consideration. The DA declined to file charges, citing the inability to prove beyond a reasonable

doubt that the deputy assaulted Mr. Reeves because of Reeves' conflicting accounts of how he was injured. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: IA investigators interviewed the subject deputy, as well as the CA, who, though only a witness in the ICIB investigation, was named a subject for purposes of the administrative case because of his inaccurate documentation of the incident on the inmate injury report. IA also interviewed a supervising deputy who, at the time, was responsible for retrieving inmate complaints from Mr. Reeves' module. Supervising deputies wear two stripes on their sleeves as opposed to a sergeant's three stripes, and because this deputy is a black female, IA did an excellent job in recognizing the need to interview her, given the possibility that Mr. Reeves had mistaken her for a sergeant. She did not recall Mr. Reeves, however, and stated she would not have investigated any alleged use of force, but would have passed such a complaint on to a higher-ranking officer.

The IA investigation did not turn up any new information regarding the allegation of force made by Mr. Reeves. The Custody Division determined these allegations to be "unresolved." Because Mr. Reeves had no specific recollection of being dragged from his bunk by the deputy, the deputy denied using force, and there were no other witnesses to the event, OIR concurred with the unresolved finding.

The way in which the inmate injury report was written by the involved CA, however, was clearly false, in that it stated that the inmate had made a statement to the CA about falling off his bunk. That information, though, was actually conveyed to the CA by the deputy. The CA was still on training, and stated in his interview that he had been instructed to write it that way by the deputy, his training officer. The questions posed to the deputy on this issue were not as exacting as they could have been, and Custody Division decided to make the false statements charges against the CA "unfounded."

OIR concurred with this finding as to the CA, largely because he was a trainee at the time and his interview statements, along with the deputy's, indicated sloppiness more than an intent to mislead. OIR did recommend that both employees be counseled regarding their shortcomings in this case, and that the CA be sent to additional training on report writing. The Department concurred.

OIR INVOLVEMENT/REVIEW: The lead ICIB investigator contacted OIR during the course of the investigation to seek guidance about interviewing a sampling of inmates rather than trying to track down and locate all 47 inmates in the module on the date and time of this incident. Particularly in light of the fact this incident took place in a corner cell which made it nearly impossible for anyone to have seen into the cell, OIR concurred with the investigator's plan.

OIR then reviewed a draft of the investigative book. We made some minor suggestions for clarification, but otherwise concluded the ICIB investigation was complete and thorough.

Likewise, OIR consulted with the IA investigator during the course of his investigation, most importantly to discuss the decision to name the CA as a subject for his failure to properly complete the inmate injury report. Once the IA investigation was complete, OIR consulted with Custody Division regarding the disposition of this case. OIR had concerns about the way in which the disposition of this case was initially written, particularly with respect to the CA. OIR concurred with the ultimate “unfounded” result, but believed the case disposition summary did not accurately reflect the charges lodged against the CA. Custody Division was amenable to OIR’s editorial suggestions, and the final disposition reflects this. As stated above, OIR also recommended that both employees be counseled regarding their shortcomings in this case, and that the CA be sent to additional training on report writing.

INVOLVED PERSON'S NAME: IRVIN SHAW
DATE OF INCIDENT: Aug. 14 and 21, 2010
LOCATION OF INCIDENT: Twin Towers/MCJ
DECLARANT: Irvin Shaw
DATE DECLARATION SIGNED: April 20, 2011
CLAIM/LAWSUIT FILED? No
DISTRICT ATTORNEY STATUS: N/A
ADMINISTRATIVE OUTCOME: UNFOUNDED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Inmate Shaw was assaulted by other inmates in TTCF on August 14, 2010 because he was labeled a "snitch." He was moved to a different module in TTCF that day and then moved to MCJ less than a week later.

On August 21, 2010, he told a CA that his life was being threatened by trustees because of the snitch label. The CA responded, "I ain't moving you no fucking where." When he complained again later to the same CA, the CA said, "I'm gonna move you to the front row," which I/M Shaw took to be a threat to move him somewhere he would be more of a target. Shaw knew that something was going to happen to another inmate in the row who had been threatened by the same trustees. Shaw later heard that inmate yelling for help and a deputy responded "shut the fuck up before I let them in." He later heard this inmate screaming for help and then learned the inmate had been murdered.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?
No force alleged.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: Homicide investigators interviewed I/M Shaw in connection with the inmate murder. A subsequent administrative investigation into circumstances surrounding the murder led to discipline for one CA for failing to follow Department procedure for handling an inmate requesting medical assistance, but this CA was not the one implicated by I/M Shaw.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: ICIB investigators attempted to talk to I/M Shaw, who at the time was housed in Twin Towers, but Shaw told them he would only talk to

them if he could be exonerated from his criminal case, and demanded to speak with the Sheriff when investigators told him they could not make such a deal with him. Investigators then requested that an acting sergeant at TTCF continue to build a rapport with Shaw and try to get him to provide details of his allegations. In a recorded conversation, I/M Shaw told the acting sergeant that he had been in possession of a cell phone while in custody, and that the phone had been provided to him by an FBI agent dressed as a deputy. He also told the acting sergeant that he had provided his mother with details regarding things that had happened in jail. Investigators made numerous efforts to locate I/M Shaw's mother. They were finally able to reach her and she scheduled an appointment to meet with them, but failed to show up and then did not return any further phone calls.

Investigators prepared a memo summarizing their investigation but did not formally present the case to the District Attorney. OIR concurred with this decision, given the lack of any evidence of criminal conduct.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: IA investigators interviewed the CA named in I/M Shaw's declaration as the one who used profanity and refused to move him to a different location despite his safety concerns. That CA described his normal process for handling an inmate's request to be moved for safety or other reasons, and could recall times when he received such requests and reportedly handled them appropriately. The CA did not recognize a picture of I/M Shaw, and did not remember a time when I/M Shaw ever approached him asking to be rehoused. Custody Division determined the case was unfounded.

OIR INVOLVEMENT/REVIEW: OIR obtained the ICIB memo summarizing its investigation and agreed that there were no criminal allegations related to I/M Shaw's declaration that needed to be pursued. However, because ICIB did not interview the CA named in Shaw's declaration, OIR recommended that IA do so, to assess Shaw's allegation that the CA ignored his request for help. IA completed that interview, during which the CA denied any knowledge of I/M Shaw or his request for reassignment of his housing unit. Given I/M Shaw's unwillingness to participate in an ICIB interview and his attempt to gain exoneration in his unrelated criminal case in exchange for his cooperation, coupled with the CA's denial of any interaction with the inmate, OIR concurred with the decision to make the case "unfounded."

INVOLVED PERSON'S NAME: CEDRIC SMITH

DATE OF INCIDENT: July 30, 2010

LOCATION OF INCIDENT: Twin Towers 162

DECLARANT: Cedric Smith

DATE DECLARATION SIGNED: Aug. 20, 2011

CLAIM/LAWSUIT FILED? Yes. Civil Claims filed Aug. 18, 2010 and Sept. 21, 2010. Claims denied Nov. 4, 2010.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNFOUNDED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): Following surgery on his toenails, deputies left Mr. Smith chained to a bench for what seemed like hours while they browsed MySpace and watched a movie, ignoring his requests to use the restroom. When a CA finally came to take him to the restroom, the CA escorted him, handcuffed, to a remote area, punched the back of his neck, shoved him into a wall, and kicked his injured feet, causing excruciating pain. Mr. Smith says the CA indicated the assault occurred because he had made a complaint about his uncle, a deputy on the Department. He was then left locked in a holding cell for approximately one hour. Throughout the rest of this incarceration, the Department provided inadequate medical care for the hernia he sustained as a result of his 2004 beating by deputies.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

Yes, because of civil claims.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: While investigating the civil claim, Twin Towers staff questioned the deputy and custody assistant (CA) named as assailants by Mr. Smith, as well as the nurses Mr. Smith claims were present. While inmate movement records substantiate that Mr. Smith was in the urgent care clinic at the times he alleges, neither the deputy, CA, or nurses remember Mr. Smith or any incident involving circumstances similar to those alleged.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Investigators interviewed Mr. Smith, who reiterated the allegations made in his declaration. He described how a CA he named refused to provide him access to a restroom while he was waiting in the clinic after surgery on his toenails. When that CA finally did get up to take him to the restroom, he walked him down a corridor where he assaulted him by hitting him in the back of the head and neck, kicked his feet (which were painful as a result of surgery), and continued striking him in the back of the head, causing his face to strike the wall. He said this was in retaliation for a comment Mr. Smith had made earlier about a particular deputy being “old and slow.” He said the CA who assaulted him told him, during the assault, that the deputy is his uncle. He said he was then placed in a cell with a restroom and left there for two hours. While he did not believe anyone witnessed the assault, he said two different nurses saw him locked in the cell, and two other deputies interacted with him in the clinic. One of these deputies ultimately let him out of the cell and escorted him back to his module. Mr. Smith said he told several unidentified inmates about the incident, as well as someone he had once worked for, but could not provide a last name, phone number, or address for this individual. He filed claims in August and September, but did not otherwise inform the Department about the incident or seek medical care while in custody. He said he went to a doctor for his neck pain after he was released on August 31, 2010 (a month following the incident).

Investigators reviewed Mr. Smith’s medical records. He was seen by medical staff five times over a period of four days after the alleged use of force and did not report any injury as a result of that force on any of those visits. On his sixth trip, he told staff that his neck was injured due to a use of force by a deputy and requested stronger pain medication. A nurse practitioner examined his neck and ordered an x-ray. No injuries were noted.

Investigators interviewed the two of the three deputies named by Mr. Smith as having been in the clinic area on the day of the incident. One of them had a vague recollection of Mr. Smith, but neither of them recalled anything about an alleged use of force against him. The one named deputy stated he is not the uncle of, nor is he related in any way to, the CA who allegedly assaulted Mr. Smith. The third deputy named has a common last name, and there were no personnel with that name listed on the Twin Towers’ in-service on the date of this incident. Investigators’ efforts to gather any information about this incident from any of the medical staff working the clinic area that day likewise proved unproductive. The CA alleged to have assaulted Mr. Smith declined to be interviewed by ICIB.

Investigators got Mr. Smith’s permission to review records maintained by the doctor he saw after his release from custody. The records show that he began treatment for an abdominal hernia in April, 2011, more than seven months after his release. In October, 2011, he

complained to the same doctor about back and neck pain, which Mr. Smith reported started in 2004 after being beaten in jail.

The case was submitted to both the District Attorney and United States Attorney for filing consideration. The DA declined to file charges because there were no witnesses to corroborate Mr. Smith's account and Mr. Smith contradicted himself in several statements he made. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: IA interviewed the CA alleged to have assaulted Mr. Smith. He did not recognize a photograph of Mr. Smith and had no recollection of any interaction with him. He denied punching, kicking, or assaulting Mr. Smith or any other inmate. Because the ICIB investigation was otherwise complete, this was the only investigative work conducted by IA.

Custody Division determined the allegations to be "unfounded." OIR concurred.

OIR INVOLVEMENT/REVIEW: OIR received and reviewed a copy of the ICIB investigation before it was finalized. We had some interaction with the investigator regarding confusion over some dates of events alleged by Mr. Smith, but otherwise believed the investigation to be thorough and complete. We also reviewed the IA investigation after its completion, and agreed that it was complete following the interview of the subject CA.

One administrative issue presented in this case (and others) was the medical staff's apparent failure to report Mr. Smith's allegation that he had been assaulted by custody personnel, causing his neck injury. Medical evaluated Mr. Smith's neck and found no evidence of an injury. As a result of this and other cases, unit orders governing Medical Services Bureau now require staff to report to custody supervisors any allegations or suspicions that an inmate's injury was the result of force used by custody personnel.

INVOLVED PERSON'S NAME: CEDRIC SMITH

DATE OF INCIDENT: December 2, 2004 (though declarant was arrested by LAPD on December 2, 2004, and was not transported to LASD custody until December 6, 2004)

LOCATION OF INCIDENT: Twin Towers

DECLARANT: Cedric Smith

DATE DECLARATION SIGNED: Aug. 20, 2011

CLAIM/LAWSUIT FILED? Yes. Civil Claim filed June 1, 2005.

DISTRICT ATTORNEY STATUS: DECLINED TO FILE CHARGES

ADMINISTRATIVE OUTCOME: UNRESOLVED

SYNOPSIS OF ACLU DECLARATION (and/or CLAIM/LAWSUIT): While being escorted to Twin Towers from IRC, two deputies took Mr. Smith to the 7th floor of Twin Towers and beat him. One deputy held him down while the other punched him and kicked him in the stomach eight or nine times. They then took him to a cell and threatened him not to report the beating. He was left in the cell for two weeks with no clothes, no blanket, and no access to medical or psychiatric care. Mr. Smith has a large hernia and a scar above his eye, which he alleges are the result of the 2004 beating.

WAS LASD AWARE OF ALLEGATION OF FORCE PRIOR TO RECEIPT OF ACLU DECLARATION?

Unclear. In the Department's response to Mr. Smith's claim, it states the force was reported and found to be within Department policy. However, the force package included with the claim response is from an incident that occurred on Jan. 7, 2005, not Dec. 2, 2004, as Mr. Smith claims in his declaration. The Jan. 7, 2005 force incident, as described in the force package, is not the same incident described in Mr. Smith's claim or his recent declaration.

SYNOPSIS OF ANY INITIAL LASD INVESTIGATION: The Department responded to a claim filed by Mr. Smith. Mr. Smith's claim appears to be similar to the allegations made in his declaration, yet the Department's claim response has to do with a different incident, in which deputies reported using force on Mr. Smith in January, 2005. The allegations made by Mr. Smith apparently never were investigated prior to the filing of his declaration.

SYNOPSIS OF ICIB TASK FORCE INVESTIGATION: Investigators did an initial interview of Mr. Smith, in which he stated the allegations made in his declaration were true and that he had told

a fellow inmate about the incident at the time it happened. Investigators then attempted to locate the deputies named in Mr. Smith's declaration. They located one deputy with a name similar to the one provided in the declaration who worked at Twin Towers in 2004. He is no longer with the Department and declined to be interviewed. The second deputy named by Mr. Smith has a very common name, shared by more than 200 current or former deputies. Because Twin Towers purges its in-service records after five years, it was impossible for investigators to locate a deputy who may have been involved in this incident.

Investigators located and interviewed the inmate who Mr. Smith said he talked to about this incident. He did not recall Mr. Smith specifically, but did remember being told by a black inmate that he had been "jumped on" by deputies. He did not have any other details, nor did he see any injuries on the inmate. Investigators again interviewed Mr. Smith, during which he positively identified the former deputy as one of those involved in his assault.

The case was submitted to the District Attorney for filing consideration but declined because filing of criminal charges is barred by the Statute of Limitations. The case was also sent to the United States Attorney. To our knowledge, the U.S. Attorney has not initiated a prosecution.

SYNOPSIS OF INTERNAL AFFAIRS INVESTIGATION: IA investigators attempted to contact and interview the former deputy identified by Mr. Smith, but he refused to speak with them. Investigators reviewed Mr. Smith's medical screening and history, and learned that on his December 7, 2004 intake screening, he stated he has had a "hiatal hernia" on his abdomen for two years.

Custody Division determined the case to be "unresolved." OIR concurred.

OIR INVOLVEMENT/REVIEW: OIR reviewed the ICIB investigation before it was finalized and made two suggestions for ways to find the second deputy who allegedly assaulted Mr. Smith. Neither of these suggestions resulted in an identification. OIR reviewed the final IA investigation. While not substantial, we found it sufficient given the inability to locate or interview the deputies alleged to be involved.