The Los Angeles County

Sheriff's Department

19th Semiannual Report

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and Police Assessment Resource Center (PARC)

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Introduction

This is the **Nineteenth Semiannual Report** of Special Counsel and Staff, discussing how the Los Angeles County Sheriff's Department (LASD) has fared during the last half of 2004. The LASD is one of the four largest law enforcement agencies in the United States, serving a population of approximately 3 million people. The Sheriff's Department has nearly 8,200 sworn officers and a total of 14,000 employees. The LASD makes about 100,000 arrests a year. It currently has 25 stations throughout the County of Los Angeles. Its annual budget is roughly $1.7 billion. The LASD operates the largest urban jail system in the United States, and Men's Central Jail houses under one roof more inmates than any single facility in the rest of the nation.

In 1992, the Board of Supervisors commissioned an investigation of the LASD by Special Counsel James Kolts, a highly respected former prosecutor and Superior Court judge. The impetus for the investigation was public concern about LASD officer-involved shootings and controversial uses of force. The Rodney King beating by the LAPD in March 1991 was a catalyst for a national re-examination of how and against whom the police use lethal and less than lethal force. The rioting that followed the acquittal of Rodney King's LAPD assailants in the spring of 1992, while the Kolts investigation was ongoing, lent additional urgency. The rapid and seemingly unstoppable rise in the dollar amount of judgments and settlements against the LASD for police misconduct reached staggering sums and was the subject of a *Los Angeles Times* exposé.

At the conclusion of the Kolts investigation, Supervisor Ed Edelman called for Judge Kolts and Sheriff Sherman Block to hammer out an agreement for implementation of the Kolts recommendations and for ongoing monitoring. At the conclusion of those negotiations, the General Counsel of the Kolts investigation took over Judge Kolts' title and position as Special Counsel to the Board and County. The Kolts recommendations sought nothing less than a complete overthrow of the dominant ethos and culture of the Sheriff's Department and its replacement by a highly professional, problem-solving, and community-oriented force of men and women on the streets and in the jails. Unlike many blue-ribbon reports, the **Kolts Report** was not about to be quickly forgotten; there would be semiannual reports and ongoing monitoring until the job was done. This is the nineteenth public report by members of the original Kolts staff and others who have stayed together to monitor the LASD's ongoing cultural change.

This report assesses the LASD's evolving new ethos from three different vantage points. Chapter One examines the LASD's current efforts to restrain and control deputy sheriffs from rushing headlong into dangerous foot pursuits. A litmus test in American policing is how an agency deals with chases by car and by foot. A law enforcement agency continues to live in an era of unenlightened policing if it does not eliminate or very tightly control solo foot pursuits and car chases and the unnecessary shootings and force incidents which follow in their wake. Nearly a quarter of shootings in the LASD between 1997 and 2002 came at the end of foot pursuits. While not every such shooting was avoidable, many were. In many instances, the suspect could have been captured in a safer and smarter way. We advocated that the LASD come up with a new foot pursuit policy.

In November 2004, the LASD promulgated a revised foot pursuit policy that had been nearly two years in the making. The new policy improves upon prior policy substantially. In one form or another, it addresses all the

topics that a good foot pursuit policy should. To its credit, the LASD has tackled one of the most emotional topics in contemporary American policing. At the same time, the new policy lacks clarity in key areas and stops short of bright line distinctions that inform a deputy sheriff what is acceptable and what will not be tolerated.

Chapter Two looks at risk management. As noted earlier, runaway judgments and settlements were an impetus for the **Kolts Report** in the first instance. We closely follow litigation trends as a way to monitor how the LASD is controlling its activities with an eye to eliminating police misconduct and ensuing litigation. The LASD is currently doing a credible job.

In early 2003, the Risk Management Bureau's Civil Litigation Unit introduced new management practices that show early signs of reducing the LASD's litigation and liability costs. These new programs and practices aim to identify claims for early resolution without litigation and to analyze high risk incidents to allow for better management of ensuing litigation. In fiscal year 2003-2004, the number of new lawsuits filed was down 27% over the previous two years, despite a slight increase in the number of new claims filed. And the total incurred liability for claims and lawsuits dropped 43% over the two prior years.

We monitor the LASD to see if it is doing all it can to correct police misconduct and faulty practices that gave rise to substantial liability. We look at the LASD's corrective action plans to see if they get to the heart of the problems raised by the litigation and reduce the risk that the same mistakes or errors of judgment will occur again. Chapter Three examines that question from the perspective of litigation costing Los Angeles County taxpayers more than $3 million that arose from illegal strip searching of women being held as pre-arraignment detainees. The chapter describes how the LASD achieved substantial compliance with a corrective action plan developed in the wake of that litigation.

Introduction

In November 2004, the LASD promulgated a revised foot pursuit policy that had been nearly two years in the making. The new policy improves upon prior policy substantially. In one form or another, it addresses all the topics that a good foot pursuit policy should. The LASD deserves credit for tackling one of the most challenging topics in contemporary American policing. At the same time, the new policy lacks clarity in key areas and avoids bright line distinctions that inform deputies what is acceptable and what will not be tolerated. As a result, it may prove difficult to discipline deputies who do not comply with the policy. Surprisingly, although some patrol stations have done so voluntarily, training of deputies under the new policy is not mandatory.

Clearly the drafters and negotiators of the new foot pursuit policy had a difficult job balancing various perspectives. There were contentious issues within the LASD and between the LASD and ALADS, the deputies' union, over what role, if any, solo foot pursuits should play in contemporary policing. Not all of those issues could be resolved successfully and are now resurfacing in a bizarre fashion—while the LASD is gearing up to tell deputies that the policy contains more absolute prohibitions than it literally does, ALADS is saying the policy is meant to encourage foot pursuits and to discourage supervisors from terminating them. The result overall may be even greater confusion.

We write this report against the backdrop of more than 10 years of concern about foot pursuits in the LASD. Not long after Special Counsel first began monitoring the Sheriff's Department on a semiannual basis in 1993, we turned our attention to foot pursuits of suspects and, in particular, solo-deputy foot pursuits. Solo foot pursuits occur when a deputy is acting alone or has split from a partner to chase a suspect. Deputies, we found, were deliberately and regularly engaging in dangerous solo pursuits, risking unnecessary injury or death to deputy, bystander, and suspect alike.

In the shooting and force cases Special Counsel reviewed for the April 1994 **Second Semiannual Report,** we noted that deputies "seemed needlessly to have injected themselves into dangerous situations without first requesting backup, or a containment, or even communicating with other officers at the scene." In some of the cases, deputies engaged in solo foot pursuits after intentionally splitting from their partners. Alone, without a partner's readily-available assistance, the deputies were "forced to use deadly, or near deadly, force whereas if two or more officers were present, or a containment had been established, less serious force would have been necessary and officer safety would have been enhanced." **Second Semiannual Report** at 34-35.

We revisited the issue of foot pursuits in February 2003. Out of 239 LASD shooting cases occurring between 1997 and 2002, 52 of the cases— or 22 percent—involved shots fired by deputies during or at the conclusion of a foot pursuit. Between 1994 and 2002, we found that the LASD had not "done its best to curb reckless or imprudent foot pursuits where deputies disregard their training, go after suspects on foot, and wind up putting themselves, or finding themselves, in grave danger and must shoot." **Sixteenth Semiannual Report** at 6. This trend continues. Out of 44 shooting cases in 2003 and 2004 available for our review, 12 cases— 27 percent—involved foot pursuits.

Some within the LASD argued that a specific foot pursuit policy was unnecessary because any use of force at the end of a pursuit would be investigated. Others, with whom we agreed, pointed out that a review of a shooting or serious use of force at the conclusion of a solo foot pursuit would not examine the question whether the foot pursuit itself constituted an act of negligence or recklessness that resulted in an otherwise avoidable and unnecessary shooting or an unacceptable level of risk to the deputy. We thus recommended in the **Sixteenth Semiannual Report** that the LASD adopt a proscriptive foot pursuit policy that set up strong, albeit rebuttable, presumptions against solo foot pursuits and partner splits.

I. The New Policy

To its credit, the LASD has gone farther than nearly all other law enforcement agencies in the country in formulating written policies restricting solo foot pursuits. Before the new policy was promulgated in November 2004, the Department's position on foot pursuits was set forth in Field Operations Directive 97-7 (FOD 97-7). The LASD wisely recognized that FOD 97-7 was an inadequate tool for discouraging dangerous foot pursuits. Rather than setting forth requirements and prohibitions, the old directive was merely a list of recommendations that provided no solid basis for disciplining deputies who engaged in tactically unsound foot pursuits.

The LASD's examination of its foot pursuit policy corresponded to contemporaneous studies in the U.S. Department of Justice and within the policymaking committee of the International Association of Chiefs of Police (IACP), which formulated a Model Policy on foot pursuits. Mandates for police departments to adopt more restrictive foot pursuit policies soon after appeared in federal consent decrees and memoranda of understanding in lawsuits brought by the Department of Justice's Civil Rights Division. The LASD showed foresight and initiative in deciding to look at foot pursuits on

its own, and there were few precedents to consider. Copies of the LASD Foot Pursuit Policy and the IACP Model Policy are included at the end of this chapter.

The new policy correctly and accurately notes that foot pursuits are inherently dangerous, solo foot pursuits and pursuits after partners split are especially dangerous, surveillance and containments are the safest way to apprehend a suspect, deputies should chase to contain rather than to apprehend, and doubts about the safety of a foot pursuit should be resolved in favor of not initiating or continuing them. The policy wisely mandates the initiation of a broadcast at the inception of a foot pursuit. The policy correctly tells lone deputies not to pursue suspects into buildings.

The policy then stops short. Although authoritative sources within the Department state that the policy should be read to be a near total ban on solo foot pursuits and partner splits, the written policy itself does not say so. It fails even to set up a strong presumption against solo foot pursuits. It fails to define what extraordinary or extenuating circumstances would reverse that presumption and justify a solo foot pursuit. It fails to set forth a standard other than "common sense." It tells deputies not to close the distance between themselves and a suspect but fails to give guidance how far back the deputies should stay.

It establishes guidelines rather than rules. The policy concededly sets forth a number of "do nots," yet says: "Common sense shall be the guiding factor in any decision to engage or not engage in a foot pursuit." The new policy tries to forestall some excuses deputies have used in the past to get around restrictions on foot pursuits, but preserves others. For example, foot pursuits are often over quickly. Deputies had been known to get around requirements to initiate a broadcast with the excuse that they did not have time to do so before the pursuit had ended. Rather than saying that deputies must immediately and successfully initiate a broadcast, the new policy settles for requiring

initiation of a broadcast within a few seconds, leaving the door ajar for deputies to claim that a chase was over before the broadcast could be made. The new policy mentions, but fails to define, what extenuating circumstances justify a failure to broadcast. The policy fails to require that unless the broadcast has been acknowledged by the Sheriff's Communications Center (SCC), the pursuit must be terminated.

The standard for judging the propriety of a foot pursuit under the new policy is too low. In the end, whether a solo foot pursuit will be judged within policy turns only on whether a deputy gives a "common sense" reason for initiating or continuing the chase and whether his supervisor accepts it. Under this standard, it may prove difficult to discipline deputies who engage in the kind of solo foot pursuits the LASD says it wants to effectively ban. To be sure, the LASD could choose, as it did in the past, to impose discipline under a "performance to standards" rationale. But why draft a new policy that is not sufficiently enforceable under its own terms?

The new policy is, at some important points, vague where it should be clear and indecisive where it should be definitive. It has the appearance of a compromise where, at least in our view, the LASD needed to be more steadfast.

II. Resolving Contentious Issues

The formulation of policy that is vague and has the appearance of compromise is generally the result of a failure to resolve contentious underlying issues with bright line rules. In police work, as in the law and life in general, fair rules must clearly set forth what is permitted and what is not; which explanations will be accepted and which will not; what the consequences of noncompliance will be; and the process for deciding whether noncompliance has occurred. Over time, a kind of common law develops as new decisionmakers, conscious of how previous decisionmakers have ruled in similar circumstances, make their rulings. Consistency and predictability are hallmarks of well articulated policies that endure over time.

The new LASD foot pursuit policy seems to be an attempt to affect a compromise between those who argued for a near absolute ban on solo foot pursuits and those who favored almost no restrictions on the exercise of a deputy's discretion to chase fleeing suspects. It papers over fundamental clashes of ideology: Solo foot pursuits are favored by those who value apprehension of the suspect above all and see the essence of good policing in the chase and successful capture; solo foot pursuits are problematic for others who place a high value on the safety of police officers, suspects, and third parties and want to temper the thrill of the chase with a more sober assessment of the costs and benefits involved.

To some, letting a suspect go under any circumstances is an insult to one's manhood and a violation of the warrior's creed—a fleeing suspect throws down a challenge that brave hearts cannot decline. Stepping back to figure out a way to outsmart the suspect is not sufficiently courageous and assertive. To others, making an intelligent decision after consideration of the safety risks and the seriousness of the offense is at the heart of professional modern policing. To these persons, brains count more than brawn. A safe capture is preferable to a foolish and dangerous one that ends in an unnecessary and avoidable shooting.

Although no one denies that catching a criminal is in every law enforcement officer's job description, there is wide disagreement about the safety, efficacy, and wisdom of solo foot pursuits. The best thinkers in the field, as demonstrated in part by the IACP Model Policy, favor a near total ban on solo foot pursuits. Absent exigent circumstances, concludes the IACP, no pursuit shall be commenced or continued if an officer is acting alone. But even if exigent circumstances are present, a lone officer cannot pursue to apprehend; rather, the lone officer must keep the suspect in sight and coordinate a containment for purposes of apprehension. If the officer loses visual contact, the pursuit terminates. (IACP Model Policy at 2).

Very real differences in perspective and approach are not confronted head-on in the LASD foot pursuit policy. Part of this reflects unresolved issues about solo foot pursuits among Chiefs and between the Chiefs and more senior management. Most of it flows from a decision by senior executives that any new foot pursuit policy had to be acceptable to ALADS.

III. Conceding Too Much Power to the Union

It is puzzling why law enforcement management in general, as contrasted to management in private industry, has ceded so many management rights and prerogatives to unions. Perhaps it is easier to give up power than to find dollars for pay raises or better benefits. Perhaps, since upper police management almost always started as beat cops in the departments they now head, the top brass continue to be cabined in attitudes formed as rookies, much as some generals cannot move beyond the perspective of the foot soldier. Perhaps it is easier for senior executives to go along with the union and be popular and seen as supportive than to lead and risk incurring displeasure. Perhaps from time to time, the union calls a chit to even up an unrelated concession it made in the past.

Whatever the cause, the LASD has cumulatively relinquished management prerogatives to ALADS. To be sure, many other police departments, particularly some on the East Coast and the Midwest, have conceded more to unions than has the Sheriff's Department. Nonetheless, it appears that what happened to the foot pursuit policy is that senior LASD executives, under pressure from the union and perceiving a lack of unanimity among the Department's Chiefs, pulled the emergency brakes on the new foot pursuit policy. The Chiefs themselves, perhaps unwittingly, failed to give clear signals. They received and considered an early draft and responded with silence, which understandably led the drafters to assume consent. Then when the drafters came back with what they assumed to be a consensus draft,

some or all of the Chiefs of the three patrol regions voiced reservations and complained about an asserted failure to have been previously consulted. This in turn led to the transfer of responsibility for the foot pursuit policy away from one Division to another. Ultimately, the executives sent negotiators to ALADS to bring back a foot pursuit policy that the union could live with.

Why the Department chose to go to the union is not entirely clear. The policy on foot pursuits certainly was not a subject for mandatory bargaining, nor was it something upon which management technically needed to meet and confer. And even if it did confer, the LASD could have agreed with the union to disagree and gone forward to impose the policy. Although soliciting union input and concurrence is valuable and may be pragmatically wise in many circumstances, freely giving the union what is tantamount to veto power is not.

For whatever reason, that is what apparently occurred. ALADS now boasts of it, claiming publicly that it found intolerable any limits placed on a deputy's discretion to conduct a solo foot pursuit, saw where the LASD was heading, and then went to the Sheriff, who let it be known that foot pursuits are an important tool and that he was not going to let the reputation of LASD deputies as aggressive crime fighters suffer under his watch. After this display of what ALADS characterizes as leadership by the Sheriff, the union claims that the tenor of the discussions with the LASD changed, and the LASD abandoned virtually all of the bright line rules. (*ALADS Dispatcher*, November 2004 at 3). ALADS' claims are obviously exaggerated and self-congratulatory. But even if ALADS' boasts are full of enough hot air to launch a zeppelin, it is nonetheless the case that ALADS should not have been empowered as it apparently was.

As a consequence, the policy that finally emerged was more hortatory than proscriptive. The battle about foot pursuits now has shifted from drafting a policy to figuring out what to tell deputies about it. There, too, problems exist.

IV. Training

Foot pursuit training under the new policy has been marked by mixed messages, confusing signals, and a lack of precision. Perhaps recognizing that the policy was insufficient, senior executives within the Department offered assurances that regardless of what the policy failed to say, the training under the new policy would unequivocally communicate the message that partner splits and solo foot pursuits are banned except in the most extraordinary circumstances. One member of the LASD who was involved in the policy's creation said the LASD "separated the policy from the training stuff." This suggests that the Department envisioned training as a way to recoup what the LASD had given away to ALADS in the written policy. If so, the strategy is not working.

On one hand, the LASD is trying to put forth a message that solo foot pursuits and partner splits will now be seriously frowned upon. On the other hand, it is trivializing the policy by not requiring mandatory training of all deputies and supervisors in patrol. It is leaving the training to be conducted on a station by station basis, if at all. The only training deputies received was dissemination of the written policy and a discussion of its implications at daily briefings.

In fact, after patrol school, during which deputies/trainees will run through one foot pursuit scenario as part of a live training day, there is no required training on foot pursuits for deputies and sergeants on patrol. The only time the LASD formally addresses foot pursuit tactics after patrol school is during the tactical containment and pursuit lecture that is part of the non-mandatory Force and Tactics class developed by the Field Operations Training Unit. By leaving the training to be made on a station-by-station basis, if at all, and not providing formal, consistent training on foot pursuit tactics, the LASD is undercutting the stated goals of its new policy.

Supervisors at one station that historically has a high number of foot pursuits welcomed the new, more restrictive policy but were disappointed that Department-wide training was not mandatory. They interpreted the absence of compulsory training as a signal that the LASD's commitment to the new policy was half-hearted. One supervisor contrasted the mandatory training that the LASD required on sexual harassment to what was happening on foot pursuits, saying "commitment to training has to come from the top." To this supervisor, it spoke loudly that the Department did not make training mandatory.

At the same time that the LASD is giving mixed signals, ALADS is putting out its own misleading message. The President of ALADS claims in writing that the new policy "is meant to encourage...and reduce inappropriate terminations by supervisors of foot pursuits. These were the main goals of this policy. Should any supervisor promote any theory differently please call me directly." (*ALADS Dispatcher*, November 2004, at 3). ALADS further attempts to undercut the policy's clear statement: "It is the Department's position that, barring extenuating circumstances, surveillance and containment are the safest tactics for apprehending fleeing persons." (LASD Manual of Policy and Procedure 5-09/220.50, Foot Pursuits). ALADS writes: "We know, as Department management should know, that statistically containments are a marginal approach to apprehending suspects. That direct and aggressive foot pursuits are far more productive resulting in a higher rate of arrests." (*ALADS Dispatcher*, November 2004, at 34). ALADS' commentary reflects a stubborn refusal on the part of the union to acknowledge that solo foot pursuits, in many instances, are headlong rushes into unnecessary and avoidable danger.

Indeed, ALADS continues to advertise for deputies to come forward with war stories to prove that solo foot pursuits are a good idea. (*ALADS Dispatcher*, December 2004, at 6). ALADS suggests that it has seen the face

of the enemy on foot pursuit policy, and that the enemy is us. Special Counsel, we learn to our amazement, has a Svengali-like effect on the LASD's senior management such that it springs into action whenever Special Counsel speaks. Would that it were so. In truth, blaming Special Counsel is a silly attempt at misdirection. ALADS' quarrel is with the IACP and the growing movement in contemporary policing to rethink the wisdom of foot pursuits.

V. Discipline

It remains to be seen whether the LASD will be able to discipline officers for failures to comply with the guidelines of the new foot pursuit policy. In at least two cases we reviewed that occurred prior to the adoption of the new policy, the LASD did impose discipline under FOD 97-7, which set forth the LASD's position on foot pursuits prior to November 2004. The Department's willingness to discipline deputies for engaging in tactically unsound and reckless foot pursuits even under its former policy gives us some confidence that the LASD plans to take seriously its right to discipline officers for violations of its new policy.

Case Study No. 1

Deputies A and B were on patrol at night when they saw four young men sprint across the street in front of their patrol car. Seeing that the men were running away from the location of a liquor store, the deputies suspected that the four had just held it up given that it was the only business on the block. The deputies stopped their patrol car next to an empty field and ordered the men to come back. The deputies then ordered the four men to kneel down on the ground next to the patrol car. Three suspects did as they were told, but the fourth feigned like he was kneeling, stood back up and ran into the open field.

Deputy A left his partner with the three kneeling suspects to chase the one who had fled. Deputy A claimed that Deputy B urged him on, shouting, "Get him." With little light, Deputy A took off after the suspect across the shadowy, open field. The darkness required Deputy A to run with his flashlight pointed at the fleeing man. The suspect reached for his waistband and turned toward the deputy, pointing a gun at him. Deputy A then fired one round at the suspect. Deputy A missed the suspect, who continued to run. It was only at that point that Deputy A attempted to initiate a radio broadcast.

Deputy A resumed the chase, even though his partner was behind at the patrol car, outnumbered by the three other suspects. A sawed-off shotgun was later found on the ground near the suspects. One of the suspects had shotgun shells in his possession. Deputy A claimed he maintained visual contact with his partner throughout the entire duration of the pursuit, a dubious claim since Deputy A was running through the dark field with his back to Deputy B. And, in any event, Deputy B had his hands full guarding the three suspects.

The fleeing suspect turned with gun pointed toward Deputy A for a second time. Deputy A fired two rounds, missing both times. The pursuit lasted until the suspect disappeared into the engrossing darkness of the field. Deputy A crouched down, waiting to locate the suspect again. He saw the suspect leave the field, cross a street into a yard, and jump over a fence, at which time the deputy terminated the foot pursuit and returned to his partner and the other three suspects. The suspect was later apprehended with a K-9 search.

The deputies searched and handcuffed the three kneeling suspects after Deputy A returned from the field. It was only then that the sawed-off shotgun was discovered—after the suspects had been given ample time, had they so chosen, to overpower and assault Deputy B.

Deputy A was given a three-day suspension without pay, though it was later reduced to a two-day suspension held in abeyance. Deputy A also was ordered to attend mandatory training at Laser Village that included foot pursuit scenarios. The decision to impose discipline on Deputy A cannot

reasonably be debated, though we question whether the discipline was sufficient. Deputy B, who allegedly urged his partner to pursue the suspect, was not disciplined or retrained.

Case Study No. 2

In the early morning hours of their patrol shift, Deputies O and P followed a vehicle that matched the description of one involved in a carjacking broadcast. Deputy O leaned out of the driver's side door and ordered the two suspects in the vehicle to show their hands. The suspects then jumped from the still-rolling car and began running in different directions.

With no communication between the two deputies as to whom to chase and how to proceed, Deputy O left the patrol car and started chasing the driver but then changed his mind and decided to chase the passenger. Deputy O ran after the passenger a short distance up a street and into a driveway. Without communicating with her partner, Deputy P elected not to follow in pursuit but rather went back to the patrol car and radioed the deputies' position to assisting units.

By this point, Deputy O was engaged in a solo foot pursuit of one suspect while a second suspect was loose and possibly could have reemerged to help his friend. From what they knew about the carjacking, the deputies could assume that one or both the suspects were armed. The suspect Deputy O was chasing stopped in the driveway next to a high, solid fence, with his back to the deputy. The suspect lunged toward the locked gate in the fence. Deputy O thought the sudden movement was an attempt to grab a gun; he had seen the suspect's hands around his waistband. Deputy O shot once and missed. The suspect leapt over the fence into the backyard of a house.

Deputy O claimed he next radioed that he had been involved in a shooting and gave the suspect's direction of flight. The radio broadcast was somehow not transmitted. Deputy P then joined Deputy O who stood on a trash can

next to the fence to see if he could spot the suspect. Then, without coordinating any plan with Deputy P, and even though he could not see the suspect, Deputy O climbed over the fence into the dark yard. Deputy O realized his partner had not followed him over, as Deputy P yelled from the other side of the fence that she was going around to the front of the location. Were the suspect in the backyard, he could have heard that Deputy O was now alone. Deputy O swept through the backyard, with no idea where the suspect was. The suspect was later apprehended in the carport at the location.

The Department initiated disciplinary proceedings against both deputies, although Deputy P overturned the discipline against her by filing a grievance that was granted by the Department. Deputy O received a two-day suspension for failing to communicate with his partner when initiating the pursuit, consider if backup units were available for containment, ensure his partner broadcasted the foot pursuit, make sure Deputy P followed him over the fence, and to radio again after he had climbed the fence. Again, while the decision to grant Deputy P's grievance is questionable, the LASD reached the right result on Deputy O's discipline. Only time will tell whether the new foot pursuit policy, with its lack of clarity and bright line rules, will prove to be an effective tool for disciplining deputies and discouraging such unnecessary and tactically unsound foot pursuits.

VI. Debriefings

The new policy requires that each foot pursuit be followed by a debriefing of all involved personnel by the Watch Commander or the Field Sergeant. The debriefing will be documented in a foot pursuit database, and a printout of that database will be sent to the Captain of the unit. Supervisors are told to discuss the debriefed foot pursuits at regular station briefings.

Although these procedures are a step forward, whether they are adequate to assure accountability and rigor in the analysis is yet to be seen. In the past,

supervisors at each station were required to fill out a Foot Pursuit Evaluation Form each time a deputy reported a foot pursuit. The form was to be reviewed by the Captain then sent to the Training Bureau for analysis and evaluation of training issues. As we reported in our **Sixteenth Semi-annual Report,** however, that analysis by training staff never took place. And it is unclear what use, if any, supervisors and unit commanders made of the forms. The result was that sergeants, already feeling overwhelmed by paperwork, were forced to fill out what was seen as another useless form, and resentment toward the bureaucracy grew.

Yet at least some in the Department recognize the value of documenting foot pursuit incidents. Without some required form or data-gathering tool, the Department cannot capture even the most basic information on pursuits: how often deputies chase suspects; how long pursuits typically last; how frequently deputies get hurt during a pursuit, and what type of injuries they suffer; which suspects run when confronted by police; how often suspects get injured; how many pursuits end in shootings or the use of significant force. To capture this and other data, the Data Systems Bureau, working with Department Commanders, has developed a foot pursuit database.

Every time a deputy reports a foot pursuit, a sergeant will interview the deputy and then complete a computerized form. It will be reviewed by the station's operations sergeant, and then entered into the database. The computerized form has two parts. The first serves a data collection function with the goal of providing a research and tracking tool for foot pursuits so that Department leaders can identify trends and problem areas. The second consists of a series of tactics questions, requiring an explanation of all the circumstances surrounding the pursuit, whether alternatives were available and, if so, why they were not chosen. This part of the computerized form will not be tabulated in the database, but will be accessible to supervisors and training staff to review tactical and training issues.

The database and online documentation of foot pursuits will soon be tested as a pilot project at Industry Station, and we look forward to following its progress. Certainly, deputies and sergeants will be pleased that the database requires no additional paperwork and that the form can be filled out electronically. Those developing the database have the best intentions for its implementation and potential value. The question remains whether the Department will use the information it gathers, or whether the database will go the way of the old Foot Pursuit Evaluation Form—a useful tool made useless by inattention.

The database and the computerized forms should be reviewed not only at the station level but also at the regional and departmental level. There should be a responsible senior executive whose task should be a regular review of all foot pursuits to assure consistency throughout the Department and to identify problem areas that can be addressed through policy change. The Training Bureau should pay close attention to tactical issues raised by the information collected. And Field Operations Support Services should review the data to identify and suggest remedies for safety issues presented by foot pursuits. All who review these incidents should remember that any solo foot pursuit, either by a single deputy working alone or after splitting from a partner, should be evaluated against a strong presumption that such pursuits are almost always wrong.

Conclusion

For all the good intentions and hard work that went into creating a new foot pursuit policy, it is disappointing to see that the LASD, at the eleventh hour, stopped short. All will agree that the new policy is a step forward. The problem is that a stride forward would have been better. It strikes some of our best friends in the LASD that we are self-contradictory. On one hand, we are full of praise for the Department's initiative on foot pursuits

and its groundbreaking efforts to craft a written policy. On the other hand, we scold the Department for not going far enough.

It is not a contradiction. The LASD has the brains and quality of leadership to be leading the nation toward smarter, more effective, and more professional law enforcement. Its leaders grasp that excellent policing in today's world is more a function of the cop as a strategic problem solver than as a freewheeling cowboy. For these reasons, we expect great things of the LASD. When they don't cross the finish line, we are disappointed and wish they had gone further.

But ultimately, the question is not about our personal wishes for the Department. The question is whether from the perspective of the Board of Supervisors, the LASD is doing all it reasonably can to minimize taxpayer liability for police misconduct and dangerous, unsafe practices. The new foot pursuit policy falls short by that measure.

LASD FOOT PURSUIT POLICY

5-09/220.50 FOOT PURSUITS

Policy

It is the policy of the Sheriff's Department to assertively apprehend fleeing suspects in a manner that maximizes both public and Deputy safety, while giving due consideration to Department Policy and the Force Options Chart. Depending on the circumstances of an incident in which a suspect flees, Deputies are authorized either to pursue or coordinate a containment.

Foot pursuits are inherently dangerous and require heightened officer safety awareness, keen perception, common sense, and sound tactics. It is the Department's position that, barring extenuating circumstances, surveillance and containment are the safest tactics for apprehending fleeing persons. Therefore, Deputies must initiate a radio broadcast with appropriate information within the first few seconds upon initiating a foot pursuit to ensure that adequate resources are coordinated and deployed to assist and manage the operation to a safe conclusion. The safety of Department personnel and the public is paramount and shall be the overriding consideration in determining whether or not a foot pursuit will be initiated or continued. Any doubt by participating Deputies or their supervisors regarding the overall safety of any foot pursuit shall be decided in favor of communication, coordination, surveillance, and containment.

Each provision of this policy is subject to emergency exceptions. However, the Deputy or supervisor who deviates from this policy will be solely responsible for explaining their actions. Common sense shall be the guiding factor in any decision to engage or not engage in a foot pursuit, as well as in any subsequent assessment of the decision made.

Definitions

Foot Pursuit Defined

A foot pursuit is an attempt by a Department member to follow or track, on foot, a fleeing person who is attempting to avoid arrest, detention, or observation. Terms such as "chasing to follow," "moving containment," or other terms describing similar dynamic on-foot tactical operation shall be subject to the following procedures governing foot pursuits.

Partner Splitting Defined

"Partner splitting" during a foot pursuit occurs when loss of visual contact, distance, or obstacles, separates partners to a degree that they cannot immediately assist each other should a confrontation take place.

For the purposes of this policy, "partner splitting" does not pertain to lone Deputies assigned to static containment positions.

Procedures

Multiple Deputy Foot Pursuits

When conducted by multiple Deputies, foot pursuits can be an appropriate and effective tactic. Should partner splitting occur for any reason, Deputies shall be subject to the provisions of "One-Person Foot Pursuits" outlined below.

Initiating Deputies' Responsibilities

Deputy personnel initiating a foot pursuit shall broadcast the following information to SCC within the first few seconds:

- Unit identifier,
- Suspect location and direction,
- Reason for the foot pursuit,
- Suspect description,
- Whether or not the suspect is armed, if known.

Barring extenuating circumstances, if a Deputy is unable to promptly and successfully broadcast this information, the foot pursuit shall be terminated and containment immediately established. The initiating Deputy shall be in field command and bears operational responsibility for the foot pursuit unless relieved by a supervisor.

One-Person Foot Pursuits

One-person foot pursuits and the splitting of partners during foot pursuits present additional dangers to the Deputies involved. The decision to pursue must weigh the dangers of the pursuits against the necessity to apprehend.

If a lone Deputy initiates a foot pursuit, the objective of the pursuit shall be to apprehend by use of a containment, subject to valid emergency exceptions.

Should the decision to initiate a one-person foot pursuit occur, the Deputy shall adhere to the following guidelines which include but are not limited to:

- Do not attempt to close and apprehend but maintain visual contact only,
- Do not continue to pursue if visual confirmation is compromised,
- Do not chase a suspect into a building,
- Should a containment be established and the suspect is within the containment, the foot pursuit shall be terminated,
- Should communication with SCC be lost, the pursuing Deputy shall immediately terminate the pursuit.

This policy does not restrict Deputy Sheriffs in their mission of apprehending violators of the law. The policy also does not mandate that Deputy Sheriffs put themselves at undue risk and pursue in every situation.

Field Sergeant Responsibilities

As with any tactical field incident, the Sergeant does not have to be physically present to assert control over the situation and may order the termination of the pursuit based upon information received. In subsequent reviews for policy compliance, supervisory personnel shall be prepared to clearly articulate the circumstances which supported their decision to terminate, or to allow the continuation of, a foot pursuit.

The Sergeant shall respond to the terminus of the foot pursuit, oversee post-foot pursuit discipline, and assert control as needed. The Sergeant will ensure compliance with all Department policies, specifically those relating to the use of force.

Watch Commander Responsibilities

The Watch Commander shall be in overall command of the operation. This command responsibility shall include all Department personnel involved in the foot pursuit.

The Station Watch Commander shall respond to the desk area and immediately take command either by establishing "cold line" communications with the SCC Watch Sergeant or via station transmitting capabilities. Station Watch Commanders shall make a decision based upon their assessment of the information received regarding the continuation or termination of the foot pursuit. In subsequent reviews for policy compliance, Watch Commanders shall be prepared to clearly articulate the circumstances which supported their decision.

Should the Watch Commander be in the field during a foot pursuit, they may authorize the Watch Sergeant to assume operational control of the incident from the desk. This does not alleviate the Watch Commander's overall responsibility for the pursuit.

SCC Responsibility

Upon the initiation of a foot pursuit by a Field Deputy, SCC shall immediately place the broadcasting Deputy on the duplex patch and request an Aero Bureau Unit.

If Deputy personnel not assigned to a Patrol Station initiate a foot pursuit, the SCC Watch Sergeant shall notify the Watch Commander of the nearest Station, and they shall assume immediate command of the operation.

Detective Division Personnel

Detective Division personnel routinely engage in surveillance and fugitive apprehension operations. This policy does not apply to counter-surveillance or detection avoidance activities by suspects or persons under surveillance. The policy does apply to situations in which a suspect is actively fleeing from immediate arrest, detention, or continued observation by pursuing investigators.

Should Detective Division Investigators become involved in a foot pursuit that requires assistance beyond those resources already involved and at scene, the team's designated radio operator will advise SCC via a SCC-monitored frequency. SCC shall notify the Watch Commander of the nearest station who will facilitate the response of assisting units. The Detective Division Sergeant or Lieutenant on scene will identify him/herself via radio and continue command of the incident. If no Detective Division supervisor is on scene, the Watch Commander of the closest station will assume command of the operation.

Evaluation and Reporting

All foot pursuits shall be debriefed. It shall be the responsibility of the Watch Commander supervising the foot pursuit to conduct a debriefing of the incident with all personnel involved. The debriefing may be conducted by the Field Sergeant and discussed with the Watch Commander who will document the debriefing in the Foot Pursuit Database. Watch Commanders shall ensure that Field Supervisors discuss debriefed foot pursuits at regular Station briefings. The Foot Pursuit Database printout shall be forwarded to the Unit Commander for their review.

FOOT PURSUIT

Model Policy

	Effective Date **February 2003**	*Number*
Subject **Foot Pursuit**		
Reference		*Special Instructions*
Distribution	*Reevaluation Date*	*No. Pages* **3**

I. PURPOSE

The purpose of this policy is to establish a balance between protecting the safety of the public and police officers during police pursuits on foot and law enforcement's duty to enforce the law and apprehend suspects.

II POLICY

Foot pursuits are inherently dangerous police actions. It is the policy of this department that officer and public safety shall be the overriding consideration in determining whether a foot pursuit will be initiated or continued. Foot pursuits occur in a wide variety of circumstances. Therefore, this policy is intended to provide overall direction and guidance to officers when deciding if such pursuits are warranted and how they should be conducted.

III. DEFINITIONS

Foot Pursuit: An incident where an officer chases (on foot) a person who is evading detention or arrest.

IV. PROCEDURES

A. Deciding Whether to Pursue

Although it is an officer's decision to initiate a stop, it is the suspect or violator who decides to precipitate a foot pursuit by fleeing. An officer's decision to pursue on foot shall be made with an awareness of and appreciation for the risk to which the officer and others will be exposed. No officer or supervisor shall be criticized or disciplined for a decision not to engage in a foot pursuit if, in the officer's assessment, the risk exceeds that reasonably acceptable under the provisions of this and related department policy and training.

1. Where necessary, an officer may pursue persons who he or she reasonably believes have committed an act that would warrant a stop, investigative detention, or arrest.
2. In deciding whether or not to initiate a pursuit, an officer shall consider the following alternatives to foot pursuit:
   - Aerial support
   - Containment of the area
   - Canine search
   - Saturation of the area with patrol personnel
   - Apprehension at another time and place when the officer knows the identity of the subject or has other information that would likely allow for later apprehension
3. In deciding whether to initiate or continue a foot pursuit, officers shall also consider risk factors whenever officers are acting alone, in an unfamiliar area, in an area that is hostile, such as a notorious drug trafficking location, pursuing suspects who are known to be or suspected of being armed, pursuing more than one person, unable to obtain backup in a timely manner, not in adequate physical condition to conduct a foot pursuit, unable to establish and maintain contact with the communications center (EOC), or pursuing in inclement weather, darkness, or reduced visibility conditions.

B. Initiating Officer's Responsibilities

1. Officers initiating foot pursuits shall be in field command and shall bear operational responsibility for the foot pursuit unless circumstances dictate otherwise or until relieved by a supervisor. Pursuing officers are reminded that voice transmissions while running and in other field tactical situations may be

difficult to understand and may have to be repeated.

2. The officer initiating a foot pursuit shall, as soon as practical, provide the following information to EOC:
   - Unit identifier
   - Reason for the foot pursuit
   - Officer location and direction of pursuit
   - Number of suspects and description
   - Whether or not the suspect(s) is armed

C. Foot Pursuit Coordination

1. The primary (initiating) officer shall immediately coordinate—directly or indirectly through the EOC—with secondary officers to establish a perimeter in the area to contain the suspect(s).
2. Generally, the primary officer shall not try to overtake the fleeing suspect but shall keep him in sight until sufficient manpower is available to take him into custody.
3. Assisting officers shall immediately attempt to contain the pursued suspect. Such officers shall not respond to the primary officer's location unless the suspect has been stopped and the primary officer requests assistance to take the suspect into custody.
4. When two or more officers are in pursuit, they shall not separate unless they remain in sight of each other and maintain communication, but they shall allow the lead officer to concentrate on the suspect's actions while the second officer provides backup and maintains communications with dispatch and other assisting officers.

D. Guidelines and Restrictions

1. The pursuing officer shall terminate a pursuit if so instructed by a supervisor.
2. Unless there are exigent circumstances such as an immediate threat to the safety of other officers or civilians, officers shall not engage in or continue a foot pursuit under the following conditions:
   a. If the officer believes the danger to pursuing officers or the public outweighs the necessity for immediate apprehension.
   b. If the officer becomes aware of any unanticipated circumstances that substantially increases the risk to public safety inherent in the pursuit.
   c. While acting alone. If exigent circumstances warrant, the lone officer shall keep the suspect in sight from a safe distance and coordinating containment.
   d. Into buildings, structures, confined spaces, or into wooded or otherwise isolated areas without sufficient backup and containment of the area. The primary officer shall stand by, radio his or her location, and await the arrival of officers to establish a containment perimeter. At this point, the incident shall be considered a barricaded or otherwise noncompliant suspect, and officers shall consider using specialized units such as SWAT, crisis response team, aerial support, or police canines.
   e. If the officer loses possession of his firearm.
   f. If the suspect's identity is established or other information exists that allows for the suspect's probable apprehension at a later time and there is no immediate threat to the public or police officers.
   g. If the suspect's location is no longer known.
   h. If primary officers lose communications with EOC or communication with backup officers is interrupted.
   i. If an officer or third party is injured during the pursuit who requires immediate assistance and there are no other police or medical personnel able to render assistance.
   j. If the officer loses visual contact with the suspect.
   k. If the officer is unsure of his or her own location or direction of travel.
3. When the pursuing officer terminates the pursuit he or she shall notify EOC with his or her location and request any assistance deemed necessary.
4. Supervisor's Responsibilities
   Upon becoming aware of a foot pursuit, the supervisor shall decide as soon as possible whether pursuit should continue.
   a. The supervisor should allow the foot pursuit to continue if:
      - there at least two officers working in tandem and there is a reasonable belief that the suspect has committed an act that would permit the officer to detain the suspect, or
      - there is a reasonable belief that the suspect poses an immediate threat to the safety of the public or other police officers, or
      - the pursuit does not violate provisions of this or related department policy, procedures, or training.
   b. The supervisor shall terminate a foot pursuit at any time he or she concludes that the danger to pursuing officers or the public outweighs the necessity for immediate apprehension of the suspect.
   c. The supervisor shall take command, control, and coordinate the foot pursuit as soon as possible.
      - As in any tactical incident, the supervisor does not have to be physically present to

assert control over the situation.

- Once the foot pursuit has concluded, the supervisor shall proceed to the terminus of the pursuit to assert post-pursuit discipline and control as needed.

E. EOC Responsibilities

1. Upon being notified that a foot pursuit is in progress, communications personnel shall immediately notify the field supervisor and provide all available information.
2. Communications personnel shall carry out the following responsibilities during a foot pursuit:
   a. Receive, record, and immediately report incoming information on the pursuit, the officers involved and the suspect.
   b. Control all radio communications and clear the radio channels of all nonemergency traffic.
   c. Coordinate and dispatch backup assistance and air support units under the direction of the field supervisor.

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Introduction

We last looked at the performance of the Risk Management Bureau in our **Fifteenth Semiannual Report** in July 2002. At that time, we noted concerns that the LASD's level of commitment to accountability had degraded, to the County's detriment. We said then:

> If the management of the risk of police misconduct is less rigorous, potential exposure rises, and the eventual liability will cost the taxpayers dearly; not a happy prospect in an era where tax revenues and other sources of income to fund basic County services are uncertain and tight. Even more importantly, perhaps, is that a failure effectively to manage the risk means that there will be more unnecessary and controversial incidents that abrade the relationships between the LASD and the communities it serves. **Fifteenth Semiannual Report** at 94.

In the ensuing two and a half years, the LASD attempted to address both concerns. The Department has allocated additional staff and resources to risk management, and new leaders at the Risk Management Bureau — Chief Bill McSweeney, Captain Dennis Werner, and Lieutenant Shaun Mathers — have implemented a series of positive changes in managing claims and litigation and disseminating the lessons learned from the incidents that gave rise to them.

In early 2003, the Risk Management Bureau's Civil Litigation Unit introduced new management practices that show early signs of reducing the LASD's litigation and liability costs. These new programs and practices aim to identify claims for early resolution without litigation and to analyze high risk incidents to allow for better management of ensuing litigation. In fiscal year 2003-2004, the number of new lawsuits filed was down 27% over the previous two years, despite a slight increase in the number of new claims filed. And the total incurred liability for claims and lawsuits dropped 43% over the two prior years.

At the same time it focuses on controlling the costs of litigation, the LASD also is better disseminating the lessons learned from litigation and claims adjudication to avoid similar problems in the future. In July 2004, the Risk Management Bureau created the Corrective Action Unit to take responsibility for implementing and monitoring corrective action plans drafted in the wake of substantial settlements, writing and tracking changes to the manuals and orders, and monitoring the Performance Mentoring program. The new unit demonstrates the LASD's ongoing commitment to reducing police misconduct and preventing future lawsuits, an approach that is commendable both ethically and fiscally.

Nonetheless, the continuing disparity between what happens in litigation and what does not happen in a disciplinary proceeding remains a concern. Of 29 cases involving police misconduct that settled for $100,000 or more over the past five years, only eight resulted in any type of discipline to the involved officers or a policy change on the part of the Department. The question we have been asking since the 1992 **Kolts Report**—why, when the Department believes its policies and training are adequate and its officers performed in accordance with standards, does the County agree to pay hundreds of thousands of dollars in settlements?—still demands an answer. But the Department may be moving closer to providing one. As the LASD's Office

of Independent Review's involvement in Internal Affairs' investigations continues to grow, the frequency of disparate results between litigation and internal discipline appears to be shrinking. Because of years-long delays between incidents and litigation outcomes, it is still too soon to report that the problem has been eliminated. We hope to be able to write that report in the not-too-distant future.

I. Changing Approach Toward Claims and Litigation

One executive describes the Risk Management Bureau's new approach to litigation as "aggressively fair." It is a two-pronged approach: the Civil Litigation Unit has made a commitment to quickly pay claims and settle lawsuits where an individual has been wrongfully harmed. At the same time, it pursues a vigorous defense of cases through trial when it believes the Department is not at fault or the plaintiff's settlement demand is unreasonable.

A. Early Settlement of Claims

In past years, the Risk Management Bureau sent administrative claims out to the involved unit for investigation and waited for the unit's recommendation. The Civil Litigation Unit played little role in the adjudication of these claims and typically would wait to see if the aggrieved individual, whose claim routinely was denied following a unit-level investigation, eventually filed a lawsuit. This approach was flawed in at least two ways. First, the LASD lost opportunities for early and inexpensive settlement of disputes. Individuals who believe they were wronged tend to dig in their heels as time passes without meaningful action by the Department. As a result, cases capable of resolution early and cheaply can turn into very expensive litigation with costly legal fees and lengthy pre-trial proceedings. Second, opportunities for investigation and development of facts to support a defense often were lost. In cases not involving force and not triggering an

Internal Affairs investigation, the only investigation was performed by the responsible unit, by individuals not necessarily trained to consider the litigation risks associated with a given claim.

To address these flaws, the Civil Litigation Unit developed the Claims and Liability Intervention Program, or CLIP. Instead of simply sending claims out to the unit, CLIP personnel play the role of insurance adjuster, contacting the responsible unit and the claimant, making an assessment of the merits of the claims and, where appropriate, facilitating settlement. CLIP staff has learned that claimants often want an acknowledgment of their loss, fair compensation, and apology from the Department more than they want significant damages. Ignoring their claims, however, tended to make claimants angry, driving them to engage lawyers and demand greater compensation. Early resolution can dissolve that anger.

The Risk Management Bureau's "claims adjuster approach" was demonstrated in one recent case in which LASD personnel served a search warrant. In the course of apprehending the murder suspect living in one unit of a triplex, the deputies caused significant property damage to the other two units. Rather than waiting for adjudication of a claim, the CLIP team provided the families living in those units with temporary housing, clothing, and food, then worked with the owners' insurance company to immediately begin repairs to the property. Risk Management Bureau leadership points to this case as one that, in the past, likely would have ended in litigation and a substantially greater loss to the County. Letting the matter go to litigation also would have resulted in a lost opportunity for building goodwill in the community served by the LASD.

A second program, Desktop Review, allows for efficient processing of claims stemming from Department-involved traffic accidents. Traffic Services Detail often can determine fault without significant investigation. Rather than sending the claim to the unit for investigation, Traffic Services

Detail now reviews the file and prepares a preliminary assessment and recommendation to the commander of the involved unit. If the unit commander concurs with Civil Litigation Unit's finding, the claim is processed. The Civil Litigation Unit estimates that the Desktop Review program saves the Department $250,000 annually in administrative and investigative costs and claims resolution.

B. Managing Litigation Outcomes

In addition to seeking early settlement of relatively small claims through the CLIP and Desktop Review programs, the Department tries to get out in front of larger claims and litigation through its Critical Incident Analysis program. Civil Litigation Unit staff attempt to identify incidents, claims, or lawsuits that present significant liability risk as early as possible. The Civil Litigation Unit convenes a Critical Incident Analysis meeting to discuss the incident, identify liability concerns, develop strategies for managing the litigation, and, where appropriate, to recommend early settlement. This program is notable for its timing—Critical Incident Analysis meetings often are held while a claim is pending but before litigation. The meetings are further distinguished by their inclusiveness—participants include Risk Management staff, County Counsel, the commander of the involved unit, station, or jail, the County Chief Administrative Office's Risk Manager, third party administrators, and the Office of Independent Review (OIR).[1]

The Critical Incident Analysis program signals that Risk Management intends to control litigation, a shift in attitude brought by the Bureau's new leaders. This shift is as important as any specific program aimed at better management of claims and lawsuits. These managers have become less

1 OIR's presence begins to address a concern we have held since the 1992 **Kolts Report,** that information developed in the course of litigation does not flow to those making decisions regarding administrative discipline. Because OIR directly participates in Internal Affairs investigations, having OIR in the room during Critical Incident Analysis meetings provides an informal bridge between Risk Management and Internal Affairs.

deferential to the County's lawyers, both in County Counsel's office and from outside firms, and now view themselves as the clients in charge of litigation. And they are not ignorant clients. Rather than accepting the lawyers' view of the relative merits and weaknesses of a given case and going along with recommended settlements, Department management is now more skeptical of counsel's assessment, demanding that the lawyers explain the defenses available and why they won't work at trial. These new leaders have learned the trial lawyers' lingo and, using their expertise in police work, have become effective risk managers.

"It's our money." This widely-heard salvo at the Risk Management Bureau demonstrates that it takes seriously its role as manager of public funds. If the Civil Litigation Unit and the County's lawyers determine the plaintiff has been injured and the LASD is at fault, the defense makes an early settlement offer that it believes makes the claimant whole. That offer is likely to be the highest settlement offer the plaintiff will receive. Once litigation begins in earnest, the LASD has resolved to going to trial. As one executive put it, "if the jury decides to give the plaintiff more money, then the public has spoken; but it's not honorable for me to settle for more than I think the damages actually are."

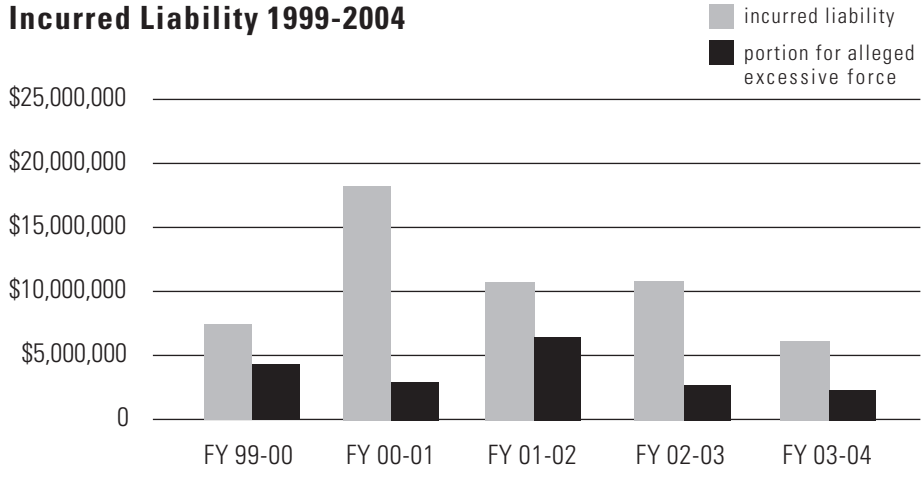
It is also the Risk Management Bureau's intent not to settle cases where it believes the Department is not at fault. As logical as this may seem, it is a new approach to managing litigation. In the past, the thinking was that the LASD should settle for anything less than the cost of trial. That approach to risk management created at least three problems. It gave plaintiffs and their lawyers incentive to file lawsuits without sufficient concern for how their evidence would withstand the test of trial. It gave defense lawyers incentive to run up fees in discovery and legal motions, then bail out before the hard work of trial began by convincing the LASD to settle. And it drove officers to a cynical view of their Department as being too willing to pay off

claims rather than stand by its employees at trial. The Risk Management Bureau's new approach attempts to correct all three — changing the attitudes both of the LASD's own lawyers and of the plaintiffs' bar at the same time it boosts deputies' morale.

II. Litigation Statistics for Fiscal Year 2003-2004

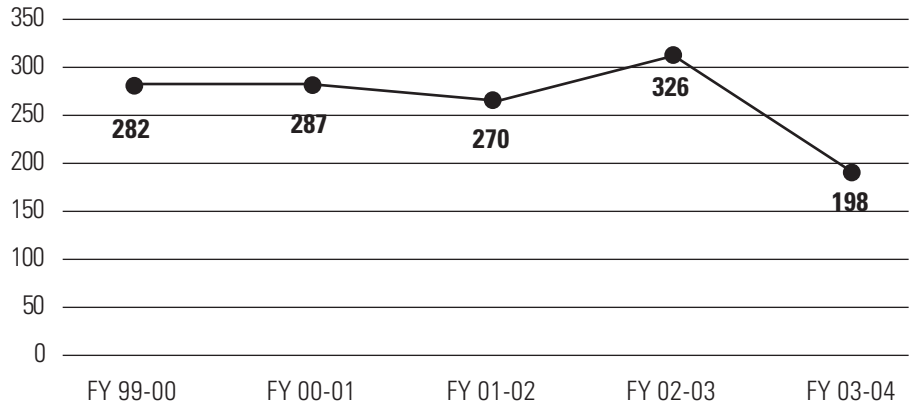
The Risk Management Bureau's new approach to managing litigation shows early signs of successfully reducing the Department's liability. For fiscal year 2003-2004, the LASD spent just over $5.6 million to resolve lawsuits, down from over $10 million in each of the prior two years. It spent slightly more to resolve claims than in prior years, but the total liability for claims and lawsuits still dramatically decreased, from $10.7 million in 2002-2003 to just over $6 million in 2003-2004. See Table 1. Additional details regarding the LASD's litigation activity are in Tables 4 through 8, at the end of this chapter. Importantly, the total number of lawsuits brought against the Department also dropped significantly, from 270 in fiscal year 2001-2002 and 326 in 2002-2003 to just 198 in 2003-2004. See Table 2.

1



2

Lawsuits Filed 1999-2004



These decreases in incurred liability and lawsuits filed are not likely to be indicative of a reduced number of grievances against the Department, as the number of claims filed in 2003-2004, a necessary precursor to litigation, went up compared to the prior two years. See Table 3.

The decrease in liability costs, then, is more likely attributable to better management of litigation than to improved police work. Significantly, while the total amount paid to settle all types of claims and lawsuits went down in 2003-2004, the percentage of the total that went to settle excessive force claims went up from the prior year. And the money spent on force related judgments and settlements remained roughly equal, from $2.75 million in 2002-2003 to $2.44 million in 2003-2004.[2] See Table 1. However, because litigation typically is not resolved until years after an incident, figures relating to what happens in courtrooms do not give an accurate account of what currently is happening in the field.

2 Nor is there any sign that shootings or uses of force are declining. In fact, for 2004, the number of officer-involved shootings was up more than 20% over the prior year, continuing an upward trend over the prior five years. See Tables 12 and 13. And use of significant force among the Field Operations Regions was up in 2004 as well, from 700 incidents in 2002 and 699 in 2003 to 782 in 2004. See Table 9.

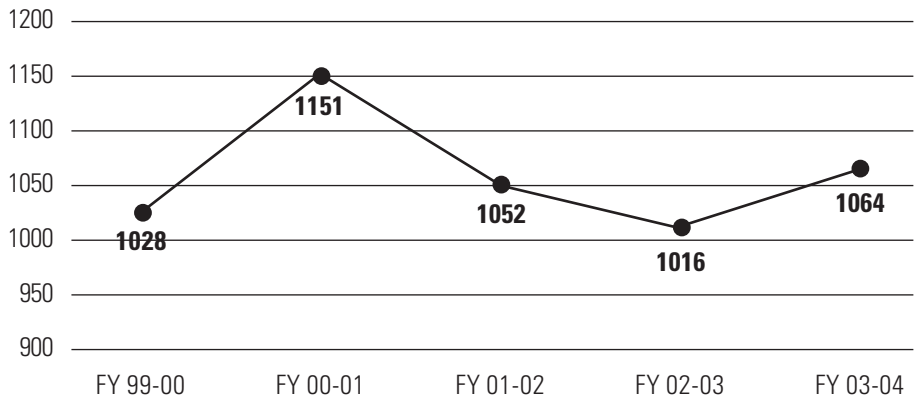
The LASD deserves praise for its improved management of litigation. Its ability to settle cases early and to select wisely the cases it chooses to take to trial should save County taxpayers money. But managing litigation outcomes is just a small part of managing risk. It is only through training, discipline, and effective identification and management of problem employees that the Department can reduce the number of injury-causing incidents and truly reduce its risk. The Risk Management Bureau is working on this issue through its new Corrective Action Unit.

III. Using the Lessons Learned

To better manage the cost of litigation is good; to reduce the risk of similar incidents in the future is better. As one executive told us, managers "can have all the knowledge in the world about what went wrong in a lawsuit but they're limited in what they can do because the lawsuit is still a lemon. I may be able to make lemonade by managing the litigation well... but it's only through training and disseminating the lessons learned to prevent someone from making the same mistake.... That's where you save money."

3

Claims Filed 1999-2004



Of course, it is not just a matter of saving money, but also of preserving the public's trust.

To serve both ends, the LASD recently added a new lieutenant to the Risk Management Bureau to head a Corrective Action Unit. Prior to this addition, the Risk Management Bureau was described by its Captain as a three-legged table. The Health and Safety Unit handles workers' compensation issues; the Discovery Unit monitors the Department's early warning system, the PPI; Civil Litigation Unit handles litigation and develops corrective action plans. No one was directly responsible for monitoring the implementation of corrective action plans, preparing and guiding changes to the Manual of Policy and Procedure and Unit Orders, and overseeing the Performance Mentoring (formerly "Performance Review") process. As of July 2004, Lieutenant Pat Hunter has held these responsibilities. We look forward to reporting further on the progress of this new unit.

IV. Significant Settlements

From the **Kolts Report** onward, there has been a paradoxical contradiction between Internal Affairs investigations that exonerated the officer and litigation arising out of the same incident that cost the County substantial money in settlements and judgments. Those same disparities continue to exist after 2003 and 2004. Certainly there are sometimes sound tactical reasons for settling cases even when liability or the officers' wrongdoing is disputed. While at times one might find instances in which the County's lawyers have unwisely settled, it is far more common to find cases where the LASD let an officer off the hook when a judge or jury would not. We can only say as we have in the past that these disparities "fuel[] the fire of those who would strip the Sheriff of the privilege of investigating and disciplining his own employees." **Fifteenth Semiannual Report** at 73.

Batiste v. County of Los Angeles

In a case that settled for $375,000, a lone deputy initiated a traffic stop of a van in response to an order from the Aero unit personnel who had spotted the van leaving the scene of a burglary. While the deputy held the driver of the van at gunpoint, another car pulled behind his patrol car and the plaintiff, Ms. Batiste, got out and walked up behind the deputy, belligerently complaining that it was her cousin in the van and she had done nothing wrong, an assertion that proved to be true. When the plaintiff, a 110-pound woman, refused to comply with orders to get back, the deputy and his newly-arrived backup escorted her to the patrol car. In their attempt to handcuff her, the plaintiff's head slammed into the hood of the car, causing two chipped teeth and a fractured jaw. The plaintiff alleged the deputies slammed her onto the hood of the car. The deputies contended the plaintiff had been resisting, requiring them to use some force to hold her, then she abruptly stopped resisting and their force caused her to slam into the car. While the deputies' story was sufficiently dubious and self-serving to create "disputed liability" according to the Risk Management Bureau, it somehow satisfied the Internal Affairs investigators and executives reviewing the case. They found the force used was within Departmental policy and no discipline was imposed on either deputy, despite the fact the same two deputies had been involved in a similar incident.

The County's lawyers, on the other hand, acting here on behalf of the contract cities, were not convinced a jury would find the deputies' version of the circumstances behind the use of force credible, in large part because of the similar incident involving the same two deputies. The case settled for $375,000.

Ballard v. County of Los Angeles

In another significant settlement, the County agreed to pay $150,000 to Ms. Ballard following an incident in her home. Two deputies went to Ms.

Ballard's apartment to investigate an embezzlement claim and smelled marijuana when her boyfriend opened the door. The plaintiff's 14-month old child toddled to the door, followed by the plaintiff. When she refused to let the deputies enter, they forced their way in to investigate a possible child endangerment claim relating to the marijuana use. The plaintiff's boyfriend was quickly handcuffed, but the plaintiff ran through the apartment with her toddler. The deputies reportedly feared she would injure the child with her tight grip. Two back-up deputies arrived and in the ensuing struggle between the plaintiff and four deputies, the plaintiff was struck eight to ten times in the face and either fell or was pushed through a glass coffee table before being taken into custody. The District Attorney declined to pursue criminal charges against the plaintiff, but the toddler was removed from her custody for 45 days pending the D.A.'s decision.

The LASD's Corrective Action Plan noted some interesting liability issues, including whether eight to ten strikes to the face were necessary in a four-on-one fight, and the propriety of the officers' warrantless entry into plaintiff's home. According to the lawyers and Risk Management, those concerns warranted a $150,000 payout. Yet the Internal Affairs investigation ended with a finding that the force used was within policy and that Department training and policy were adequate.

Aquino v. County of Los Angeles

In another recently settled case, the County paid $975,000 to Ms. Aquino, the ex-wife of a man who committed suicide in a Sheriff's station lock-up. Deputies had responded to a 9-1-1 call from the plaintiff, who said her ex-husband, Conrado Ortega, was threatening to kill himself. Deputies detained Mr. Ortega pursuant to section 5150 of the Welfare and Institutions Code, which allows those deemed to pose a threat to themselves or others as a result of a mental disorder to be held for 72 hours for evaluation and treatment. The patrol deputies called the Mental Evaluation Team deputy on duty, who

told the patrol deputies to take Mr. Ortega to the station lock-up. This instruction violated LASD policy and state law, both of which require that 5150 detainees be held only in designated mental health facilities. LASD station jails are not such facilities. Nonetheless, holding those individuals detained pursuant to 5150 in station lock-ups until a MET deputy had time to evaluate the individual for appropriate placement in a mental health facility had become a commonly accepted practice for the convenience of the deputies, and was sanctioned by the unit orders governing MET team operations. Rather than waiting for the MET deputy or transporting Mr. Ortega to a designated mental health facility, the patrol deputies complied with the MET deputy's request and took Mr. Ortega to the station.

At the station lock-up, the patrol deputies instructed the Custody Assistant on duty that Mr. Ortega was suicidal and was awaiting MET team evaluation, then left to resume their patrol duties. Mr. Ortega was placed in a cell where he could be monitored both directly and via video camera. Nonetheless, the Custody Assistant did not constantly monitor him, and Mr. Ortega attempted to hang himself in his cell. LASD personnel resuscitated him, but Mr. Ortega eventually died after lingering in a coma for four and a half months.

The County paid $975,000 to settle this case, then used the litigation as impetus for a significant policy change. The lawsuit was pending at the time Captain Dennis Werner assumed command of the Risk Management Bureau in April 2003. When this case came to the Captain's attention, he immediately recognized the conflict between state law and LASD policy, on the one hand, and the MET team's unit order and common practice, on the other. He notified the Lieutenant in charge of the MET team of the illegal unit order, and requested that the Undersheriff issue a teletype to all deputies to inform them of Department policy and state law governing 5150 detentions. Captain Werner's response to this litigation was a model of proactive risk management.

In the end, the LASD gave relatively minor discipline to the MET deputy and Custody Assistant involved. But this outcome, too, spurred change in the Department. The Internal Affairs investigation in this case occurred not long after OIR was established. Prior to *Aquino*, OIR monitored Internal Affairs investigations, weighed in on the disciplinary action, and then closed its files. Following the outcome in *Aquino,* in which the initial decision on discipline was substantially watered down by way of settlement, the Department agreed to allow OIR to monitor cases all the way through final resolution.

In all, we reviewed 29 cases involving police misconduct that settled for $100,000 or more over the past five years. Only eight, including *Aquino*, resulted in any type of discipline to the involved officers or policy change on the part of the Department. However, because of the delay between the occurrence of a force or other misconduct incident and its resolution through litigation, OIR participated in the Internal Affairs investigations of just three of the 29 settled cases we reviewed. In two of those three cases, the Department imposed discipline and implemented new policy and training guidelines. We are therefore optimistic that the number of disparities between litigation outcomes and the results of administrative investigations will decline as the impact of OIR's involvement in investigations continues.

In our **Fifteenth Semiannual Report,** we raised the concern that internal conflicts in the LASD might allow pending litigation to distort or delay internal investigations into misconduct. Then, as in the 1992 **Kolts Report,** we questioned whether "lawyers representing the LASD can strongly advocate terminating an officer for misconduct knowing at the same time that the fact of termination may increase the exposure of the County in litigation arising from that misconduct." **Fifteenth Semiannual Report** at 78-79; **Kolts Report** at 194.

Despite the results in the cases noted above, the Department's commitment to the integrity of the disciplinary process appears to be winning any perceived

tug-of-war between internal investigations and concerns about their effect on pending litigation. Certainly the existence of a pending lawsuit continues to shadow the internal disciplinary process, but the decision by new leadership at the Risk Management Bureau to give OIR greater access to information about litigation, coupled with OIR's continuing role as monitor and active participant in Internal Affairs investigations, gives us increased confidence that appropriate disciplinary decisions will be made regardless of their impact on the Department's liability.

Conclusion

Though it is too soon to test statistically, we are optimistic that the new approach to managing litigation at the Risk Management Bureau, together with the impact of OIR's involvement in Internal Affairs investigations, will close the gap in those police misconduct cases in which the County pays hundreds of thousands of dollars in damages yet no discipline is imposed and no policy or training principle slated for change.

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Litigation, Department Financial Summaries

Lawsuits	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04
Police Liability	$5,882,426.00	$17,948,937.00	$8,613,220.67	$4,883,000.90	$3,686,634.77
Portion of Total for Alleged Excessive Force	*($4,575,650.00)*	*($2,864,300.00)*	*($6,378,936.00)*	*($2,746,912.34)*	*($2,442,800.00)*
Personnel Issues	$193,400.00	$487,000.00	$782,967.00	$338,000.00	$789,000.00
Auto Liability	$442,077.00	$458,843.00	$508,505.03	$3,765,373.65	$229,991.59
Medical Liability	$139,500.00	$57,750.00	$183,999.99	$1,258,500.00	$948,000.00
General Liability	$1,282.00	$500.00	$105,000.00	$131,519.80	$10,000.00
Totals	**$6,658,685.00**	**$18,953,030.00**	**$10,193,692.69**	**$10,376,394.35**	**$5,663,626.36**

Claims	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04
Police Liability	$722,181.00	$102,965.00	$145,597.01	$100,957.20	$70,582.89
Portion of Total for Alleged Excessive Force	*($120,725.00)*	*($0.00)*	*($29,725.00)*	*($23,300.00)*	*($15,640.00)*
Auto Liability	$100,963.00	$162,718.00	$229,450.54	$225,683.02	$296,686.14
Medical Liability	$0.00	$0.00	$141.50	$0.00	$0.00
General Liability	$296.00	$2,722.00	$1,284.13	$259.85	$0.00
Total	**$823,440.00**	**$268,405.00**	**$376,473.18**	**$326,900.07**	**$367,269.03**

Incurred Claims/Lawsuits Liability Total	**$7,482,125.00**	**$19,221,435.00 ***	**$10,570,165.87**	**$10,703,294.42**	**$6,030,895.39**

* One settlement, in *Valentin v. County of Los Angeles,* accounts for $13,913,695.00 of this total.

Source: Risk Management Bureau

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Litigation, Force Related Judgments and Settlements

FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00
$17 million*	$3.72 million	$1.62 million	$27 million**	$4.58 million***
FY 00-01	**FY 01-02**	**FY 02-03**	**FY 03-04**	
$2.86 million	$6.39 million	$2.75 million	$2.44 million	

* Includes $7.5 million for Darren Thompson paid over three years.
** Includes approximately $20 million for 1989 Talamavaio case.
*** Includes $4 million for Donald Scott and $275,000 for Anthony Golden.

Source: Risk Management Bureau

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Litigation, Department Financial Summary
Fiscal Year 2003-2004

	Dept. Funded	Contract City Funded	MTA Liability Funded	Totals
Lawsuits				
Police Liability	$2,836,215.77	$850,419.00	$0.00	$3,686,634.77
(Portion of Total for Alleged Excessive Force)	*$1,653,900.00*	*$788,900.00*	*$0.00*	*$2,442,800.00*
Personnel Issues	$789,000.00	$0.00	$0.00	$789,000.00
Auto Liability	$71,980.87	$127,500.00	$30,510.72	$229,991.59
Medical Liability	$948,000.00	$0.00	$0.00	$948,000.00
General Liability	$10,000.00	$0.00	$0.00	$10,000.00
Writs	$0.00	$0.00	$0.00	$0.00
Lawsuit Total	**$4,655,196.64**	**$977,919.00**	**$30,510.72**	**$5,663,626.36**
Claims				
Police Liability	$59,578.99	$8,703.90	$2,300.00	$70,582.89
(Portion of Total for Overdetentions)	*$15,640.00*	*$0.00*	*$0.00*	*$15,640.00*
Auto Liability	$251,150.57	$25,437.85	$20,097.72	$296,686.14
Medical Liability	$0.00	$0.00	$0.00	$0.00
General Liability	$0.00	$0.00	$0.00	$0.00
Claim Total	**$310,729.56**	**$34,141.75**	**$22,397.72**	**$367,269.03**
Incurred Claims/ Lawsuits Liability Total	**$4,965,926.20**	**$1,012,060.75**	**$52,908.44**	**$6,030,895.39**

Source: Risk Management Bureau

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LASD Litigation Activity

Force Related Lawsuits, 1992-2004

	FY 92-93	FY 93-94	FY 94-95	FY 95-96	FY 96-97	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04
New Force Related Suits Served	88	55	79	83	61	54	41	54	67	78	68	57
Total Docket of Excessive Force Suits	381	222	190	132	108	84	70	93	102	71	118	94
Lawsuits Terminated												
Lawsuits Dismissed	79	90	60	42	39	27	20	24	34	21	37	47
Verdicts Won	22	9	10	6	3	6	1	1	4	3	5	8
Verdicts Against LASD	3	7	3	5	2	1	2	2	0	1	0	0
Settlements	70	81	103	82	41	45	32	12	21	23	41	26

Lawsuits Terminated, FY 2003-2004

	Dismissed	Settled	Verdicts Won	Verdicts Against	Totals
Police Malpractice	144	60	20	8	232
Medical Malpractice	11	4	0	0	15
Traffic	10	24	1	0	35
General Negligence	3	1	0	0	4
Personnel	10	7	1	0	18
Writ	9	2	1	1	13
Total	**187**	**98**	**23**	**9**	**317**

Active Lawsuits by Category 1998-2004

	7/1/98	7/1/99	7/1/00	7/1/01	7/1/02	7/1/03	7/1/04
Police Malpractice	224	247	341	299	322	313	224
Medical Malpractice	22	28	25	30	31	33	33
Traffic	47	43	37	50	57	59	78
General Negligence	7	8	3	12	9	10	10
Personnel	19	22	16	16	13	23	14
Writ	8	6	13	15	8	10	9
Total	**327**	**354**	**435**	**422**	**440**	**448**	**368**

Source: Risk Management Bureau

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Lawsuits and Claims Filed, 1999-2004

	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04
Lawsuits*	282	287	270	326	198

	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04
Claims**	1028	1151	1052	1016	1064

* Includes Police Liability, Auto Liability, Medical Liability, General Negligence and Personnel Issues.
** Includes Police Liability, Auto Liability, Medical Liability, General Negligence and Inmate Over Detention claims.
Source: Risk Management Bureau

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LASD Force

Department Wide*	**2000**	**2001**	**2002**	**2003**	**2004**
Force Incidents (Total)	2233	2190	2399	2645	2643
Total Force/100 Arrests	2.31	2.31	2.60	2.81	2.69
Significant Force: Hospitalization/Death/100 Arrests	0.02	0.01	0.02	0.01	0.01
Significant Force: Visible Injury/100 Arrests	0.52	0.52	0.63	0.68	0.78
Significant Force: Complaint of Pain/100 Arrests	0.30	0.37	0.37	0.38	0.42
Significant Force: No Complaint of Pain/Injury/100 Arrests	0.31	0.35	0.42	0.40	0.28
Less Significant Force Incidents/100 Arrests	0.45	0.43	0.75	0.88	0.48
OC Spray/100 Arrests	0.71	0.63	0.41	0.46	0.71

Field Operation Regions (FOR)	**2001**	**2002**	**2003**	**2004**
Region I Force Incidents	349	401	406	496
Per 100 Arrests	1.19	1.40	1.40	1.44
Region II Force Incidents	584	568	589	634
Per 100 Arrests	1.85	1.96	2.1	2.35
Region III Force Incidents	353	271	356	354
Per 100 Arrests	0.21	0.96	1.17	1.16
FOR Total Force Incidents	1286	1240	1351	1484
Per 100 Arrests	1.43	1.45	1.55	1.61

Field Operation Regions (FOR)	**2001**	**2002**	**2003**	**2004**
Regions I, II & III Significant Force	739	700	699	782
Per 100 Arrests	0.82	0.82	0.80	0.85

* Includes all patrol stations and specialized units, including custody and court services.
Source: Management Information Services

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LASD Force/100 Arrests All Patrol Stations

Station	2000	2001	2002	2003	2004
Altadena	NA	NA	1.87	1.68	1.31
Crescenta Valley	0.90	1.20	0.53	1.40	1.15
East LA	1.32	1.04	1.38	1.11	1.14
Lancaster	1.09	0.92	1.39	1.63	1.54
Lost Hills/Malibu	0.52	0.86	0.67	1.11	1.21
Palmdale	2.05	1.79	1.81	1.85	1.37
Santa Clarita	1.00	1.15	1.42	1.55	1.95
Temple	1.36	1.52	1.28	0.79	1.39
Region I Totals	**1.22**	**1.21**	**1.40**	**1.40**	**1.44**
Carson	1.61	1.33	1.44	1.56	1.77
Century	1.71	2.42	2.29	2.16	3.18
Compton	2.44	1.71	2.59	3.04	1.86
Community College	NA	NA	NA	7.14	7.03
Lomita	2.06	1.50	2.32	0.87	1.17
Lennox	1.29	1.31	1.41	1.80	1.24
Marina del Rey	0.81	1.42	2.17	2.12	1.29
Transit Services Bureau	NA	NA	1.71	2.06	4.53
West Hollywood	2.36	2.19	2.29	2.29	2.71
Region II Totals	**1.59**	**1.87**	**1.96**	**2.10**	**2.35**
Avalon	0.96	2.00	1.43	2.04	2.49
Cerritos	0.73	1.20	1.65	1.16	1.73
Industry	1.34	1.16	0.71	1.06	0.97
Lakewood	1.55	1.35	1.39	1.61	1.41
Norwalk	0.85	1.16	0.90	1.20	1.26
Pico Rivera	0.96	0.97	0.67	0.81	0.95
San Dimas	0.77	1.17	0.83	1.13	0.62
Walnut	0.78	0.78	1.03	0.80	0.87
Region III Totals	**1.17**	**1.21**	**0.96**	**1.17**	**1.16**

Source: LASD/MIS/CARS - 1/14/05

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Total LASD Shootings

	1996			1997			1998		
	On Duty	*Off Duty*	*Total*	*On Duty*	*Off Duty*	*Total*	*On Duty*	*Off Duty*	*Total*
Hit[1]	22	3	25	33	2	35	15	5	20
Non-Hit[2]	15	4	19	17	3	20	15	0	15
Accidental Discharge[3]	24	2	26	7	1	8	11	2	13
Animal[4]	38	0	38	31	5	36	37	1	38
Warning Shots[5]	0	0	0	0	0	0	0	0	0
Tactical Shooting[6]	3	0	3	1	0	1	0	0	0
Total	**102**	**9**	**111**	**89**	**11**	**100**	**78**	**8**	**86**

	1999			2000			2001		
	On Duty	*Off Duty*	*Total*	*On Duty*	*Off Duty*	*Total*	*On Duty*	*Off Duty*	*Total*
Hit	21	1	22	18	0	18	19	0	19
Non-Hit	8	0	8	15	0	15	11	3	14
Accidental Discharge	4	0	4	11	1	12	9	4	13
Animal	33	1	34	35	2	37	33	1	34
Warning Shots	1	0	1	2	0	2	0	0	0
Tactical Shooting	1	1	2	0	0	0	0	0	0
Total	**68**	**3**	**71**	**81**	**3**	**84**	**72**	**8**	**80**

	2002			2003			2004		
	On Duty	*Off Duty*	*Total*	*On Duty*	*Off Duty*	*Total*	*On Duty*	*Off Duty*	*Total*
Hit	22	0	22	24	1	25	36	1	37
Non-Hit	16	0	16	20	1	21	19	1	20
Accidental Discharge	12	1	13	12	2	14	8	3	11
Animal	35	5	40	35	3	38	28	1	29
Warning Shots	0	0	0	0	0	0	1	0	1
Tactical Shooting	1	0	1	0	0	0	0	0	0
Total	**86**	**6**	**92**	**91**	**7**	**98**	**92**	**6**	**98**

1 **Hit Shooting Incident:** An event consisting of one instance or related instances of shots (excluding stunbags) fired by a deputy(s) in which one or more deputies intentionally fire at and hit one or more people (including bystanders).

2 **Non-Hit Shooting Incident:** An event consisting of one instance or related instances of shots (excluding stunbags) fired by a deputy(s) in which one or more deputies intentionally fire at a person(s), but hit no one.

3 **Accidental Discharge Incident:** An event in which a single deputy discharges a round accidentally, including instances in which someone is hit by the round. Note: If two deputies accidentally discharge rounds, each is considered a separate accidental discharge incident.

4 **Animal Shooting Incident:** An event in which a deputy(s) intentionally fires at an animal to protect himself/herself or the public or for humanitarian reasons, including instances in which a person is hit by the round.

5 **Warning Shot Incident:** An event consisting of an instance of a deputy(s) intentionally firing a warning shot(s), including instances in which someone is hit by the round. Note: If a deputy fires a warning shot and then decides to fire at a person, the incident is classified as either a hit or non-hit shooting incident.

6 **Tactical Shooting:** An event consisting of an instance or related instances of a deputy(s) intentionally firing a firearm but not at a person, excluding warning shots (e.g., car tire, street light, etc.). Note: If a deputy fires at an object and then decides to fire at a person, the incident is classified as either a hit or non hit shooting incident.

Source: Internal Affairs Bureau

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LASD Hit Shootings by Unit

	1999	2000	2001	2002	2003	2004
Number Of Incidents	**22** *	**18**	**19**	**22**	**25**	**37**
Altadena Station	0	1	0	0	0	0
Carson Station	2	1	1	2	0	1 †
Century Station	1	2	6 **	5	2 ***	10 ††
Compton Station	NA	NA	NA	0	6 ****	6 ††
Court Services Bureau	0	NA	NA	0	0	0
Crescenta Valley Station	NA	NA	NA	NA	NA	0
East Los Angeles Station	2	2	0	0	0	0
Industry Station	NA	0	1	1	1	1
Lakewood Station	2	0	2	1	1	4
Lancaster Station	0	1	0	1	0	1
Lennox Station	4	0	4	2	0	6
Lost Hills/Malibu	0	0	0	0	1	0
Major Crimes Bureau	0	0	0	0	2	0
Marina Del Rey Station	NA	NA	NA	NA	NA	1
Men's Central Jail	NA	NA	NA	NA	1 *****	0
Mira Loma Facility	0	NA	NA	0	0	0
Miscellaneous Units	0	NA	NA	0	0	0
Narcotics Bureau	1	1	0	0	1 ******	0
Norwalk Station	0	1	1 **	1	1	2
Operations Bureau	NA	NA	NA	NA	NA	1 ††
Palmdale Station	1	1	0	3	0	0
Pico Rivera	1	0	0	1	1	1
Safe Streets Bureau	0	NA	NA	1	4 ****	3 ††
San Dimas	0	0	0	1	0	0
Santa Clarita Valley Station	1	1	0	0	0	2
Special Enforcement Bureau	2	2	3 **	0	3	0
Temple Station	2	3	1	1	1	0
Transit Services Bureau	0	0	0	0	1 ****	1
Walnut Station	0	0	1	0	0	0
West Hollywood Station	2	NA	NA	0	0	0
Number of Suspects Wounded	12	6	8 **	11	12	12
Number of Suspects Killed	10	12	12	11	16	27

* In the Temple Station shooting (11-21-99), two suspects were wounded; in the SCV Station shooting (6-13-99), no suspects were killed or wounded but one deputy was hit by friendly fire.

** One shooting (2-18-01), involved three units (Century, Norwalk and SEB). Two suspects were wounded.

*** In the Century Station shooting (5-1-03), one suspect was killed and one suspect was wounded.

**** One shooting (7/8/03) involved three units (Safe Streets Bureau, Compton Station, and Transit Services Bureau).

***** The Men's Central Jail shooting occurred off duty, away from the facility.

****** In the Narcotics Bureau shooting (11/11/03), two suspects were wounded.

† In the Carson Station shooting (3-31-04), one suspect was killed and one wounded.

†† One shooting (1-5-04) involved four units (Century, Compton, Safe Streets Bureau and Operations) and resulted in the deaths of two suspects.

Source: Internal Affairs Bureau

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LASD Non-Hit Shootings by Unit

	1999	2000	2001	2002	2003	2004
Number Of Incidents	**8**	**15**	**14**	**16**	**21**	**20**
Carson Station	1	2	0	1	0	1 **
Century Station	0	2	6 *(1 off duty)*	3	4	5 **
Century/Compton Transit Services	NA	2	1	0	0	0
Cerritos	NA	NA	NA	1	0	0
Compton	NA	NA	NA	2	4	3
Crescenta Valley Station	NA	NA	NA	NA	NA	1
East Los Angeles Station	3	1	1	1	2	0
Industry Station	NA	2	6	2	2	0
Lakewood Station	NA	2	0	0	1	0
Lancaster Station	NA	NA	NA	1	1	1
Lennox Station	1	0	1	1	2	1
Lost Hills Station	NA	NA	NA	NA	NA	1
Marina del Rey	NA	0	1	0	0	0
Men's Central Jail	NA	0	1	0	1 *	0
Narcotics Bureau	1	0	0	0	0	0
Norwalk Station	1	0	0	2	1	0
Palmdale Station	NA	0	1	0	1	0
Pico Rivera	0	2	0	0	0	0
Safe Streets Bureau	1	0	1	0	1	3
Santa Clarita Valley Station	NA	2	0	0	0	1
Special Enforcement Bureau	0	1	1	0	0	1
Temple Station	0	1	0	1	0	0
Transit Services Bureau	NA	NA	NA	NA	NA	2
Twin Towers	NA	NA	NA	0	0	1 *
Walnut Station	NA	NA	NA	0	1	0

* The Men's Central Jail and Twin Towers shootings occurred off duty, away from the facility.
** One shooting (2-6-04) involved two units (Carson and Century).

Incidents Resulting in Force/Shooting Roll-Out	1999	2000	2001	2002	2003	2004
	86	**91**	**87**	**92**	**89**	**115**

Source: Internal Affairs Bureau

Recently, Special Counsel and staff reported to the Board of Supervisors on the LASD's efforts to implement reforms arising from the settlement of two lawsuits alleging illegal strip searches in the Los Angeles County Jail—*Musso v. County of Los Angeles* and *Beaudoin v. County of Los Angeles*. This chapter reports publicly on our findings.

It is heartening to report that the LASD is in substantial compliance with the Corrective Action Plan developed in response to those lawsuits. The most significant corrective actions—the development and implementation of policies and procedures to minimize the risk of unlawful strip searches of pre-arraigned inmates—have been fully implemented. New policies to ensure that County Counsel reviews and approves all proposed revisions to the Custody Division Manual prior to publication have likewise been fully implemented. The Department also is complying with other corrective actions, such as ensuring that all custody units promptly distribute, brief, and document each revision to the Manual. We also identified opportunities for the LASD to improve upon the corrective action it has taken to date. We report our findings and recommendations below.

I. Background

A. The Lawsuits

1. Musso v. County of Los Angeles

Musso arose from the LAPD's August 15, 2000 misdemeanor arrests of a group of bicyclists engaged in a protest at the 2000 Democratic National

Convention. The cyclists were charged with reckless driving and were turned over to the LASD, which transported them to the LASD's Inmate Reception Center (IRC) for processing. The male arrestees were assigned to two dormitories in the Men's Central Jail (MCJ), while the females were assigned to Module 231 of the Twin Towers Correctional Facility (TTCF). Before the bicyclists were led to their assigned housing, they were searched by LASD personnel. At MCJ, the 38 male arrestees were subjected to pat-down searches and ordered to remove their personal property, shoes, and socks. At TTCF, however, the 23 female arrestees were subjected to pre-arraignment strip searches and visual body cavity examinations by female officers. The LASD has since acknowledged that these strip searches violated California law.

The next day, August 16, the protesters appeared in court for their arraignment. Upon returning from court, the 23 women were subjected to a second, post-arraignment strip search before re-entering TTCF. Because the women had all been arraigned, this second strip search did not violate Penal Code Section 4030. The charges against all of the protesters were dismissed several days later upon a motion of the District Attorney's Office.

At the time of this incident, TTCF's policy and practice was to conduct strip searches and visual body cavity inspections of all arrestees before introducing them into the general jail population, in violation of Penal Code Section 4030(f), which provides that misdemeanor and infraction arrestees may not be strip searched prior to arraignment unless (1) they are charged with an offense involving weapons, drugs, or violence or (2) there is reasonable suspicion that they are concealing a weapon or contraband. At the time of the incident, the LASD was in the process of modifying its Custody Division Manual to correctly state the legal standard under this law.

On April 27, 2001, the *Musso* protesters filed a class action alleging, among other things, that the female prisoners were illegally strip searched. On April 22, 2003, the Board authorized payment of $2.75 million to settle

the lawsuit, with the bulk of the payment going to the female prisoners who were illegally strip searched.

2. *Beaudoin v. County of Los Angeles*

Beaudoin occurred nearly four months after the Musso incident and involved a similarly unlawful strip search at TTCF. In the late afternoon of December 5, 2000, Lomita Station deputies arrested Ms. Brandi Beaudoin on a $26,000 warrant for driving with a suspended license. While being booked at Lomita Station, Ms. Beaudoin informed LASD officers that she was six months' pregnant. The Lomita officers, pursuant to LASD policy, determined that Ms. Beaudoin should be transferred to Twin Towers so that medical staff could evaluate her condition. Shortly before she left Lomita Station, Ms. Beaudoin twice telephoned her husband and requested that he post a bond for her release.

Ms. Beaudoin left Lomita Station at approximately 6:50 p.m. and arrived at the Inmate Reception Center at roughly 8:00 p.m. At 10:09 p.m., the IRC cashier received a bond for Ms. Beaudoin's release. The documentation for Ms. Beaudoin's release, however, was not received by IRC's Records Center until 12:40 a.m. By this time, Ms. Beaudoin was part of a line of "new bookings" transferring into Twin Towers. After arriving at Twin Towers, but prior to being placed into the general jail population, Ms. Beaudoin was subjected to a strip search and visual body cavity inspection. This search violated Penal Code Section 4030. Ms. Beaudoin spent the night in jail and was released at 5:27 a.m. on December 6.

A week after her release, Ms. Beaudoin twice went into premature labor that required medical attention. On March 31, 2001, Ms. Beaudoin filed a civil claim with the County alleging, among other things, that she had been illegally strip searched. On May 22, 2001, Ms. Beaudoin filed suit in Los Angeles Superior Court. In 2002, the County agreed to settle her claims for $150,000.

B. California Penal Code Section 4030

California Penal Code Section 4030 was enacted in 1984 to strictly limit strip searches and visual body cavity searches conducted by law enforcement agencies. The statute provides in relevant part:

> No person arrested and held in custody on a misdemeanor or infraction offense, except those involving weapons, controlled substances or violence... shall be subjected to a strip search or visual body cavity search prior to placement in the general jail population, unless a peace officer has determined there is reasonable suspicion based on specific and articulable facts to believe such person is concealing a weapon or contraband, and a strip search will result in the discovery of the weapon or contraband. No strip search or visual body cavity search or both may be conducted without the prior written authorization of the supervising officer on duty. The authorization shall include the specific and articulable facts and circumstances upon which the reasonable suspicion determination was made by the supervisor. (Cal. Penal Code § 4030(f)).

The provision set forth in Section 4030 restricting strip searches of pre-arraignment arrestees led to great confusion within the LASD. For many years, there were sharply conflicting views about what it meant.

C. A History of the LASD's Strip Search Policies up to the *Musso* and *Beaudoin* Incidents

1. Custody Division Policies

Although Penal Code Section 4030 was enacted in 1984, the earliest written policy produced by the LASD is Custody Division Order Number 64 ("CDO #64"), issued on September 12, 1989. CDO #64 began with an accurate description of Penal Code Section 4030(f), then erroneously concluded

that the restrictions on strip searches and body cavity inspections "do not apply to inmates already in the general jail population." According to the policy, "general population" inmates could be subjected to a strip search or body cavity search merely for a "valid reason." The LASD's interpretation was erroneous in that it did not clearly define what protection, if any, was afforded to pre-arraigned inmates once they had completed jail intake processing and subsequently became part of the general jail population.

It appears that the LASD published CDO #64 without first obtaining approval from County Counsel. Nonetheless, in October 1989, just over a month after the policy was issued, the LASD was alerted to possible constitutional problems in the order. The LASD appears not to have responded to the alert, and CDO #64 was thus the operative policy of the LASD from September 1989 to January 1999 despite legal infirmities.

On January 14, 1999, the LASD revised Custody Division Manual ("CDM") Section 3-09/000.00, which set forth the Department's rules regarding inmate searches. As with CDO #64, the revision was published without prior review or approval by County Counsel. This revision of Section 3-09/000.00 did not discuss the strictures of Penal Code Section 4030. Nor did it state any guidelines for conducting strip searches. Instead, the revised policy simply stated that each custody facility was to "develop and implement policies and procedures governing searches to ensure that the security of the unit is maintained."

In late 1999 and early 2000, the LASD began reviewing and rewriting the entire Custody Division Manual. On May 17, 2000, roughly five months before the *Musso* incident, the Department issued a draft revision of CDM Section 3-09/000.00. Unlike its predecessor, this draft of the policy expressly discussed the protections of Penal Code Section 4030 and made clear that pre-arraigned inmates were not to be subjected to a strip search or a visual body cavity inspection unless (1) they had been arrested for an offense

involving drugs, weapons or violence or (2) there was reasonable suspicion that they were in possession of a weapon, drugs, or contraband.

This time, in correspondence between June 2000 and January 2001, the Department did seek County Counsel's prior review and approval of the proposed change to policy. The *Musso* and *Beaudoin* incidents occurred during this time period.

2. Twin Towers' Policies Regarding Strip Searches

Under LASD policy, each custody facility is empowered to issue its own Unit Orders. These orders cannot be less restrictive than the Custody Manual or Custody Division orders. Like other LASD custody facilities, Twin Towers had its own Unit Orders regarding strip searches. Twin Towers' strip search policy was set forth in Unit Order Section 03-09-10. Roughly six months prior to the *Musso* incident, Unit Order Section 03-09-10 was re-reviewed and re-approved by the Custody Division as part of its biennial review process.

The Department apparently did not ask County Counsel to participate in its biennial review of Unit Order 03-09-10 and previously did not regularly involve County Counsel in the drafting or modification of Unit Orders. This proved unfortunate, as the LASD's own internal review process failed to identify serious flaws with the order. Among other things, the Twin Towers Unit Order erroneously stated that "[a]ll inmates and their property are subject to search at any time" without acknowledging that Penal Code Section 4030(f) strictly prohibited strip searches of certain types of pre-arraigned inmates. These errors laid the groundwork for the unlawful searches that occurred in *Musso* and *Beaudoin*.

D. Policy Changes After the *Musso* and *Beaudoin* Incidents

In February 2001—five months after the *Musso* incident and nearly three months after *Beaudoin*—an LASD Assistant Sheriff completed an audit of search procedures at the Inmate Reception Center, Men's Central Jail, and Twin Towers. He found that both IRC and MCJ complied with Penal Code Section 4030 because they did not strip search pre-arraigned inmates unless they fell within one of the exceptions specified in Section 4030(f). He found Tower I of Twin Towers also complied with the statute. On the other hand, he found that Tower II continued to conduct strip searches and body cavity inspections of all female inmates prior to entering the facility. The Assistant Sheriff immediately issued an oral stop order prohibiting all strip searches of pre-arraigned inmates entering the jails unless one of the exceptions to Penal Code Section 4030(f) applied.

Shortly after the Assistant Sheriff issued his stop order, Twin Towers drafted a revised version of Unit Order Section 03-09-10 that clearly stated pre-arraigned inmates were not to be strip searched unless one of the exceptions to Penal Code Section 4030(f) applied. Although the revised Unit Order apparently was not published, the new, proper strip search restrictions were nonetheless put into daily practice.

On June 25, 2002, LASD executives signed a revised version of the Custody Division Manual Section 3-09/000.00. The revision clearly and accurately states the legal restrictions on strip searching pre-arraigned inmates. On January 9, 2003, the LASD published its final revision of Section 3-09/000.00. Unfortunately, however, the LASD did not have procedures to ensure that employees at each facility actually received the new policy and were briefed on its application. Recognizing this lapse, one month later the Department redistributed the new policy and documented that the policy had been handed out again and briefings provided.

II. The LASD's Corrective Action Plan

In the spring of 2003, the LASD, in connection with the Board's consideration of proposed settlements of *Musso* and *Beaudoin*, conducted several internal analyses of its policies and practices and developed a series of proposed corrective actions:

1. Develop a system for tracking, easily identifying, and segregating pre-arraigned inmates so that they will not mistakenly be strip searched in violation of Penal Code Section 4030.
2. Develop measures to ensure that Custody and Correctional Services personnel are regularly briefed regarding the strictures of Penal Code Section 4030 and have an easy means for refreshing their knowledge.
3. Develop a policy to ensure that County Counsel will promptly and consistently review all LASD custody-related policies and policy revisions prior to publication.
4. Develop a system for tracking custody-related policies that are currently under revision.
5. Develop a system to ensure that revisions to custody-related policies are consistently distributed to affected employees, and that such distribution is documented and verified.

Furthermore, at the request of the Board of Supervisors, the Department agreed to conduct a series of audits to report on the implementation of each corrective action. Two of these audits were conducted in June and July 2003. A third audit was conducted in August 2003. Finally, a year-end review was prepared in December 2003. The Department, through the Custody Support Services Management Unit, continues to conduct quarterly audits of custody facilities' compliance with these corrective actions.

In addition to reviewing the LASD's internal audit reports, we conducted a series of our own audits, which occurred between September 2003 and August 2004. Our findings are set forth below.

III. Implementation of the Corrective Action Plan

A. System to Track, Easily Identify, and Segregate Pre-Arraigned Inmates

The LASD implemented this corrective action in July 2003. The corrective action consists of three components. First, all pre-arraigned inmates processed through the Inmate Reception Center receive a yellow wristband to readily notify custody personnel that the inmate has not yet been arraigned. Second, when new arrestees are entered into the LASD's computerized inmate tracking system, staff entering the inmates' data place a five-day hold on the inmates with the notation that they have not yet been arraigned. In connection with an anticipated upgrade of the computerized tracking system, the LASD expects that in the future, new arrestees will automatically receive an electronic identifier indicating that they have not been arraigned and thus generally are not subject to strip search, eliminating the potential for human error in data entry that could lead to an inmate's misclassification. This system upgrade, however, will not be accomplished for some indefinite period of time. Finally, pre-arraigned inmates are segregated from the general jail population to minimize the risk that they may introduce hidden weapons or contraband into the general population. This measure also reduces the risk that pre-arraigned inmates will be mistakenly subjected to strip search.

Both the LASD's internal audits and our own audits found the LASD to be fully compliant with this corrective action. The segregation procedures were clearly articulated in a July 2, 2003 temporary directive issued by Custody Division Chief John Scott and Correctional Services Chief Charles Jackson. The directive will ultimately be replaced by a new policy in the Custody Division Manual, Section 5-01/031.00.

Effective March 6, 2004, the Department, as a cost-saving measure, began housing pre-arraigned individuals arrested by LASD officers at the station where the individual was arrested. As a result of this measure, the number of pre-arraigned inmates flowing through the Inmate Reception Center and into the jail facilities has been reduced by roughly one-third. As a consequence, there are substantially fewer opportunities for pre-arraigned inmates to be mistaken for general population inmates and thereby become unlawfully subjected to strip search. In addition, because the individual patrol stations are not housing large numbers of prisoners, there have been, as far as we could tell, very few strip searches conducted by station jailers. We did not find any indication that problematic strip searches have occurred at the station holding cells. Nonetheless, because the responsibility for handling LASD arrestees prior to arraignment has been spread out among the patrol stations, we recommend that the Department regularly monitor the stations to ensure ongoing compliance with the strictures of Penal Code Section 4030.

B. Measures to Ensure LASD Personnel are Aware of the New Strip Search Policy Restrictions

The LASD first implemented this corrective action in the winter and spring of 2003. The first component of the corrective action required distribution of the revised strip search policy to all Custody Division and Correctional Services Division employees, as well as a formal briefing that was to be documented and kept on file. We have reviewed each unit's documentation of the briefings and are satisfied that the LASD has fully implemented this measure. The second component was the distribution of an informational bulletin describing in more detail the contours of the revised strip search policy. The Department circulated this bulletin in February and March 2003.

A third component was the creation of a pocket-sized information card entitled "Strip Search Policy of Pre-Arraigned Inmates." The card was

developed by Twin Towers for distribution to all custody facilities and IRC. Initially, the Department's implementation of this measure was slow, but by the end of 2003, the LASD reported that all of the custody facilities were in compliance. From September 2003 to August 2004, we periodically spot audited the custody facilities and found the information cards readily available. In addition, all of the employees we spoke to acknowledged receiving a card, and several employees were able to produce the card from their rear pockets or gear bags.

As discussed above, effective March 6, 2004, LASD patrol stations were assigned the duty of housing all pre-arraigned inmates arrested by LASD personnel. According to Custody Support Services and IRC, each of the patrol station jailers were briefed upon the strictures of Penal Code Section 4030 and provided information cards. However, while Custody Support Services conducts random audits of all jail facilities under its command to ensure compliance with this element of the Corrective Action Plan, the LASD has not audited the patrol station jails to monitor compliance. Between March and July 2004, we spot audited a sample of eight patrol stations and found the information cards were available. We recommend that Field Operations Support Services periodically perform audits of patrol station lock-up facilities to ensure that their staffs are familiar with the LASD strip search policy.

C. Ensure County Counsel Will Consistently Review and Approve Custody Policy Prior to Publication

On March 27, 2003, the Department revised Custody Division Manual Section 1-05/000.00 to make clear that County Counsel must approve all proposed Manual revisions before they are published and circulated to concerned personnel. In addition, the Department created a form to document that a given modification has been reviewed and approved by County Counsel. Beginning in September 2003, we conducted periodic audits to test whether this policy was

being followed. We are satisfied that the Department was and remains in full compliance with new policy.

We nonetheless recommended that the policy be expanded. While Section 1-05/000.00 does require prior County Counsel review and approval of any changes to the Custody Division Manual, it does not require prior review and approval of changes to policies not set forth in the Manual, such as the Unit Orders promulgated by each custody facility. This recommendation is necessary because the Unit Orders contain rules and procedures that affect inmates' substantive rights. It is worthwhile to recall that the illegal searches conducted in *Musso* and *Beaudoin* were carried out pursuant to a legally-flawed Unit Order issued by Twin Towers.

The Custody Division recently issued a directive requiring all custody facilities to submit their Unit Orders to Custody Support Services for review and County Counsel approval. While this directive has not yet been formalized in the Custody Division Manual, it is being implemented in practice. County Counsel and Custody Support Services staff are reviewing all existing Unit Orders and will, going forward, review all proposed modifications. We recommend that this practice continue and be formulated in policy.

We also recommend that the LASD amend its Manual of Policy and Procedure, which sets forth rules and procedures affecting the Department as a whole, to require prior County Counsel review and approval of all LASD policies and procedures. While it appears that such prior review and approval regularly occurs in practice, we believe the better course is to formalize the practice in policy.[1]

1 Section 1-01/040.00 of the LASD's Manual of Policy and Procedure sets forth the procedure for revising the Manual. It does not state whether County Counsel must review and approve proposed revisions prior to publication. Instead, the section merely states, "Upon concurrence and approval by all [LASD] Divisions, the proposed MR [manual revision] shall be routed to the Sheriff, through channels, for approval to be published and established as Department policy and procedure."

In addition, Manual Section 3-09/210.00, which discusses County Counsel's role in providing the LASD with formal and informal legal opinions, does not provide that proposed policy revisions are to be automatically routed to County Counsel for review and approval prior to publication. Instead, the section merely sets forth a protocol for seeking County Counsel input on a case-by-case basis.

D. System for Tracking Outstanding Revisions to the Custody Division Manual

On April 1, 2003, the LASD developed a spreadsheet report that lists all ongoing revisions to the Custody Division Manual. In addition to identifying the policies being revised, the report briefly states (1) the date the revision was ordered; (2) the nature of the revision in progress; (3) the unit currently working on the revision and the specific individual responsible for the work; (4) the date the unit received the revision; and (5) the current status of the revision.

Each month, Custody Support Services circulates updated reports to the Commanders and Chiefs of the Custody and Correctional Services Division. We have periodically reviewed these reports and are satisfied that the spreadsheet is kept up to date and effectively tracks pending revisions. We recommend, though, that the monthly report be expanded to track revisions not only to the Custody Division Manual but also of Unit Orders and other custody policies and procedures. The LASD also should consider applying this tracking system Department-wide, so that there is one single report to track all LASD policies currently undergoing revision, not just those relating to custody operations.

E. System to Ensure Consistent, Verifiable Distribution of Custody Division Manual Revisions

The March 27, 2003 revision to Custody Division Manual Section 1-05/000.00 not only provided for consistent County Counsel review of proposed manual revisions, but also added mechanisms to ensure that each revision was distributed in a uniform manner, concerned employees were promptly briefed about the revision, and each briefing was fully and consistently documented. Policy revisions that significantly impact custody-related

operations or that address risk management issues are designated as "Formal Revisions." Upon receiving a Formal Revision from Custody Support Services, each unit commander of a custody facility is responsible for ensuring that each relevant employee under his or her command receives a formal briefing and receives a hard copy of the new or revised policy. Those employees so briefed must sign an acknowledgement sheet to be maintained at the facility for at least five years. In addition, an electronic copy of the new or revised policy is issued to all personnel.

Implementation of this new policy initially was uneven. Our spot audits revealed noncompliance by several facilities. However, the most recent audits, by Special Counsel and the Department, showed all facilities in compliance with this aspect of the Corrective Action Plan. Given the previously uneven track record, we recommend that Custody Support Services continue to regularly conduct spot audits of facilities to ensure that they are consistently and promptly distributing, briefing, and documenting changes to the Custody Division Manual.

Conclusion

As the above discussion demonstrates, the Department is in full compliance with the most critical and crucial aspects of the Corrective Action Plan. The risk of illegal strip searches of pre-arraigned inmates has been substantially reduced. New policies to ensure that County Counsel reviews and approves all proposed revisions to the Custody Division Manual prior to publication have been fully implemented. The Department has taken significant steps to reduce the risk of the kind of errors that led to the County's liability in *Musso* and *Beaudoin*. We urge the LASD to diligently monitor custody facilities' ongoing compliance with the restrictions on lawful strip searches to avoid such errors in the future.