



34th Semiannual Report of Special Counsel

Los Angeles County Sheriff's Department
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Introduction

This Semiannual Report concludes the first long-term, voluntary civilian oversight by a monitor of law enforcement in the United States. Spanning more than 20 years, the monitoring of the Los Angeles County Sheriff's Department ("LASD") by the Kolts Group (consisting of Special Counsel and staff) has become the most evolved and emulated monitoring model—lending it significant and enduring national impact.

At the time of the Kolts Report on the LASD in July 1992, there were no monitor or auditor models for police oversight. Only a handful of weak review boards overshadowed by police management existed. By 2014, there were more than 120 civilian oversight agencies across the

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United States.¹ Individuals who have worked with Special Counsel brought the monitoring methodology to the Office of Inspector General of the Los Angeles Police Commission and to LASD's Office of Independent Review ("OIR"). Persons trained by, or working with, Special Counsel in civilian oversight became monitors, consultants, and investigators in Los Angeles and elsewhere in California, Chicago, New York City, Oregon, Washington, Colorado, New Mexico, Arizona, Wisconsin, Michigan, Maryland, Vermont, the District of Columbia, New York State, and Louisiana, among others.

The work of Special Counsel has achieved recognition beyond its work in Los Angeles. "[Special Counsel] is simply the nation's leading expert on police accountability. . . ."²

The Special Counsel to the Los Angeles Sheriff's Department is arguably the most successful citizen oversight agency in the United States. Over the course of 20 years, it has established a very creditable record of investigating a wide range of issues related to police accountability, identifying problems that need correcting, making recommendations for change, and then monitoring the implementation of those recommendations. Perhaps most important, the Special Counsel's office is one citizen oversight agency that has been able to present some evidence of its effectiveness.

The Special Counsel operates as an independent agency under a series of fixed-term contracts with the Los Angeles County Board of Supervisors. He hires his own staff, conducts investigations, and publishes semiannual reports. By mid-2013, it had issued 31

¹ Civilian oversight of the police has become a profession with its own organization, the National Association for Civilian Oversight of Law Enforcement ("NACOLE"), which trains and certifies civilian oversight professionals.

² Samuel E. Walker & Carol A. Archbold, *The New World of Police Accountability* xv (2013).

semiannual reports, which collectively provide a more detailed picture of LASD operations than is available about any other law enforcement agency in the United States.”³

The Kolts recommendations changed the culture and practices of the LASD in countless areas. Except in the jails, one does not hear of the kind of repetitive instances of excessive force and questionable shootings that preceded the substantial, Kolts-driven changes in the policy and practices relating to the use of force. Nor does one hear with any regularity of the vicious mauling by LASD police dogs that Kolts helped put a stop to. Kolts improved the experiences of women, blacks, and Latinos working in the LASD.⁴ The Kolts Group was there to lend support when the first gay male deputy came out in the early 90s and has worked to improve the Department's culture with respect to LGBT employees and community issues.⁵ Vigilante posses of gang deputies marauding through the night largely died out at most of the Sheriff's patrol stations through implementation of Kolts.

The Kolts Group proved repeatedly that implementation of its recommendations help to reverse out-of-control judgments and settlements stemming from the activities of the LASD.⁶ The Kolts Group proved that the PPI could correlate data to demonstrate a predictive effect.⁷ The Group examined the conditions of confinement for women in jail and its recommendations dramatically bettered their lives and health.⁸

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It repeatedly analyzed, in detail, deputy-involved shootings and made recommendations on tactics, practices, procedures, and training aimed at improving outcomes for officers, the community, and suspects.⁹ Kolts recommendations for the classification and housing of inmates proved beneficial.¹⁰ When four inmates died during a short time frame, the Supervisors turned to the Kolts Group to conduct a privileged and confidential investigation which in turn led to the adoption of recommendations that brought down inmate on inmate violence due to lax supervision of inmate movement. When the LASD overhauled its procedures for the receipt and investigation of

³ *Id.* at 185-6. The 34 Semiannual Reports that will comprise the span of the Kolts Group's efforts will remain permanently available on the website of the Police Assessment Resource Center ("PARC"), www.parc.info.

⁴ See, e.g., 2nd Semiannual Report at 79-81, 97-98, 99-103; 4th Semiannual Report at 61-74; 5th Semiannual Report at 11-16; 6th Semiannual Report at 49-70, 75-82; 7th Semiannual Report at 67-88; 9th Semiannual Report at 45-78; 11th Semiannual Report at 6-29; 20th Semiannual Report at 7-40.

⁵ See, e.g., 2nd Semiannual Report at 81, 97, 99; 6th Semiannual Report at 71-74; 20th Semiannual Report at 7-40.

⁶ See 25th Semiannual Report at 117-36; 19th Semiannual Report at 29-44; 15th Semiannual Report at 71-96; see also 14th Semiannual Report at 93; 13th Semiannual Report at 91; 11th Semiannual Report at 57; 9th Semiannual Report at 79; 7th Semiannual Report at 51; 6th Semiannual Report at 33; 5th Semiannual Report at 27; 4th Semiannual Report at 7; 3rd Semiannual Report at 7; 2nd Semiannual Report at 37; 1st Semiannual Report at 33.

⁷ See 27th Semiannual Report at 7-43.

⁸ See 26th Semiannual Report at 1-150.

⁹ See, e.g., 1st Semiannual Report at 9-18; 2nd Semiannual Report at 27-36; 3rd Semiannual Report at 17-26; 4th Semiannual Report at 13-28; 5th Semiannual Report at 39-46; 13th Semiannual Report at 5-20; 14th Semiannual Report at 79-92; 24th Semiannual Report at 5-38; 30th Semiannual Report at 84-99.

¹⁰ See 7th Semiannual Report at 13-33; 22nd Semiannual Report at 7-30.

internal and external complaints, the Kolts Group's recommendations were followed.¹¹ The work of Special Counsel and the Kolts Group at the Century Station was singled out for positive comment, as noted in [Appendix A](#) to this report.

While exploring these and many other issues over the last 22 years, we have learned a great deal about the strengths and weaknesses of the monitor model for civilian oversight. Because a monitor looks beyond a restricted case-by-case review of civilian complaints or internal investigations and

Because a monitor considers trends over time and tests the accuracy and effectiveness of its recommendations, a monitor constitutes the best and most powerful form of civilian oversight.

considers trends and patterns over time, and tests the accuracy and effectiveness of its suggestions and recommendations, a monitor, serving in the capacity of Special Counsel, constitutes the best and most powerful form of civilian oversight.

Crucial to Special Counsel's success over the past 20 years has been its attorney-client relationship with the Board and the LASD. That relationship has ensured that the monitor has always enjoyed full access to, and complete information about, all aspects of the Department's performance—and has always been able to provide candid and confidential advice and counsel to the Board. While strictly protecting attorney-client communications, work product, and the officer's legal rights to nondisclosure, Special Counsel has nonetheless expanded transparency and knowledge about the workings of law enforcement in the Semiannual Reports.

Because of this attorney-client relationship, every single subpoena (save one) for Special Counsel to testify at trial or in a deposition or to produce documents was quashed. Although it may be possible to protect confidential communication and documents through implication of other privileges, statutory and otherwise, there is no doubt that the attorney-client privilege proved to be the best protection in court and in discovery.

A monitor must at all times maintain distance and independence from the law enforcement agency it investigates. Special Counsel has declined every opportunity to testify as an expert either for plaintiffs or defendants in police litigation, whether in state or federal court. Special Counsel scrupulously kept that distance from the LASD, rejecting the occasional offers of assistance or protective clothing or special favors. While still mobile, Special Counsel did repeated ride-alongs from the majority of patrol stations, got to know a substantial number of deputies, and constantly urged more training, especially with shooting scenarios. To work with the Kolts Group, an individual was required to ride along and get to know as many LASD personnel as possible. Members of the Kolts Group developed specialties, including sophisticated data and statistical

¹¹ See 2nd Semiannual Report at 49–58; 3rd Semiannual Report at 35–64; 4th Semiannual Report at 79.

analysis, forensic science and ballistics, use of force policies, procedures, training, and techniques, safely dealing with the mentally ill and individuals in heightened emotional states or assaultive due to drugs and alcohol; policing a diverse urban environment; measuring and analyzing explicit and implicit racial and ethnic bias and disparate impact; and Fourth and Fifth Amendment law in great detail.

Yet even with that depth of expertise and authority, the Special Counsel form of oversight is not self-executing. To reform a troubled law enforcement agency on a voluntary basis, and in the absence of a consent decree or settlement agreement, a monitor must have:

- Consistent, focused political support and involvement that remains active and committed for the long haul;
- Public and community commitment to reform that provides pressure to keep the high beams shining on elected politicians and the upper levels of management in the law enforcement agency;
- The unalloyed commitment of top law enforcement management to constitutional policing on the streets and in the jails, with no tolerance for excessive force or race-based policing;
- Print and electronic media with investigatory expertise to spread the word about the successes and failures of attempts at reform;
- Unfettered and unrestricted access to the law enforcement agency by Special Counsel—with immunity from litigation and the exemption from discovery of its work product and communications;
- Adequate budgets consistent with the scope of work and the necessary quality of the staff;
- Full, timely, accurate, and complete computerized data for measuring the Department's ongoing performance, officer performance, and the pace and effect of reforms that is actually used by police management and the monitor; and
- Patience and tenacity to see the process through.

As Special Counsel, I had some but not all of the foregoing. There was sustained attention and focus by Sheriff Sherman Block and his key management, most prominently from Assistant Sheriff Michael Graham. There has been active support from many of the Supervisors—including, over the years, Supervisors Edmund Edelman, Zev Yaroslavsky, Yvonne Burke, and Gloria Molina, in particular.

Relations with Sheriff Lee Baca remained independent yet cordial throughout his administration. Nonetheless, an anti-reform counter movement took over as certain recent Undersheriffs rose to the forefront and Sheriff Baca's and the Supervisors' attention seemed to be focused elsewhere.

The crisis in the jails was an unfortunate, and strong, wake-up call to the LASD and County

government that the commitment to accountability can never wane. In the absence of such accountability, brutality seems to have festered in the jails. Across the Department, deputies were affirmatively encouraged to “work in the gray zone”—an apparent green light for unconstitutional or near-unconstitutional misconduct. The jail crisis ultimately led to the resignations of Sheriff Baca and Undersheriff Tanaka.

What happened in the jails led to consideration of whether, and how, to re-structure civilian oversight of the LASD. Consequently, the Office of Inspector General was created. Whether the principal oversight engine is Special Counsel, an Inspector General, a civilian commission, or some other entity, the nub of the problem will remain the same: The Sheriff is an elected official and does not report to the Board of Supervisors.

Had Special Counsel's recommendations over the last 20 years in the countless areas that it has studied been swiftly addressed, the LASD would be in far better shape than it is today.

Regardless, the Board can strongly influence the Sheriff if it chooses to. Indeed, Supervisors Yaroslavsky and Molina consistently rose to the occasion and brought about substantial change on patrol and in the jails and elsewhere. Supervisor Yaroslavsky quietly moved things forward through persuasion and negotiation and wise counsel. Supervisor Molina asked Special Counsel to collect all recommendations that the Kolts Group had previously made over the span of 20+ years about reforming the jails that the LASD never implemented—which were numerous.¹² She then ordered them implemented under the guidance of Special Counsel, requiring monthly reports from the LASD on the progress of implementation. Special Counsel worked with the LASD's Commanders Panel, and all key recommendations were implemented.

Had the balance of recommendations of Special Counsel over the last 20 years in the countless other areas that it has studied and assessed in great detail been similarly addressed and swiftly heeded, the LASD would be in far better shape than it is today.

Police organizations are routinely unwilling or unable to hold themselves accountable for unconstitutional policing. Without ongoing scrutiny and sustained efforts toward cultural change, law enforcement agencies too easily revert to old patterns. Permanent and decently funded oversight is absolutely necessary.¹³ But it is not necessarily sufficient. There must be sustained political will—both inside the law enforcement agency and, externally, in the legislative and executive branches of

¹² See, e.g., 5th Semiannual Report at 3-10; 6th Semiannual Report at 7-14; 7th Semiannual Report at 13-34; 8th Semiannual Report at 5-46; 9th Semiannual Report at 35-44; 12th Semiannual Report at 45-54; 13th Semiannual Report at 33-56; 17th Semiannual Report at 1-92; 18th Semiannual Report at 27-32; 19th Semiannual Report at 53-61; 21st Semiannual Report at 51-64; 22nd Semiannual Report at 7-52; 25th Semiannual Report at 1-116; 26th Semiannual Report at 1-150; 28th Semiannual Report at 1-45; 31st Semiannual Report at 4-18.

¹³ Samuel Walker, “Institutionalizing Police Accountability Reforms: The Problem of Making Police Reforms Endure,” 33 U. St. Louis Pub. L. Rev. 57 (2013).

government. By the time the jail scandal broke, that will had been, for whatever reason, sadly weakened.

The tenacious and relentless implementation of lasting reforms of complex policies, procedures, training, technology, and culture must far outlast evanescent headlines or YouTube videos on the latest high-profile police beating or shooting or scandal. There must be sustained political will and civic commitment to ongoing, comprehensive oversight. Whether that will occur with the LASD remains to be seen.

To ensure that, in the future, the recommendations of oversight professionals on important issues like the jails do not languish in oblivion, we recommend the following:

- 30 days before a recommendation of the IG, Special Counsel, or other oversight entity is made public, the Sheriff should personally meet with the recommender either to accept the recommendation or attempt to reach a consensus or compromise. If so, the content of the agreement will be made public. If not, the Sheriff shall state in writing the specific reasons why the recommendation is not accepted. The reasons for and against the recommendation will be made public and placed on the Board of Supervisors' agenda. The recommender and the Sheriff will appear before the Board to receive its guidance and suggestions.
- Each recommendation should be accompanied by a timetable for implementation that is acceptable to the IG, Special Counsel, and the Board. The LASD will submit monthly progress reports to the same parties on implementation of the recommendation.
- Any settlement or judgment that comes before the Board for approval and payment should be accompanied by a written and privileged memorandum from the Sheriff and County Counsel stating:
 - whether corrective action is necessary or desirable;
 - what that corrective action consists of in terms of new policies, procedures, training, or protocols;
 - whether disciplinary measures are pending or contemplated, and if not, why not; and
 - the specific content of training to be provided to deputies, supervisors, and managers to avoid similar situations in the future.
- A chart or table should be prepared on an annual basis and extending back 10 years detailing by year all judgments and settlements arising from the activities of the LASD and identifying:
 - the station, unit, or jail giving rise to each judgment or settlement;
 - the act or activity underlying the event (for example, traffic collision at or near the intersection of X and Y; service of a search or arrest warrant; traffic stop; SEB callout on barricaded suspect);
 - all attorney's fees and costs, actual or imputed; and

- a trend line demonstrating whether on an annual basis the total amount of judgments, settlements, fees, and costs are rising or falling;
- an analysis of the specific sources of liability and how they change over time; and
- a fully utilized mechanism to link liability to in-service training so that the lessons learned from litigation can be quickly diffused throughout the Department.

These recommendations are especially important given the challenges that the Department, County, IG, and others will face in another important area in which many of our recommendations have been left unheeded for years: data and technology. The crux of evidence-based police reform and police self-management is data. Computerized data in a relational database that can be easily queried is an absolute necessity. It is called a business intelligence system. The LASD was one of the very first law enforcement agencies to build one—the Personnel Performance Index (“PPI”).

The various modules in the PPI and the specific data that it collects arose from lengthy conversations by the Kolts Group and Michael Graham’s team, including Neal Tyler, with LASD supervisors and managers to determine what information they would want to have at their fingertips if they had the responsibility for knowing about, and proactively addressing, actual or potential police misconduct. The information was provided to an outside vendor, Oracle, who then gave birth to the PPI.

The PPI has long been a sleek and powerful automobile sitting unused in the garage. In today’s era of “big data,” it is more like your grandfather’s Cadillac or Oldsmobile.

In one of the Semiannual Reports, the Kolts Group likened the PPI to a sleek and powerful automobile that sat in the garage largely unused except when outsiders wanted to see it and take a spin around the block. It has, without exception, always been substantially underutilized. Although the PPI remains a good system, it is, in today’s era of so-called “big data” and sophisticated data mining, more like your grandfather’s Cadillac or your father’s Oldsmobile.

PPI must be overhauled, updated, and expanded, as we have recommended with great frequency in our Semiannual Reports.¹⁴ The ability of any oversight body in the future to conduct rigorous, quantitative analysis to support its recommendations depends on addressing the PPI’s long-standing deficiencies and bringing it into the 21st Century.

The Department’s ability to redouble efforts toward holding supervisors and managers accountable also depends on a recommitment to using PPI for the daily management of the Department. We constantly recommended that data about officer performance in the jails be included in the PPI.

¹⁴ See 1st Semiannual Report at 23–32; 2nd Semiannual Report at 57–62; 3rd Semiannual Report at 99–102; 6th Semiannual Report at 15–22; 7th Semiannual Report at 93; 8th Semiannual Report at 47; 11th Semiannual Report at 30–37; 12th Semiannual Report at 55–61; 16th Semiannual Report at 43–60, 67–82; 18th Semiannual Report at 47–56; 27th Semiannual Report at 7–44; 30th Semiannual Report at 85–92.

The recommendation was repeatedly ignored. Special Counsel and staff strongly believe that had data on custody deputies been captured in the PPI in the same manner as patrol officers, and had there been a process for holding supervisors and managers accountable for what the data showed and portended, the jail crisis likely would not have arisen.

The commitment to holding supervisors and managers routinely accountable for what the PPI shows about officer performance has weakened. Many years ago, a process was in place—going by the awkward acronym SCIF (and referred to as “skiff”)—for holding weekly meetings where patrol captains were held to account for fighting crime and managing the risk of police misconduct based upon data and reports from the PPI. It was similar to the NYPD’s Compstat, where in-depth analysis and criticism of supervisor performance by executives held captains strictly accountable for crime patterns and activity in their precinct.

Not many captains enjoyed being singled out for criticism in front of their peers, as occurred in SCIF. When Leroy Baca, stating that he preferred carrots to sticks, took over from Sherman Block, SCIF went from a powerful tool for accountability to a love fest. Accountability for discovering and dealing with actual or potential misconduct was not very high on the list of priorities. It should have been a stepping stone to promotion when an individual demonstrated skill at managing the risk of police misconduct, thereby reducing County liability.

Likewise, serving in Internal Affairs is no longer seen, as it had been in the past, as a stepping stone to professional advancement. In recent years, IA was sneered at and demeaned.¹⁵ Moreover, the Internal Criminal Investigation Bureau (“ICIB”) has fallen far short of its responsibilities. It should not have required the involvement of the FBI to discover that there were corrupt deputies willing to sneak cell phones and other contraband into the jails. A distaste and disinclination for proactive, internal “sting” and similar internal accountability operations, repeatedly urged by Special Counsel, meant that the LASD in the Baca–Tanaka years chose not to find out what was going on in front of their eyes.

To say that Sheriff Baca over-delegated to Paul Tanaka understates the matter. Paul Tanaka has been considered by some to be bright, good with numbers and budgets, and skilled at handling fiscal crises. Nevertheless, with regard to police accountability, reform, rewarding constitutional policing, and engendering the active support and trust of the ever-diversifying community, the man seemed to avoid evolving substantially from his days as a Lynwood Viking.¹⁶

Lee Baca placed great importance on loyalty to subordinates and the duty to mentor future leaders.

¹⁵ Karyn Mannis and Roberta Abner deserve praise for maintaining the dignity and competence of IA throughout these difficult years.

¹⁶ See Anne-Marie O'Connor and Tina Daunt, “The Secret Society Among Lawmen,” *LA Times* (Mar. 24, 1999), <http://articles.latimes.com/1999/mar/24/news/mn-20461>; Ian Lovett, “Los Angeles County Moves to Fire 6 Sheriff’s Deputies,” *N.Y. Times* (Mar. 23, 2011), http://www.nytimes.com/2011/03/24/us/24guards.html?_r=0.

Paul Tanaka managed to repay Baca's loyalty, quick promotions, and sustained mentoring by undercutting the Department's moral authority and mocking the values that Lee Baca so often professed to be central to his vision.

In the coming months and years, there will be substantial change. Supervisors Molina and Yaroslavsky will leave the Board of Supervisors. There will be a new Sheriff who will bring his own imprint and choose senior executives to carry out his mission. There is an Inspector General who will bring his own style to the job of oversight.

The era of oversight established by the Kolts Report ends with the publication of this last Semiannual Report. The Kolts Group under Special Counsel vigorously pursued its independence and trustworthiness. The Semiannual Reports were exhaustively researched and fact checked, again and again. Each Semiannual Report was given to the LASD well in advance of publication to give the Department the opportunity to find factual errors or to discuss recommendations. With the exception of one figure in a table of figures, for over 22 years, the reports have never been challenged as factually inaccurate. This last Semiannual Report will discuss gang enforcement, litigation, canines, and education-based discipline.

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A guiding principle of the Kolts Group was that our credibility was our only real asset and, to preserve it, we simply wouldn't get the facts wrong. One might argue the implications of the facts and the recommendations flowing from them, but never the accuracy and trustworthiness of what was on the printed page. For more than 22 years, our credibility and independence remains intact.

The Kolts Group had many extraordinarily talented individuals over the many years, including, in particular: Oren Root, Julio Thompson, Nick Miller, Django Sibley, Brian Buchner, Julie Ruhlin, Matthew Barge, Camelia Naguib, Norma Zamudio, and Brian Center. We bless the memories of Judge James Kolts, Katharine Krause, and Corky Retson.

I will miss the friendship and support from the Justice Deputies and the Supervisors. I will miss the challenges and opportunities inherent in ensuring that policing in Los Angeles County is effective, safe, and constitutional. Most of all, however, I will miss the women and men who serve in the LASD. Working with these fine professionals for 22 years has been, without question, a significant pleasure and true honor.

1. Gang Strategies: A Follow-Up Report

In our **32nd Semiannual Report** on the LASD's strategy for dealing with street gangs, we found a lot of positive elements in the Department's effort to target only the most violent and active gang members. We reported good news in the form of lower rates of gang-related crime. We also found problems of lax supervision and possible constitutional violations which, if not addressed promptly, may reach a point of crisis within the next few years.

Because the gang strategy is such a critical component of the Department's overall impact on the black and Latino communities it serves, we followed up to see how the Department had progressed over the past year—whether our recommendations were adopted and what changes, if any, had been partially or fully implemented.

The investigation in our recent report focused on how front line officers interact with suspects, the resulting impact of those interactions on the community, and the success or failure of those interactions on reducing problems associated with gangs. We found that, because of a weakness in

The damage caused by an overly aggressive and uncoordinated anti-gang approach could outweigh the immediate benefits of arresting a lot of people engaged in criminal activity.

management skills and structure, there was little clarity or consensus about how those front line interactions should take place and how to measure success or failure in relation to gangs.

Thus, although statistics show that gang crime has been reduced, it is unclear if the Department's overall effort is harming or helping the community. It is possible that the damage caused by an overly aggressive and uncoordinated approach outweighs the benefits of successfully arresting a lot of people engaged in criminal activity.

This report is not an analysis of the tactics employed by the Department to catch violent gang criminals. The Department, in general, is excellent at that task. From creative task forces designed for collaboration with other government agencies to old-fashioned detective work and the gang unit's relationship-building with informants, the LASD has excelled at identifying, disrupting, and catching those committing crimes.

Instead, this report focuses on management's failures with respect to the gang issue—an area of glaring weakness with substantial impact. Whether the gang strategy is effective, whether resources are being effectively and thoughtfully allocated, whether deputies are abusing their authority, whether the community feels safe or threatened by deputies, and how the Department affects the

quality of life of the community are all considerations on which LASD management must take the lead.

The LASD's official strategy, simplified, is to: (1) arrest the worst of the worst criminals, and (2) aid in prevention and intervention efforts to stop the next generation of gang members from forming. Yet, when speaking with members of the Department, we find that they have great difficulty articulating how they know whether the people they label and target as gang members are actually the worst of the worst—or even engaged in criminal activity. It is unclear whether the effects of the often aggressive tactics employed as part of the LASD's anti-gang strategy are, in aggregate, helping the community or harming the community by alienating and isolating members of communities that the strategy is intended to protect.

Status of LASD's Gang Strategy

The Sheriff's Department created a strategic plan related to gangs in 2007, which resulted in the current approach. As noted above, the current stated target is to arrest the worst of the worst criminals to get them in jail, and engage in prevention and intervention efforts to prevent the next generation of gangs from forming. As we demonstrated in the 33rd Semiannual Report, the LASD is failing to do so. Accordingly, we recommended that the Department engage in a new, more detailed, formal, strategic planning effort.

In following up during the last six months, we found that no formal planning process has yet taken place. Although we are not completely surprised, given that it was a tumultuous year within the Department, we also perceive unwarranted complacency.

Department officials state that their gang strategy is worked out in weekly meetings with the station captains and the gang unit, called OSS. They tout that communication among the various units involved in suppression, prevention, and intervention are excellent and that they all understand their roles and responsibilities. This is true to a certain extent. Each station captain helps devise a plan to best suit the needs of their

No formal planning process for an updated strategic plan related to gangs has occurred since 2007.

patrolled communities, which includes gang issues for those who have them. Those plans and the implementation efforts are shared with others at the regular meetings. Thus, the leadership of each unit engaged in some issue related to gangs is aware of what the other is doing and how they can coordinate and help each other. The effort made, in such a large Department, to bring all of the key leaders together on a regular basis, is a good first step as a planning tool.

However, the Department could, and should, do a more thorough and strategic planning process, as recommended last year. We are disappointed that no movement was made on this issue, especially

since leaders enthusiastically expressed support for the idea.

The current system of *ad hoc* policy making taking place in weekly meetings suffers from several important deficiencies. First, there is no current document that expressly communicates the Department's gang strategy—whether to deputies, who are not in those weekly meetings at headquarters, or to the communities affected by the strategy. Over six years have passed since the last written policy was created. As we noted last year, one of the major problems we found in the field was the inconsistent or vague understanding of what front line interactions should look like. An updated, written, and detailed policy would clarify expectations for the deputies charged with effectuating the Department's global strategy.

Second, the Department has not systematically integrated lessons learned from best practices elsewhere. We previously recommended that the Department include outside, fresh voices with experience in organizational management, community dynamics, and research-based practice in the creation of gang policy. Instead, the responsibility for gang policy rests with the same people who have been interpreting and implementing the 2007 policy for several years.

Spreading responsibility and investment in gang strategy more widely is in itself an important strategic determination. As one professor on strategic planning states, when public sector strategic

The Department has not systematically integrated lessons learned from best practices with respect to gang strategy elsewhere.

planning is focused on “function,” the process must include outsiders. It is a process that recognizes that “no one person, group, organization, or institution is fully in charge.”¹⁷ It is now common wisdom among police executives, including those in the Sheriff's Department, that they “need a great deal of operational assistance from private citizens, community groups and other agencies of government to perform their tasks well.”¹⁸

Nonetheless, the Sheriff's Department creates and manages its strategy only from an internal perspective, as if it were the only source of information on gangs and gang violence, and the only source with any knowledge about Los Angeles County gangs. As one Sheriff's executive noted, the strategy to address gang issues is very complex and cannot be placed solely on the shoulders of law enforcement. Too often, the Department has focused on process rather than results. Any good strategy must be continually updated based on current, reliable information. Although staff meetings may assist in planning about how the Department operates internally, the group charged with crafting gang policy fails to hear in a regular and systematic way from community members and academics who study gangs. Accordingly, the LASD internal meetings on gangs lack vital input.

¹⁷ John Bryson, *Strategic Planning For Public And Nonprofit Organizations: A Guide to Strengthening and Sustaining Organizational Achievement* 9 (2004).

¹⁸ Mark Moore & Darrel Stephens, Police Executive Research Forum, *Beyond Command And Control: The Strategic Management of Police Departments* 49-50 (1991).

That must change.

Third, the Department has failed to address the central, critical concerns of the communities affected by gangs and the anti-gang strategy. Community members and advocates argue that deputies are overly aggressive, and label and treat some community members as “hard core” violent gang members, when, in fact, they are people who are at a low risk for violence and could lead healthy, productive lives. We suspect that, in some instances, the deputies’ approaches may serve as a catalyst for individuals being pushed into the justice system in the first instance—from which it may be difficult for many to escape.

The Department has failed to address the central, critical concerns of the communities affected by gangs and the anti-gang strategy.

However, from the deputies’ perspective, making the nuanced distinction between a gang member and a low-risk subject—especially when the two hang out together, look alike, or dress alike—can be difficult. Deputies may face internal pressure to increase their arrest statistics so as to appear productive and proactive. Indeed, the culture of the Department for some time has tended to advocate especially aggressive policing with respect to gangs—an aggressiveness that may filter down to deputies in a manner that, intentionally or unintentionally, seems to sanction aggressive tactics.

Tens of thousands of people walk a fuzzy line in the eyes of law enforcement, between gang affiliation and normal life. Taking our example of one geographic area from last year’s report, with a population of around 85,000 people, the LASD identified 29 major gangs with dozens of cliques. One gang alone had 500 people labeled as gang members. Doing some rough math, with a little over three people per household, that would be over 1500 people “affiliated” with gangs — two percent of the population—from one gang. Add to that their friends from school, their cousins and neighbors, and add in the other 28 major gangs in the area, and an enormous percentage of people have some “involvement” with gangs. These people all meet the California-deployed criteria used by the Gang Unit to label people as gang members—such as spending time in gang hot spots, associating with gang members and wearing gang dress.¹⁹ When we asked community members in this neighborhood what percentage of young people in each school fit into these broad catchall categories, the common response was 40 percent to 50 percent.

As gang researchers and criminologists will observe, this does not mean that 40 percent to 50 percent of the population is committing crimes or engaging in violence. It just means that, they live in amid

¹⁹ Pursuant to CalGang Policies and Procedures, a “subject can be entered into the CalGang database when they meet any two criteria. The criteria are: (1) has admitted to being a gang member; (2) has been arrested with known gang members for offenses consistent with gang activity; (3) has been identified as a gang member by an untested informant; (4) has been seen affiliating with documented gang members; (5) has been seen displaying gang symbols and/or hand signs; (6) has been seen frequenting gang areas; (7) has been seen wearing gang dress; (8) is known to have gang tattoos; (9) in-custody Classification interview.

gangs and gang activity. In other words, who is a “gang member” can be very fuzzy, and it can be very difficult for police officers to know who to target and how to target them. As just one example, researchers note that many people who join a gang leave within about one year.²⁰ As a second example, community members will tell law enforcement and others that they are “in” a gang, even when they are rarely active or no longer active at all.²¹

Likewise, as noted in our last report and as research demonstrates, if law enforcement efforts are handled incorrectly, they can actually make crime worse, gang cohesion stronger, and recidivism rates increase. Treating people with an “us versus them” mindset makes them feel closer and more loyal to the “them”—leading to less safe communities.²² As one researcher bluntly told us, “overzealous policing strengthens the gang.”

Thus, the high stakes of each interaction in gang neighborhoods makes it critical for the Department to gather as much information as possible to determine how the LASD’s actions are affecting the

The high stakes of each interaction in gang neighborhoods makes it critical that LASD have as much information as possible on how its tactics and strategies are impacting the community.

community. Such information, again, would be gathered by soliciting and listening to the opinions of community members, experts in organizational management, gang researchers, and community culture and dynamics—as well as internal Department law enforcement experts and the deputies that carry out the Department’s gang strategy and mission on a daily basis.

LASD personnel need to redouble efforts to engage in thoughtful discussions with community members, civic leaders, and gang interventionists. Could deputies, as we recommend, spend more time getting to know more details about the lives of community members, and spend more time learning how to

assess them and the best strategy for them? If deputies have fears of damaging their career or endangering the public by going “soft” on community members—fears that have been ingrained in the culture over many years—how legitimate are those fears? How can the Department more effectively partner with community organizations to engender a trusted community network?

It appears to us that none of these vital conversations are going on in the Department right now. Without engaging outsiders in the strategic planning process, those conversations cannot, by definition, occur.

²⁰ Malcolm Klein & Cheryl Maxon, *Street Gang Patterns and Policies* 153 (2006).

²¹ See, e.g., Karen Hennigan & David Sloan, “Improving Civil Gang Injunctions: How Implementation Can Affect Gang Dynamics, Crime, And Violence,” 12 *Criminology & Pub. Pol’y* 17 (2013) (describing how researchers measure gang involvement).

²² See *id.* at 12 (indicating that the “us versus them” mentality has been shown to be a strong accelerant for gang violence).

To assess how Department personnel are handling these complex challenges, we elected, on a small scale, to commence the community conversations that the Department itself should start—with both community members and Sheriff's personnel. With respect to LASD personnel, deputies appear disconnected from the communities they serve. They seem to have no tools for measuring whether their interactions with people in gang communities are effective. Most front line personnel we spoke with had little or no understanding of the potential effects of some anti-gang tactics on communities. In short, the Department is not yet able to engage in the nuanced and strategic decision-making process with respect to gang issues that the community and deputies deserve.

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We interviewed Black and Latino young men who live in gang neighborhoods and have relationships with some people in gangs. A number of them have some criminal past. All seem to be trying to stay on the right track. They were part of a leadership group and had all graduated from high school. Their stories about the actions of Sheriff's deputies, if true, are disturbing.²³

They described deputies jumping out of their patrol cars, aggressively running toward them, grabbing their arms and twisting them and pushing them up against the walls; pointing guns in their faces; threatening them; saying things like “I’ll catch you slipping;” trying to provoke violence by saying things like “your enemies are around the corner;” constantly asking if they are in a gang and when they say “no,” saying “don’t lie;” saying “if you run I will shoot you;” stopping them while driving for no reason, pulling them out of the car, handcuffing them and disrespectfully rummaging through and pulling out just about every item in the car; when letting them go because they found nothing, disrespectfully throwing their items at them, or conveniently forgetting to give back items like their license; driving a patrol car at them while they are riding a bike to make it look like the patrol car will hit them (playing “chicken” with them); detaining a group and telling them “we have to take someone to jail,” then taking only one person in for no apparent reason; yanking a kid off a skateboard because he did not stop right away when asked (he had earphones on and did not know they were behind him), then throwing him on the ground and pointing a gun at his head; and laughing at them when they ask for a badge number so they can file a complaint. One young man estimated that he was stopped 15 times over the course of a week and a half.

It should be noted that these young men were clear that not all LASD deputies act this way. They in fact indicated that many deputies were respectful. Indeed, even when they were stopped and frisked

²³ We are aware that community members and LASD deputies each have incentives to distort reality. We are also aware that an anecdote, even if true, cannot be generalized without additional evidence. For that reason, we research for corroboration and repetition before presenting them in these reports. It is more likely than not that the anecdotes have firm factual basis.

for no apparent reason, the young men seemed to not be overly concerned with, or critical of, many deputies' conduct.

Nonetheless, the stories that we heard about from this group were consistent with stories we have heard from others who live in gang neighborhoods. For example, another group of people we spoke with said that, while they believed criminal behavior, like planting evidence and lying to get suspects into jail, have gone away over the past year in their neighborhood, the type of overly aggressive behavior described above still occurs. Most of these alleged actions, if true, would likely constitute constitutional violations. Whether or not they are, they undoubtedly have an impact on the perceptions, worldview, and opportunities of a substantial group of Los Angeles residents.

The view of the world articulated by LASD personnel was entirely different. Whereas the community perception in many quarters is that regular police abuses and excesses continue to occur regularly, the incidents described above seem preposterous to many deputies. Except for a handful

LASD personnel and
community members in
neighborhoods affected
by gangs have starkly
different views about
LASD actions and
performance.

of top executives with whom we spoke, the pervasive view in the Department appears to be that all individuals who make such claims about police conduct are either lying or fail to understand why certain aggressive tactics in law enforcement are necessary to ensure community safety.

We also asked several officers hypothetical questions about how officers would likely treat young people of the ages, races, and backgrounds akin to those who we interviewed. The answers of officers were unsettling. Officers tended to divide the community into "good" people who "like us" and "bad people who want to kill us." As to the "bad" people, deputies said they had to act aggressively toward them because that is all the bad people know and respect. Also, the deputies believed that they were so skilled at communication and gathering information that they never, or rarely, made a mistake in labeling someone a "bad person" and treating them like a gang member.

Additionally, Department members also commonly say that they are wonderful at communicating with people from gang neighborhoods because they learned how to speak to people up close while working in the jail system. When asked if officers are ever concerned that they mislabel a young person, like those described above, as a gang member, one supervisor said the young person "would be better off" if labeled a gang member so they could be watched.

From the perspective of many community members, who are also responsible for helping reduce gang influence and violence, these comments are almost certain to appear, at best, tone deaf. The idea that aggressive language and action help, that the officers always know who the "bad guys" are, and that all officer actions enhance community safety do not comport with the community's

perception of reality. Indeed, all community members who we interviewed laughed at the idea that aggressive language is helpful. To them, aggressive language—including the deputies' insistence that they target only "bad guys" is demeaning. Likewise, the idea that a young person would be "better off" labeled as a gang member and watched closely by deputies sounds quite odd to community members. The notion that deputies are somehow expert communicators because they worked in the jails demonstrates a lack of understanding of community perception and history.

Gangs, and gangs in Los Angeles, are a well-researched phenomenon. However, the LASD's gang strategy does not appear to be influenced in any meaningful capacity by the hard work and important insights of academics, psychologists, gang interventionists, lawyers, criminologists, economists, and the like who have studied factors contributing to gang membership and violence—and strategies for combating both. For instance, research has long established that a subject's good attitude in relation to delinquency, good parental supervision, positive peers, and positive activities (school, job, leisure) are associated with less risk that a subject will commit a crime.²⁴ The LASD's gang strategy must, therefore, address individuals who live in gang neighborhoods—but who may be buffered by positive influences and steered away from participation in gangs.

Gangs are a well-researched phenomenon—but the LASD's gang strategy does not appear to incorporate any meaningful outside perspectives.

Researchers and writers in the world of organizational management make clear that culture change is a difficult task. A serious strategy must be in place for change to have a realistic chance of taking root and succeeding. For example, the oft-quoted statistic from those who study organizational change is that "70% of major change efforts in organizations fail."²⁵ As one expert on the topic, John Kotter, states, this happens because successful change requires "a series of phases that, in total, usually require a considerable length of time. Skipping steps creates only the illusion of speed and never produces a satisfying result."²⁶ Thus, the Sheriff's Department is not alone in lacking proper planning skills. Kotter recommends an eight-stage process that requires a significant amount of time, thought, and focus on change.²⁷ When steps are skipped or rushed, managers inevitably face resistance because of the fear of the unknown, lack of resources, fear of loss of power, old habits, or lack of good information.

²⁴ See, e.g., Christopher T. Lowenkamp, et al, "The Risk Principle in Action: What Have We Learned From 13,676 and 97 Correction Programs?," 52 *Crime & Delinquency* 77 (2006); Karen Hennigan, et al, Identifying high-risk youth for secondary gang prevention, 37 *J. of Crime & Justice* 104 (2014).

²⁵ John Kotter, "Leading Change," *Harv. Bus. Rev.* (Jan. 2007).

²⁶ *Id.*

²⁷ *Id.* His 8 stage process is: (1) establish a sense of urgency; (2) Create a guiding coalition; (3) develop a vision and strategy; (4) communicate the vision; (5) empower action; (6) generate short term wins; (7) consolidate gains and produce more change; and (8) Anchor approaches into the organizational culture.

Changing what deputies believe; altering what pressures they feel from peers; transforming what characteristics, information, and actions are valued; and clarifying how to prioritize competing goals—the will to do all of this must come from within, and be sustained by, the organization, with the process informed and supported continually by the community and outside experts.

New Recommendations

Last year we noted that the Department needs new management tools to supervise front line staff, create clear standards about success, and monitor and evaluate success. Although the Department has some good tools in place—briefings, having sergeants roll out with front line staff, personnel reviews, citizen complaints and commendations, internal investigations, and crime data—these tools are not enough.

The biggest concern revolves around how deputies treat people in the community who they perceive to be involved in gangs. The supervisors we have spoken with have inadequate training, language, strategy, and internal reporting and review mechanisms to assist them in evaluating and ensuring that, when an officer interacts with a community member in a gang neighborhood, the interaction treats community members with dignity, is consistent with constitutional policing, and is consistent with the Department's strategy for reducing the gang problem.

We have some recommendations on tools that the Department can develop and provide to supervisors. Our first additional recommendation is to **create continuous field training for those officers interacting with the community in gang neighborhoods.**

Deputies need high-quality training in strategic communications skills for interacting with the communities affected by gangs.

As one professor of communication and police-civilian interactions notes, “communication is regarded as ‘the central most important commodity that the officer has at his or her disposal.’” He estimates that 97 percent of police work involves interacting with the public.²⁸ Indeed, “individuals are willing to defer to legal authorities only if there is some trust within the interaction, and only when they feel that they are being treated fairly.”²⁹

Nonetheless, Sheriff's deputies receive almost no training in how to communicate with community members in gang neighborhoods. Because of budgets and logistics, deputies are trained only on officer safety, policies, and procedures and handling crisis situations. Much of their tactical training revolves around preparing for suspects to unexpectedly

²⁸ See Charles Choi & Howard Giles, *The Handbook Of Intergroup Communication* (2012) (quoting M.M. Womack & H.H. Finley, *Communication: A Unique Significance for Officers* (1986)).

²⁹ *Id.*

attack them with weapons. Training supervisors confirmed that, while they have the ability to provide training in more nuanced communication, such training hardly ever is provided because of budget and time issues.

Poor communication can lead community members to believe that officers are unfairly treating them aggressively or singling them out for especially probing and unfair scrutiny. Indeed, poor communication can unduly escalate routine interactions—especially among deputies who may be culturally conditioned toward more aggressive policing tactics.

The Department's Use of Force policy, as of 2013, recognizes the importance of communication on the outcomes of civilian interactions by placing value in de-escalation tactics.³⁰ Despite the policy's recognition of verbal de-escalation as an important law enforcement tactic, this concept arguably has not, however, been sufficiently integrated into the daily considerations of deputies working in gang neighborhoods. Department personnel consistently stated that the best training they received for interactions with potential gang members was "experience." Although learning through experience is certainly valuable, there is nothing like instruction and new ideas to modify the dynamics of interactions between law enforcement and the community.

Poor communication can unduly escalate routine interactions—especially among deputies who may be culturally conditioned toward more aggressive policing tactics.

Executives claim that poor communication or inappropriate actions by deputies is not a result of direction from the top, or from existing training programs. We would agree. We have no reason to believe that the Department is formally directing front line officers to behave badly. Instead, we believe the vacuum of clear direction from management and of clear instruction on proactive and beneficial tactics allow for it. It seems likely that it is part of the LAPD gang enforcement culture, passed down from deputy to deputy over the years, beginning at a time when outright abuse was not even questioned, and continuing today with "truisms" such as "treating gang members aggressively is all that they will respond to."

We recommend regular field training and coaching rather than classroom training. Even if budget and logistics were not obstacles—and they are—a few extra classroom trainings would not solve this deeply rooted problem. Researchers have found that teaching in a classroom, by itself, is not sufficient to change the behavior of service providers. "[A]s has been shown in a variety of settings, the 'train and hope' approach does not appear to work."³¹ Instead, coaches should work with practitioners to teach them, while they are in the field or a realistic training scenario, and to provide

³⁰ The Department's policy indicates that "Department members should endeavor to de-escalate confrontations through tactical communication, warnings, and other common sense methods preventing the need to use force whenever reasonably possible." LASD Policies and Procedures, Volume 3, Chapter 10, Force Policy 3:10/005.00.

³¹ *Id.* at 40.

spot assessment, feedback, and emotional support as they gain new skills.³² Research has likewise suggested that effective coaching can require as little as two hours per week, so long as the coaches had properly mastered the subject matter and the skill of coaching.³³

Communication training tailored to law enforcement is not overly abundant. Instruction on understanding and shaping communication styles, and understanding the characteristics of the listener, is an element of some specialized trainings relating to crisis intervention, hostage negotiations, and some classroom training relate to suspect confrontation. Deputies of all stripes receive some instruction on interacting with the public in some tactical trainings—but the communication piece tends not to be the focus. We certainly found no training that provided officers with techniques designed to strengthen and promote strong relationships with communities and neighborhoods that they serve. We urge the Department to collaborate broadly with community members, gang interventionists, academics, and other outside practitioners to design a communication program that serves the objectives and goals of the LASD's anti-gang strategy, respects the needs and concerns of the communities who live in neighborhoods with high levels of gang activity, and positions communication skills as a sound, serious law enforcement tactic. Far more than garden-variety communication is needed.

We recommend that the Department create, from scratch, a “train the trainer” program that instills mastery in communication in field training officers and supervisors in gang neighborhoods—as well as a basic understanding of how the belief of communities that law enforcement is overly aggressive or not committed to treating them with dignity and respect can backfire and decrease public safety. Trainers should also receive more fundamental training on coaching and instructional techniques.

As one Department member stated, “many times we appoint people as trainers because they are good at their job, but that does not necessarily mean they are good trainers.” The Department must ensure that trainers themselves obtain, and retain, the tools necessary to provide officers with high-quality and impactful adult education.

These coaches and trainers must ensure that those communication skills are emphasized on a daily basis in the field, using real-world scenarios to emphasize and reinforce effective behavior. Again, this training should be constructed with the help of communication experts who understand effective communication, as well as community members who understand the culture and dynamics of the communities that will be impacted by the training.

³² See D.L. Fixen, et al, *Implementation Research: A Synthesis of the Literature*, University of South Florida, Louis de la Parte Florida Mental Health Institute, The National Implementation Research Network (FMHI Publication #231) at 33 (2005), available at <http://ctndisseminationslibrary.org/PDF/nirnmonograph.pdf>.

³³ *Id.* at 40-42.

The training should also be constructed with the aid of experts in evidence-based practice for reducing recidivism and gang risk factors so that trainers and deputies identify the training as consistent with sound law enforcement objectives rather than merely a fluffy exercise in how to be polite or become “liked” by the public.

The County should invest in cameras for Department cars, as well as on-body cameras, to clearly capture existing deputy performance.

Second, **the County should invest in cameras for Department cars, as well as on-body cameras, to clearly capture existing performance by deputies in gang communities.** We have heard largely positive comments from around the nation, including the LAPD, about the beneficial impact of cameras. Generally, cameras can expose violations of departmental policies and problematic conduct by deputies, and they can expose false allegations against deputies. Review of video can provide insight to the Department with respect to training, policy, procedure, and the like.

Third, **additional training of supervisors is also recommended.** Training should be developed to help supervisors better guide front line deputies about effective conduct with gang members. The training should prompt supervisors—for example, sergeants speaking to a deputy who wants to label a community member a gang member—to ask a few more basic questions.

As noted last year, under current criteria, thousands of people in LA County are labeled “gang members” based on broad criteria that allows for little oversight, checks and balances, or thoughtfulness. And, as noted above, studies show that many people stay active in a gang for around a year, and then their behavior changes for the better. Many others are in a blurry status where they know and are friends or neighbors with gang members, but are not actively engaged in criminal activity and do not really think of themselves as active. They should not be treated as if they were. In a structure that allows for alleged abuses as described above, common sense dictates that the regular practice of labeling people “gang members” supports the mind set to justify treating those same people poorly.

Specifically, the term “gang member” should be better defined, and the strategy of labeling low-risk, non-active gang members should be critically analyzed and discussed. Personnel should have a system in place to assure that tactics used on low risk individuals will not harm them and worsen public safety.

Furthermore, it behooves deputies to conduct appropriate due diligence about a suspect before actually putting their names in a gang database. It may be useful for deputies to collect additional information from the community who know the suspect and gang culture. For example, community members might know that affiliating with documented gang members at certain times

and locations (i.e. a club on Friday nights where fights happen and criminal plans are created) might indicate a higher level of risk than other times and locations (i.e. with the suspect's gang-member cousin walking home from school). This more nuanced, and more time-intensive, process may well yield a more precise and effective process of identifying gang members.

The LAPD's Gang Strategy in Watts

We also recommend that the Sheriff's Department examine the noteworthy, gang-related efforts of the LAPD in Watts—and implement or emulate the best and most effective features of those efforts. Since the 1960s, Watts, a community of around 36,000 people located in South Los Angeles, has been one of the most violent and gang dominated neighborhoods in the nation. Three housing projects in the neighborhood, Nickerson Gardens, Imperial Courts, and Jordan Downs, were the source of much of that violence. In the three housing projects alone, between 2005 and 2011, there were 43 homicides, an extraordinary amount of violence for residents within a two square mile neighborhood to experience. Families living in dense housing, with intense poverty, and isolated from any functional help from the government, over time formed multi-generational gangs steeped in violence.

The Department should implement or emulate the best and most effective features of the LAPD's gang-related efforts in Watts.

In response, the LAPD implemented a “tough on crime” strategy. Officers targeted and arrested as many gang members as they could and they were forceful and aggressive with the community. The result was a lot of arrests—but decades of increasing levels of violent crime and gang entrenchment. At the same time, many quarters of the community grew resentful and mistrustful of the LAPD, with some community members not wanting to be seen speaking with them for fear of being labeled a “snitch.”

Moreover, the crime statistics did not begin to tell the story of the traumatic impact this violence and LAPD strategy had on the community. Residents constantly lived in fear, under a tremendous amount of tension and stress that they could be attacked at any time, either by a gang member or an LAPD officer.

Beginning in around 2007, the LAPD—under the leadership of Chief Bratton, and in partnership with the Mayor's office—began to shift its strategy. It decided it could not simply arrest people to solve the problem. The City invested millions of dollars in a gang reduction program, which partnered with the LAPD to engage the gang community, including contact through gang outreach workers, as well as community collaboratives such as the Watts Gang Task Force.

Soon, LAPD was discussing and implementing its policing strategy with current and former gang

members and other community members, policy analysts from the Mayor's office, civil rights organizations like the Advancement Project, the City's Housing Authority, and a number of other non-profit organizations.

The result was a historic drop in crime and tensions in the community and greatly improved relations between the community and LAPD. Nevertheless, even with these steps forward, Watts proved to be slower to change than other neighborhoods impacted by the same strategy. As of 2010, for example, Nickerson Gardens suffered from Part I crimes at a rate 356 percent higher than in surrounding areas.

To further tackle the entrenched gang problems in Watts, the LAPD did not revert back to its zero-tolerance, hyper-aggressive policing of the past. Instead, it went the opposite direction, and doubled down on the idea that its partnership with other stakeholders was the key to future success. Out of this philosophy and these relationships, and out of some brainstorming with the Advancement Project, the Watts Community Safety Partnership (CSP) was formed. The program officially launched in August 2011.

The basic components of the CSP are as follows:

- A team of dedicated, full time officers is assigned to each housing development. A team consists of 10 officers and one sergeant team leader. The project also assigned a sergeant to be the overall coordinator to keep the project in line with the original vision; listen to outreach workers and other community members; convene an expert group to develop protocols to better understand the dynamics of gangs; establish youth programs; partner with the local schools; link to social services and mental health agencies; and do whatever else it takes to make the project work.
- Each team is responsible for community outreach and relationship building, assisting with safe passage to school, coordinating efforts with the Mayor's Office, Housing Authority and community representatives, as well as traditional enforcement of laws.
- Each team's mission includes creating long-term relationships with community members, building the capacity of the community, and seeking the input of the community.
- The teams implement safety plans for each high school and middle school. This includes avoiding youth arrests by problem-solving around the root cause of negative student behaviors, through mentoring, referrals, and coordination with other adults.
- The teams increased support for drop-out prevention programs for middle and high school aged youth, by helping enhance tutoring and literacy programs, supporting the integration of community based organizations into the schools and housing development sites, and supporting vocational and job opportunities for students.
- The teams were assigned to increase safety by participating in the Summer Night Lights project to convince all community members, including those who are gang affiliated, to

play in the park together; ensure safe access to public spaces, and increase their bike and foot patrol of the housing projects.

- The CSP officers wear a different uniform, to give them a more approachable look.
- The project leader, along with the written plan, provided sample operational plans to help articulate to officers what this strategy looks like. Such plans included ideas such as: (1) communicating daily with Los Angeles Housing Authority (HACLA) managers to discuss existing issues; (2) attending local sporting events in the recreation centers; (3) integrating a parent component with their efforts; (4) having information about social services so that the officers can make appropriate referrals; and (5) being available for enforcement efforts, such as gang injunction enforcement.
- The LAPD also partnered with HACLA to install cameras in the public spaces of the housing projects, so that the LAPD can monitor and record activities 24 hours a day.

On the surface, the project looks like a well-funded community-oriented policing strategy, where officers spend more time with the community handling a wide variety of issues most important to the community. The project is closely aligned with the key components we mention above, including:

They Have A Written Plan. The LAPD, when compared to the Sheriff's Department, has the advantage of a partnership with the Mayor's office, which produced a written plan and explanation of its gang reduction strategy. The LAPD also took time to put its CSP program in writing.

Best Practices From Outside Voices Helped Influence Their Plan. The LAPD strategies have fully engaged and listened to, on an ongoing basis, a diverse group of stakeholders who also take ownership of attempting to solve gang problems. These include those most mistrustful of police, such as gang members or former gang members, gang outreach workers, community activists, government policy analysts, experts in gang research, and community based organizations. As one community member said, when then Deputy Chief Beck (who is now Chief), started attending meetings in the community to try to figure out the strategy for Chief Bratton, it was the first time in his life he had ever felt listened to by a police officer.

In other words, not only did the LAPD include outside voice into their planning, but they went far beyond the common government effort of holding a meeting or two with a few carefully chosen groups of people. They listened to, incorporated and partnered with a diverse group of people, including those who had been their mortal enemies for decades (gang members). As one LAPD leader said, "it is only common sense that those who have lived in the gang life would have good advice about how to deal with gang issues."

A Nuanced Strategy Was Developed Through Detailed Conversations. In addition, the LAPD did not only obtain its best advice from outsiders through panel discussions, the issuance of research reports, or formal meetings at LAPD headquarters. Its understanding

of the nuances of dealing with the gang community came in informal meetings with community members and advocates, discussing the finer details of police interaction. It also came through several years of such interactions, prior to the formation of the Watts CSP.

In other words, simply sending community-oriented officers into the community would not have done the trick. The officers had to understand, through long conversations and trial and error, how the community reacted when officers barked and cursed at them; the street rules that gang outreach workers have to navigate in order to liaison with the police without losing the trust of the community; and how to behave at crime scenes to win the cooperation and trust of the community.

For example, at crime scenes, officers have learned to answer questions the community is asking about a crime scene, in an effort to keep the community informed, build trust, stop the spread of dangerous rumors, and create opportunities for learning investigative information from the community. As a second example, officers learned over time to immediately contact gang outreach workers upon learning about a violent incident, to engage them to help stop rumors that could lead to retaliatory violence, and to learn from them the gang dynamics and culture at play.

There Is A Constant Effort, Through Hands-On Management, To Change Thinking And Communication Skills. While the LAPD has been making a push to change its culture and thinking for over seven years now, there are apparently still officers who do not buy in. Some officers have had a difficult time letting go of the idea that their value is based only around arresting suspects. Even officers assigned to the CSP unit, which as noted above, is heavily weighted toward community policing activity, were, at first, slow to accept the idea that engaging with the public could make them more effective officers and make the public safer. Changing policing culture is not an easy task.

What is impressive about the CSP operation is that the leadership team, including the Captain, is constantly working to change the thinking and communication skills of the front line officers. The constant effort and attention to the task is impressive. Leadership is constantly in the community, including at the scenes of incidents. Because of the integration of cameras into the LAPD strategy, a large number of incidents are captured on video. This allows the Captain to review the tactics, including communication, of the officers and to coach them on how to do it better.

For example, on a number of occasions, the Captain has shown video to officers who thought that they had handled a situation with a community member perfectly, and by the end of the video review, the officer understood how the community member would have been offended, or how the aggressive verbal and body language was not helpful. The Captain notes that he has had to coach a number of officers on how to communicate with everyone, including gang members, the same. Specifically, the philosophy is that every conversation starts off from a place of respect. If a suspect is not compliant, it is acceptable to escalate the aggressiveness of verbal communication, but it is not

acceptable to start a conversation with anyone by barking or yelling disrespectfully.

Additionally, the Captain role models for front line staff when he is at the scenes of incidents, constantly listening to and communicating with the community, including gang members and gang outreach workers. The leadership of the CSP is also constantly explaining to the officers how these efforts are working, through reduced violence and crime statistics, reduced tensions in the community, and increased trust of the LAPD. In other words, the message is that CSP is “real” police work that is making the public safe, not some phony public relations work. If front line officers do not act the same as these role models, they hear about it quickly. If change is not forthcoming, the officers are transferred out of the CSP.

Officers understand that the LAPD has not gone “soft.” LAPD still accomplishes a large amount of crime suppression work, and LAPD works hard to send the message that individuals remain accountable for criminal activity.

The results of the CSP are impressive. First, crime stats in the housing projects have declined consistently and significantly. Over the first two full years of the project, 2011 and 2012, there were zero homicides in the three main housing projects, something that would have been unheard of years before. When looking at homicide, rape, and aggravated assaults combined, violent crimes dropped 65 percent, from 23 to 8.

This is not to say, however, that the LAPD has solved the gang problem. The Watts projects still have deeply entrenched problems. Crime is on a slight uptick so far in 2014. Still, the overall decline in crime, beginning in 2007 with the City’s gang reduction program, and continuing with the CSP program, is extraordinary.

Beyond the crime statistics, the quality of life for residents of Watts has greatly increased. The level of tension and trauma from violence and aggressive LAPD tactics has greatly diminished. At local task force meetings, for example, in the past, the meetings were generally filled with highly emotional outbursts as community members tried to process the violence they had witnessed and the offensive LAPD tactics that seemed to only make things worse. Today, those same meetings are filled with discussions about quality of life crimes, like graffiti or property crimes.

While the qualitative impact is difficult to measure, at least without expensive research studies, we have had enough conversations with residents to suggest that the change in the quality of life is significant. It should be noted that the LAPD is working on partnering with a research institution to study the impacts of its efforts on the community’s quality of life.

In sum, the LAPD gang reduction strategy, including the CSP program in Watts, should be seen as an extremely promising practice that the Sheriff’s Department should emulate.

Measuring Success

2013 crime statistics demonstrate that violent crime, as well as gang crime, in areas patrolled by the Sheriff's Department, has continued to improve when compared to years past. Overall violent crime (homicide, rape, robbery and aggravated assault) was down seven percent in 2013 compared to 2012, from 14,071 to 13,121. Over a five-year span, violent crimes were down over 19 percent.

As for gang crime, in 2013, while there was an increase in some categories over the prior year (a 6 percent increase, from 108 to 115, in gang homicides and 44 percent in rapes), overall violent gang crimes continue to stabilize, and are down 32 percent over the past five years. In two South Los

LASD must consider metrics for gauging success beyond crime statistics—which often tell an incomplete story.

Angeles station areas patrolling communities with a high level of gang activity, overall violent crimes are also down 9 percent from 2013—and 25 percent over the past five years. These statistics are positive, and we commend the Department for being part of this very positive trend.

However, we are disappointed that the Department has not made more of an effort to find additional ways to measure success. Crime statistics only tell part of the story. They do not take into account community perceptions, the long-term impact of the Department's tactics and strategy, the impact of officer interactions on the social fabric of the community, and the unreported level of violence or threats of violence that may have just as tangible of an effect on community well-being as reported crimes.

On one occasion, two years ago—at a time when members of the community were on edge because the gangs were in a constant state of war, kids could not go to play in the parks, and people were living in fear—an LASD station was called to see what the total crime statistics were for the area (including from adjacent LAPD areas) and what their plan was to deal with the troubling situation. The station personnel responded that they did not know what the statistics were in the specific adjacent area and suggested that there was no reason for concern in the first instance. According to their more general crime statistics, things seemed better than ever—at 40 year lows. Yet this area includes a 1.8-mile rectangle, dubbed “Death Alley” in a recent Los Angeles Times article, where 100 people have been killed in the last seven years.³⁴ Clearly, using crime statistics as they key measure of success does not capture the whole story.

Crime statistics also do not prove what role the Sheriff's Department had in the decreasing crime statistics. For example, community outreach workers—who ramped up their efforts to reduce violence, starting at about the time crime statistics started to decrease—believe that they deserve a

³⁴ Nicole Santa Cruz & Ken Schwencke, “South Vermont Avenue: LA County's Death Valley,” *LATimes* (Jan. 19, 2014), available at <http://homicide.latimes.com/post/westmont-homicides/>.

majority of the credit for the improved statistics.

Last year, we recommended that the Department include gang outreach specialists in their strategy. These workers can assist greatly in helping deputies engage with the community in an effective and safe way. They can be excellent liaisons to help the Department understand the culture and needs of the community and can assist in reducing violence.

The Department has taken some small steps to open up to the idea of partnering with outreach personnel. Executives are now more consistent in articulating an understanding of outreach work and expressing openness to their role. In addition, in 2013, County Supervisor Mark Ridley Thomas funded a small number of gang outreach workers as part of a violence reduction project in the Florence-Firestone area. The project funded three full-time and one part-time outreach worker and a part-time manager to provide crisis response services in the Florence Firestone area including afterschool safe passage services for South Region 2 High School.

As a few examples of activity funded within the project, in the event of crises, the outreach team was notified and deployed to the scene and engaged in rumor control with community residents to lower the likelihood of retaliatory violence. Sheriff's Department personnel, with the support of the Century Station captain, would communicate directly with the outreach program manager, to provide basic information regarding the crime. Victim support services were also provided by the outreach team to follow up with the victim and their family. The team also worked with school administrators to provide safe passage to students after school. The Sheriff's Department and gang outreach workers both expressed optimism about the project. They believe it helped to engage the community and reduce violence, although there is not enough information to relate crime statistics to the effort yet.

Dedicated outreach personnel could assist deputies in engaging with the community in an effective and safe way.

We are encouraged to see that, for the second year in a row, we have found Sheriff's executives who speak positively about gang outreach work, and a captain who has been supportive of this work on the front lines. During the prior year, the Department participated, at a similar level, with a program called Parks after Dark, through which outreach workers helped keep County parks safe. We have also seen a number of front line deputies and sergeants actively work with gang outreach workers to help coordinate the response and resources of the community and the Department to gang violence. This is a leap forward from years past, where there was no active support for the idea and, even at the highest levels, the concept was scoffed at.

Unfortunately, however, we have not seen any further progress on this issue. People knowledgeable about the Florence-Firestone Project characterized the Sheriff's Department's support more as an

agreement to “not get in the way of the work” rather than real coordination and genuine participation.

There is still no coordination between patrol officers involved and other units, such as the gang unit (called “OSS,” or “Operation Safe Streets”). Indeed, OSS is still just as ambivalent about gang outreach work as ever. The Department has much more work to do.

Conclusion

We are disappointed that we did not see more effort to improve Department's gang strategy. Although the Department continues to excel at crime suppression and crime statistics are down, the Department must develop a nuanced strategy, in collaboration with the broader community, that the Department's aggressive tactics do not, in the long-term, do more harm than good to the communities that the Department serves.

2. Litigation

For this Semiannual Report, we reviewed litigation related to the Sheriff's Department for 2013 and the first several months of 2014. We attempted to determine how costly litigation is for the Department and what types of cases are driving those costs. We were also interested in the Department's current approach to risk management, including how the Department balances the interests of defending lawsuits, keeping costs down, but also learning from mistakes that led to the litigation.

Litigation is an inevitable part of law enforcement. Given the nature of the job, which involves racing into conflicts as opposed to away from them, disputes will tend to arise. In a Department like

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the LASD, which patrols such a large, diverse area, including high crime areas, this is especially true. Thus, the job of the LASD is not to avoid all risk and all litigation. The job is to minimize that risk as much as possible, without jeopardizing the quality and effectiveness of the Department's efforts to serve the community and the safety of deputies.

Over the past 22 years, we have consistently urged the Department to track trends in litigation as a way of gauging the Department's effectiveness in mitigating personnel misconduct and manage risk—and the real-world effects when it is less effective than it might have been. We are pleased to see that the Department has woven into its team the County's Litigation Cost Manager, whose job entails doing just that.

In addition, we were impressed by some recent steps taken by the Risk Management Bureau to better track data and disseminate that information to the Department to make risk management part of everyone's job in the LASD. They are just beginning, so it is too soon to judge success. We suggest that County Counsel and the Inspector General both keep track of these efforts and assist where appropriate. We believe that, while County lawyers are already busy, they could take a slightly more active role in instilling a consciousness of risk management into the Department's culture.

Our review included an examination of data, relevant case law and interviews of key personnel involved in litigation and risk management.

Risk Management Structure

The Sheriff's Department maintains a Risk Management Bureau that has existed since 1993. It is intended to provide a Department-wide, coordinated effort related to risk management. The Bureau houses several units, including the Civil Litigation Unit, which manages litigation along with County Counsel. The Civil Litigation Unit is overseen by the Bureau's Captain, and run by a lieutenant, two sergeants, eight investigators, and other support staff.

When lawsuits are filed against the LASD, the Unit gathers information related to the underlying incident and coordinates with County Counsel to help manage the cases. With the assistance of counsel, cases are analyzed on an ongoing basis to determine whether the matter should be settled quickly or if the Department should fight in court all the way through trial.

In years past, we had concerns that the Department would either settle cases too liberally in order to dispatch of them at or below the anticipated cost of trial, or not liberally enough, refusing to acknowledge internally that, in some instances the LASD was more clearly at risk of substantial liability and that such a case should be dispatched as cheaply and quickly as possible. The process for making those decisions seemed too nebulous to us at times. The quality of budgets and plans for dealing with lawsuits was low.

It appears to us that the current structure of risk management has improved over years past. Specifically, regular meetings occur with counsel to prioritize cases, delve into the facts, re-examine facts that are developed through the discovery process, and discuss the costs and benefits of settlement versus fighting in court. There also appears to be a unified philosophy that communicating information about misconduct by Sheriff's personnel, discovered in litigation, is a smart thing to do to benefit the Department in the long run.

It appears that the current structure of risk management has improved over years past.

We have not done an audit of the files to provide an assessment of how good the LASD and counsel are at guessing right in making the decision of how to handle lawsuits. We recommend that it be done from time to time to test how accurately those responsible for litigation are judging the strength of their cases and the costs and benefits of their litigation strategy. Nonetheless, the regular meetings and discussions in place to hash out these issues is a significant step forward from the past. As one attorney noted, sometimes attorneys complain that they are meeting too much to discuss cases. But we approve of this approach and have seen the best results in litigation result from it. Regular roundtables that foster honest discussion and debate ensure a much higher chance of making thoughtful decisions that are best for the County.

Indeed, deciding how to handle litigation, especially civil rights litigation, is a very difficult balancing

act. Specifically, the risk management personnel and their lawyers are required to defend the Department in litigation, with a goal of keeping pay outs to a minimum. This involves using the evidence in each case to make their strongest argument as to why the Department should not be held liable. This also requires a constant dance with plaintiff's attorneys. Make a payment or admission, and it may trigger a new round of lawsuits, frivolous or not, trying to cash in on a perceived weakness.

At the same time, the Department and its lawyers are required to protect the best interests of the LASD over the long-run, which involves being open about mistakes so that they can be corrected, and being transparent so that the public—the LASD's very important partner—trusts and supports the Department.

To further complicate matters, the decision of whether to deny liability and fight, or settle, is greatly impacted by the law allowing plaintiff's counsel to recover attorneys' fees. Indeed, attorneys' fees are a primary driver of civil rights litigation, because plaintiff's attorneys can recover large fee awards even if their success at trial is limited. It was not always so. Lawyers have communicated to us that, in the past, courts were more reluctant to award large amounts of attorneys' fees if the plaintiff did not prevail in a significant manner. As one example, a basic rule is that courts do not award attorneys' fees to plaintiff's counsel if they won on the substance of their case but only were awarded nominal damages.³⁵

Recent court decisions, however, have become more liberal in granting attorneys' fees. As just one example, in a 2010 Ninth Circuit decision, a plaintiff only recovered nominal damages for a wrongful death claim against a police officer, but the Court upheld a fee award of over \$136,000.³⁶ Obviously, important principles may be at stake whether or not the damages are large. We are not talking about those. We are rather addressing very weak cases on the merits.

Thus, even when plaintiff's cases are weak, and the interests of justice would generally lead the LASD to fight the cases in Court, the Department often must consider the risk of paying attorneys' fees in the calculus of whether to settle or fight.

The Department has meetings at the onset of the case, and then throughout the year with its lawyers. Those meetings help to instill a culture of thoughtfulness about making those difficult decisions. For example, it allows the voice of the Department's internal and outside counsel all to weigh in on decisions. In fact, while in years past we heard some finger pointing about settlement decisions made by people with the authority to settle, in our recent interviews the LASD noted how

³⁵ See, e.g., *Farrar v. Hobby*, 506 U.S. 103 (1992) (indicating that when a plaintiff recovers only nominal damages, the only reasonable fee is usually no fee at all).

³⁶ *Mahach-Watkins v. Dupree*, 593 F.3d 1054 (9th Cir. 2010).

collaborative the effort is between the Department and County Counsel in making those decisions, even on cases with low dollar amounts at stake.

The Cost and Impact of Litigation

The Volume of Litigation

From January 2013 through April 30, 2014, the LASD received 373 lawsuits—around 23 per month. This is actually a decrease from the analogous time periods in recent years, with an average of about 25 lawsuits per month in 2011–12 and 2012–13. For example, during the prior two years, the

At any given time, the Department has between 450 to 500 cases that are active and open—a large number to process, strategize over, and manage.

Department received 398 lawsuits between January 2011 through April 2012 (an average of almost 25 per month), and 406 lawsuits from January 2012 through April 2013 (an average of just over 25 per month). This is somewhat surprising given all of the negative media attention surrounding the conduct of personnel in the field and in the jails.

These numbers are also similar to averages of new cases we found in our last review of this issue back in 2008. For example, from 2001 through 2004, the Department averaged around 23 new lawsuits per month. From 2004 through 2007, the average dipped to 19 per month.

During the same time period, from January 2013 through April 2014, 377 cases were closed. At any given time, the Department has between 450 to 500 cases that are active and open.

It is a large number of lawsuits to process, strategize over, and manage for the Civil Litigation Unit and counsel. The lawsuits deal with all types of issues, including fender benders, employment complaints, and allegations of improper use of force or false arrest.

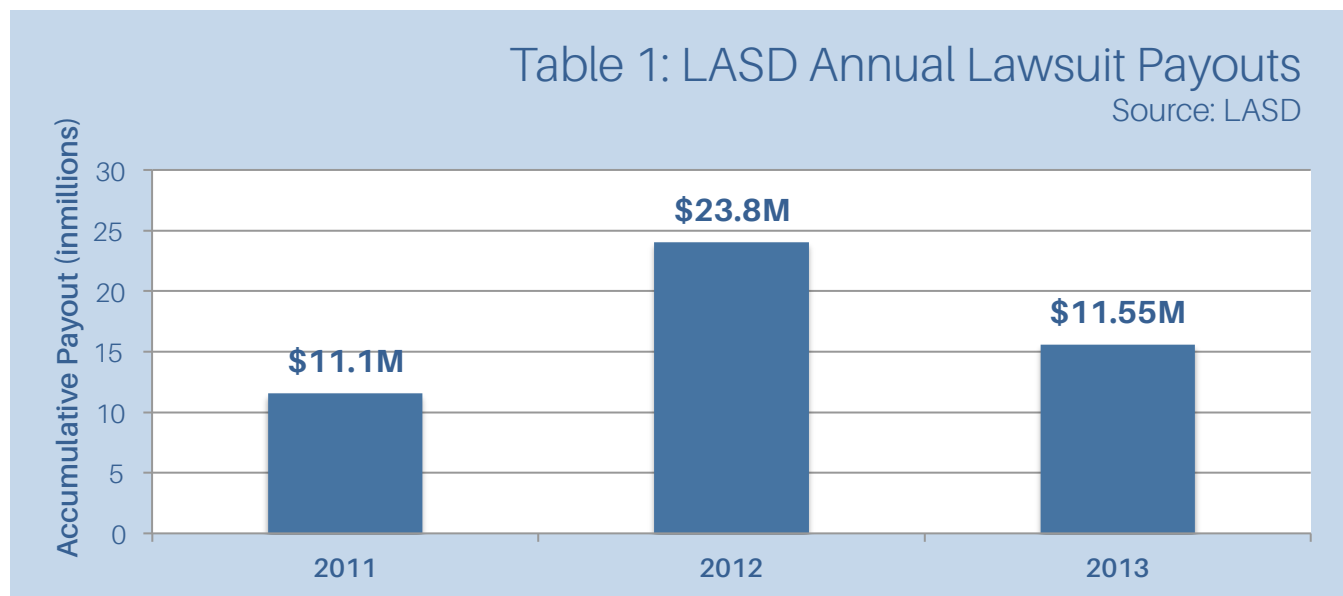
The Cost

A majority of cases that end are closed because the suit is either dismissed or the Department prevails in litigation. For example, out of the 377 cases closed, 224, or 59 percent, ended because of dismissal or the Department prevailing. These cases generally take a few years to get through the system. For example, many of the cases closed over the past 16 months were filed in 2010.

On the 152 cases over the 16 month period where the Department and County decided to settle or lost at trial, the County paid out a total of \$18,257,000. This averages out to \$13.7 million for a one year period.

This figure of \$13.6 million for a twelve months period is higher than when we last reported on this topic in 2008. At that time, annual payouts in settlements and judgments averaged around \$10.4 million per year.³⁷ Of course, we do not account here for inflation and any changes in the activity of the LASD, public perception, and the Court system that may have contributed to this increase.

In calendar year 2011, the Department closed a total of 211 cases and paid out just over \$11 million. In 2012, it closed 290 cases and paid out \$24 million, a big jump. In fiscal year 2012-2013, total litigation costs for the Sheriff's Department increased 16 percent from the year before. Overall, the Sheriff's Department accounted for almost half (48 percent) of all of the County's litigation costs.



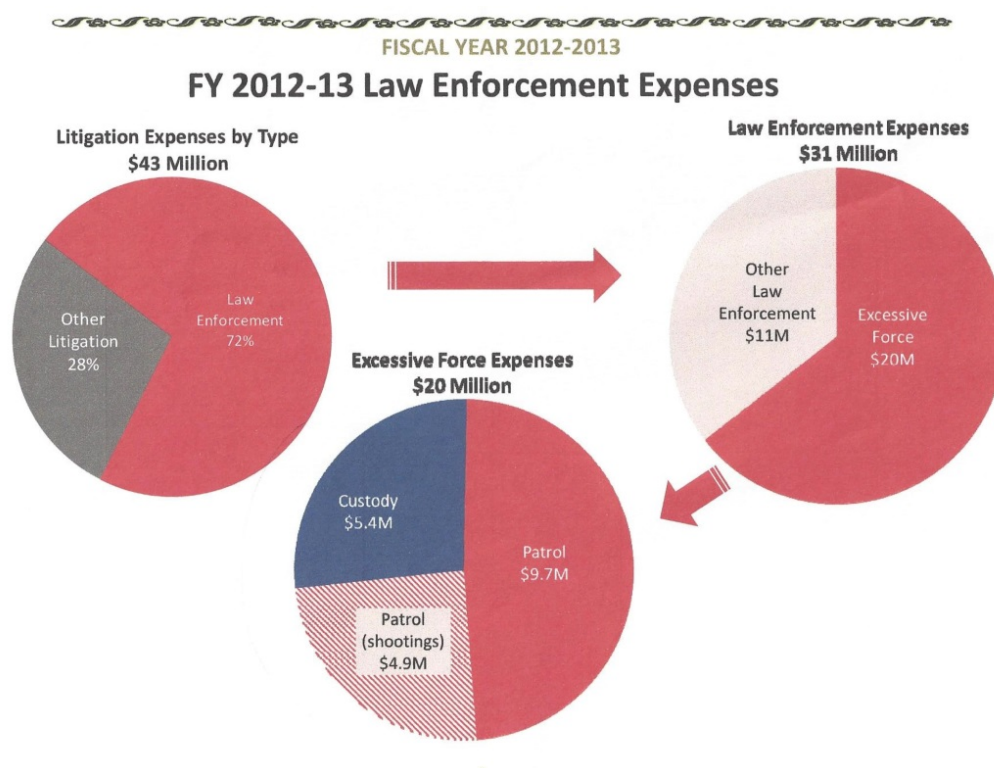
A relatively small percentage of cases involved settlements of over \$100,000. Only 31 cases, or approximately 20 percent, lost or settled for over \$100,000. These larger settlements totaled \$15,635,000—or 85 percent of the total payouts. Thus, a relatively small number of cases involving large damages and fees significantly drove up the total litigation costs.

Excessive Force

Of the 377 cases that were closed between January 2013 and April 2014, 132 cases related to excessive force. These cases resulted in settlements or judgments totaling just over \$12,175,000—over 66 percent of the \$18 million total in payouts over 16 months. Thirty-one of those resulted in settlements or judgments in excess of \$40,000, for a total of \$11,833,000.

³⁷See PARC's 25th Semiannual Report, published in July 2008, tracking costs from fiscal years 2001–2002 through 2006–2007.

Indeed, as reported in the County's public annual report issued by its Litigation Cost Manager, 46.5 percent of the Sheriff's total \$43 million in litigation costs (including attorney's fees) in fiscal year 2012-2013 related to excessive force, and another 25.5 percent related to other alleged "law enforcement" mistakes made in the field or jails. This accounted for a whopping 72 percent of litigation costs. The remaining 28 percent of costs related to employment litigation, auto liability, medical malpractice and general liability. In the category of excessive force, last fiscal year, 27 percent of costs were attributed to custody and 73 percent to patrol.



Source: LASD

While all types of excessive force claims, in all parts of the County, are brought against the Sheriff's Department, a majority of cases are coming from high crime areas or the jails.

For example, in fiscal year 2012-13, out of 116 active lawsuits stemming from patrol, 45 were from the Central Patrol Division, which includes the high crime areas of Century, Compton, East LA, and South LA stations. This amounts to 17 more lawsuits than the next highest Division. During that same year, out of 64 new lawsuits received from patrol, 36, or 56 percent, came from the Central Patrol Division. Not surprisingly, the Central Patrol Division accounted for 74 percent of patrol payouts—\$7.3 million out of a total of \$9.9 million.

The largest payout for fiscal year 2012-2013 came from the Central Patrol Division, when a jury

awarded a plaintiff \$6 million. The County eventually settled with him for \$3.9 million. The plaintiff alleged that two deputies escalated a traffic stop into violence, where they pepper sprayed him, punched him in the head, kneed him in the face, and slammed his head into the pavement.

However, large payouts can come from any location. In 2013, a \$2.1 million judgment was entered against the Department as a result of a shooting out of the San Dimas station, an area that is not considered one of the County's higher crime areas. The plaintiff, the estate of Efrain Gutierrez, alleged that in 2009, deputies shot him in the back, while he was 28 feet away from the deputies. The deputies alleged that he was coming at them with a knife and that the deputies were in fear for their safety.

The jails also have been the other big source of excessive force payouts. Armed with media reports and the Report of the Citizens' Commission on Jail Violence, there have been a significant number of lawsuits related to conduct in the jails. In the 16 months between January 2013 and April 2014, there were 31 excessive force lawsuits that wrapped up and resulted in payouts of over \$40,000. These suits led to total payouts of over \$11.8 million. Of these, 11, or over 35 percent, came from the jails, and those jail-related lawsuits resulted in payouts totaling \$5.6 million (around 47 percent). These suits contained allegations that deputies, for example, punched and kicked inmates, allowed others inmates to stab or assault them, failed to summon medical aid, taunted and ridiculed them, and that deputies provided false reports.

Excessive force must remain a central component of LASD's risk management.

Clearly, excessive force must remain a central component of risk management's focus. As discussed below, we recommend reporting data at a more detailed level to help track excessive force litigation.

The Cost of Attorneys' Fees

In addition to these large sums of dollars that the County spends on litigation pay outs, it also must pay for a large amount of attorneys' fees and costs. Over the past three fiscal years, attorneys' fees and costs have averaged between 47 percent and 59 percent of all litigation costs for the County as a whole. That means that for every dollar spent on a payout, there is roughly another dollar spent on attorneys. And, as noted above, attorneys' fees are often a key driver in the decision of whether to settle or fight a case. This ratio is consistent at the Sheriff's Department, where, as noted above, total litigation costs for fiscal year 2012 were \$43 million.

Yet the Department currently does not utilize attorneys' fees data from County Counsel to influence its risk management strategy. For example, station captains are not informed of the total costs, including attorneys' fees, their personnel were responsible for. We find this very limiting for the Department. Tens of millions of dollars taken out of the Department budget for attorneys' fees

deprives the Department of the ability to spend those same dollars on personnel, equipment, training or other law enforcement needs.

Not knowing and reporting the amount of attorneys' fees spent by the Department also deprives the public of fully understanding the impact litigation has on its budget, and the difficult challenge of navigating litigation.

We understand that counsel are often skittish about the maintenance of attorney fee information, fearful that plaintiff's counsel will try to obtain confidential, attorney-client information related to attorney's fees. However, we note that counsel already publicly reports gross amounts of attorneys' fees spent by the County, and we do not believe that the Department's internal use of these figures, which come from counsel, should undermine their ability to maintain confidential information.

Thus, we recommend that the Department begin utilizing data from County Counsel on the amount of attorneys' fees and costs spent on litigation and use that information to help track the effectiveness of its risk management strategy.

The Use of Data & the Risk Management Strategy

The data discussed above helps give a broad sense of how much the Department is costing the County on litigation, what types of cases are driving a majority of costs (excessive force), and how those numbers trend from year to year. Nonetheless, given that lawsuits can take several years to resolve and the uncertain nature of trial verdicts, the usefulness of the data is somewhat limited.

When looking at total recent payouts compared to years past, for example, the numbers do not inform us of what specific behavior is driving those numbers, when the behavior took place, how to assess whether the behavior, as opposed to the game of litigation, unnecessarily created the costs, and whether the costs should be viewed as low, high, or right as an acceptable part of doing business. We recommend that litigation tracking be used to assess the data at a deeper level, to help the Department better identify and manage its risk.

Historically, there have been substantial problems with the LASD's management and supervision of personnel in terms of use of force and their interactions with the public. Several systems are in place to try to catch and correct these problems. For example, Department leaders conduct critical incident or force reviews after a significant use of force. This system is designed to immediately identify risky or problematic behavior, and correct it, through mentoring, training, or discipline.

If an external complaint is registered or triggered internally, an internal affairs investigation is conducted, with external oversight by the Office of Independent Review and now the Inspector General, to further identify problem behavior and initiate corrective actions, including training and

discipline. The Department also tracks deputy behavior through its Personnel Performance Index (“PPI”) business intelligence system, in an effort to identify problem behavior early, so that it can be fixed before it turns into litigated behavior.

In addition, when lawsuits are settled, the Department is required to create a corrective action plan to confirm, in writing, that something was done to try to prevent the same type of mistake from happening again. The Department is required to write the root cause of the claim or lawsuit, describe the corrective action and whether the corrective action addresses a department-wide system issue. The plan is signed by the head of the Risk Management Bureau. Corrective action plans also are reviewed by the Los Angeles County Chief Executive Office, which also is responsible for conducting audits to ensure that the plans are followed.

Yet engaging in a more detailed effort to track litigation costs and information could add another helpful tool to help reduce the Department’s risk. First, in some instances, information that did not come to light through internal investigations or force reviews comes to light in litigation through depositions or other discovery conducted by defense counsel or plaintiff’s counsel. For example, plaintiff’s counsel has brought forward video evidence of an incident from an outside source that was not discovered through internal investigations. This information could help the Department better understand what went wrong in the field, and to offer up corrective actions to help prevent it in the future.

Detailed information
about litigation costs
could better inform
supervisors about how
much their employee’s
performance is costing
the Department.

Second, detailed information about litigation costs could better inform Captains and other supervisors what their employees are costing the Department and how they compare to other units in the Department. This would help add to the consciousness of personnel that their actions have broad consequences, and that there is a system of accountability and transparency about risk management.

As one leader in the Civil Litigation Unit stated, the risk management strategy in the LASD has been implemented in an inconsistent manner over the years. Information does not always make it into the consciousness of Department members, and the Unit has not always done a lot to report information.

Currently, the Unit reports general information to the Sheriff. For example, at least on an annual basis, Department leaders are informed about how much the County is paying out in judgments or settlements, how much each patrol division is paying out (a patrol division generally includes 6 stations), how many claims are being received, and the types of claims. Again, this broad report does not provide Department leaders enough specific information to help identify a strategy to create change, or to decide that change is not needed.

In addition, this type of report does not communicate to field leaders, such as station captains, that including risk management into their leadership strategy is important or helpful. In fact, risk management personnel recognize the difficulty of communicating with field personnel the importance of reducing litigation costs and risk management. Front line personnel, when confronted with a conversation about litigation, often shut down, believing that lawyers may try to change the way they police, at the expense of their ability to keep themselves safe or to do an effective job at catching criminals. Reports with general litigation figures, or periodic briefings, will not change this challenge. Nor is there any indication that the corrective action reporting system has had any impact in shifting how front line personnel view the idea of risk management.

We recommend that regular reports on litigation be generated to communicate to both senior command staff as well as field-level supervisors. Reports should include: (1) the litigation costs, including attorneys' fees, generated by each unit or station; (2) how those costs compare to other units or stations; (3) a break-down of what behavior is generating the costs (i.e. excessive force, property damage, traffic accidents), and (4) the identification of any patterns of cost-generating behavior both in the station and unit, and throughout the Department. While the Department has access to such information from County Counsel, it is not regularly compiled, organized, and disseminated throughout the Department. The Department should work more closely with the Litigation Cost Manager to organize and distribute data.

Regular litigation reports should be distributed to both senior command staff and field-level supervisors.

For example, if alleged excessive force used during traffic stops, or in responding to domestic violence calls, repeatedly leads to litigation, this information would help supervisors zoom in on risky behavior. It might not also hurt to point out the value of litigation expenses in terms of what could have been purchased (i.e. deputies, cars, overtime) had the lawsuit not happened.

We also recommend that the focus on risk management not end with the issuance of a report. Station captains or unit level commanders should be required to participate in a "SCIF" meeting with chiefs monthly to give an update on how they are doing in managing risk.

These conversations should not just be about numbers. While data tracking and reporting adds a valuable risk management tool, they pale in comparison to the impact leadership and culture change can have in the Department. As one leader in the Civil Litigation Unit stated, we all know that leadership change is critical. "Take the jails—claims and suits are way down. Yet, the same front line personnel are working there. The difference is the effort of leadership."

This same leader in the Civil Litigation Unit noted that, while leadership is critical, many leaders in

the Department have not been trained on how to create culture change. Thus, to have conversations about risk management, or to hold people accountable for improving decision-making by deputies in the field, is difficult if leaders do not have the tools or skill set to do so. As noted above, many conversations about improving decision-making are interpreted by front line personnel as irrelevant information, or attacks on their ability to exercise discretion to maintain officer safety or protect the public.

This tension is understandable, since many times legal analysis takes the form of Monday morning quarterbacking—second guessing difficult, split-second field decisions in the comfort of an office. Nonetheless, as we have noted before, one reason we believe the LASD has struggled so much over the past several years is a reluctance to engage in such difficult discussions.

Thus, we again recommend that the Department engage the services of a consultant, or find the internal expertise, to guide leaders through the process of culture change, so that field personnel are given the information and skill to improve their decision-making, taking into account all of their various and competing interests, including officer safety, public safety and risk management.

To the credit of County Counsel and the Department's Civil Litigation Unit, they recently have made the same recommendations and have started taking steps to implement them. For example, the Civil Litigation Unit is championing an effort to track litigation costs, with Counsel, at the station level. The tracking will allow captains and unit commanders to break out costs to determine what specific conduct is driving their costs, and how they compare to similarly situated captains. They have already developed plans to implement reporting requirements, as recommended above, to engage both top leaders and captains in the discussion about risk management. In short, the current iteration of the Civil Litigation Unit saw the situation as we did, and is driving the type of change we recommend.

As noted above, we recommend that the new Inspector General or County Counsel or both keep track of this effort. Given the size of the Sheriff's Department and the tendency for leaders to be transferred or promoted, institutionalizing change is always a challenge. These changes pushed by the Litigation Unit and the Litigation Cost Manager are in their infancy stages, and it will take time and a persistent approach to make sure that they are implemented thoughtfully and take hold. This means not only solidifying and constantly refining data tracked with County Counsel but also solidifying the skill set of field leaders to guide their units through organizational culture change so that the data is openly discussed and used to help guide how the Department functions on a day to day basis.

Hayes Case and Liability for Negligent Conduct Precipitating Use of Deadly Force

Recently, the California Supreme Court clarified state law. The Court in *Hayes v. County of San*

Diego stated that “law enforcement personnel’s tactical conduct and decisions preceding the use of deadly force are relevant considerations under California law in determining whether the use of deadly force gives rise to negligence liability.³⁸” In other words, the Court made clear that an officer could be held liable for excessive force if the officer makes negligent decisions that lead to the use of deadly force, even if, at moment of using the force, the officer’s conduct was reasonable.

In *Hayes*, the officers shot and killed a man who was holding a knife and approaching them. The Court stated that the trier of fact should not only look at the moment of the shooting (i.e. was it reasonable to believe that the suspect posed an imminent threat, therefore justifying the shooting) but also at the officers’ conduct leading up to the shooting. For example, the plaintiff alleged that the officers failed to ask relevant questions and gather information before entering the house, failed to seek expert psychiatric assistance because the decedent was mentally ill, and did not issue proper warnings or commands before shooting.

As a second example, the Court cited a 1970 case in which officers shot and killed a man when he drove a car at one of the officers. At the moment of the shooting, it was reasonable because the threat of the car hitting the officer was real. However, the Court still found that it was permissible to find the officer negligent based on their pre-shooting conduct of approaching the car with a shotgun in plain clothes, possibly causing the driver to think he was being robbed or attacked, and therefore provoking the whole incident.³⁹

LASD must ensure that
training for front-line
personnel instruct that
negligent decisions
leading to deadly force
can now form the basis of
liability.

In response to the *Hayes* case, the Department has been working to revise its use of force policy to make it consistent with this clarification of the law. We have not examined this departmental effort as part of this chapter.

We discuss the *Hayes* case here only to recommend that a system be set up now to ensure that the nuances of the law be hashed out, that front line personnel be trained and guided properly to learn how to implement it, and that the success of those efforts be tracked, including with regard to related litigation.

It is unclear at this point how the *Hayes* case will be used by plaintiffs’ attorneys to accuse the Department of wrongdoing, and it is unclear how broadly or narrowly the courts will interpret the ruling. As just one example, it is unclear what scope of conduct and time span the courts will consider relevant to their analysis.

³⁸ *Hayes v. County Of San Diego*, 57 Cal.4th 622, 639-640 (2013). This opinion was adopted by the Ninth Circuit. See *Hayes v. County of San Diego*, 736 F.3d 1223 (9th Cir. 2013).

³⁹ *Grudt v. City of Los Angeles*, 2 Cal.3d 575 (1970).

Thus, it is a good opportunity for the Risk Management Bureau and counsel to get involved now, in the early stages, as the application of this legal decision plays out. It is a nice platform to test out how integrated and collaborative the Department can be, to share information and strategy between those who write policies, the training unit, field supervisors monitoring performance, internal affairs, risk management staff, and attorneys handling litigation related to excessive force claims.

Conclusion

Litigation costs created by the Sheriff's Department continue to be a very large expense for the County. \$43 million is a big hit to the County's budget, and could be better spent on law enforcement personnel, equipment, and training. This amount of money makes the stakes high enough that the Department should do all that it can to maintain a high performing risk management system, including tracking success.

The Department needs to engage in more detailed tracking of litigation costs, including attorneys' fees, and create a more sustained program of communicating information to the field so that risk management and lessons learned plays more of a role in day to day activities.

The current iteration of the Civil Litigation Unit and County Counsel are on the right track, creating a culture of thoughtful decision-making, more detailed tracking and more robust information flow. However, their approach is just beginning and it is too soon to judge success.

3. Canine Services Detail: A Follow-Up Report

In our **33rd Semiannual Report**, we expressed concern about the high bite ratios in the Sheriff's Department's Canine Services Detail ("Unit" or "Canine Unit") and made ten recommendations for improvement. We nevertheless expressed our respect for the Unit's work and for its commanding officer, Lieutenant Bruce Chase. Since our previous report, we have observed good progress and continue to commend the Unit's commander.

Overall, the Canine Unit has done a very good job reducing the bite ratio from 31.5 percent in 2012 to 24.3 percent in 2013. Out of 152 deployments in 2013, a suspect was apprehended by dog bite 37 times. This is a significant reduction and indicates that the Unit is moving in the right direction. As of May 2014, the bite ratio was down, even further, to 23 percent. The Canine Detail has set a goal of reducing the bite ratio to below 20 percent. That would be satisfactory to us. Even better, however, would be a bite ratio of less than 10 to 15 percent.

As to the most difficult issue with respect to the use of canines—the racial disparity of those apprehended and bitten by canines—the Department still needs to do more to resolve this longstanding issue.

With respect to the day-to-day operation of the Canine Unit, we continue to be impressed with the current staffing of the Unit and its work over the past year. Their efforts to reduce dog bites have significantly improved when compared to their efforts in recent years.

In the past few months, we have followed up with the Unit to determine whether the recommendations in our prior Report were accepted and implemented. Below, we summarize each of our prior recommendations and detail the progress that the Department has made in addressing or implementing each. Overall, we are encouraged by the Department's progress.

Recommendation #1: Study why there is a disproportionate incidence of dog bites on black and Latino suspects and collect data going forward to help identify the factors that drive canine call outs. If no such measures are taken, then impose a partial moratorium on the use of canines in all but the most critical circumstances involving armed suspects.

In response to this recommendation, the Department opined that, most likely, the racial disparity in dog bites happens because most violent crime and gang violence happens in black and Latino communities. In other words, the LASD argues that because most violent crime suspects are black or Latino, it logically follows that most calls to the Canine Unit will be to pursue, and potentially bite, those same suspects.

The Unit has made an effort to obtain some data to further review the issue. The Unit examined demographic data from the seven geographic locations cited in our last report as accounting for the most canine apprehensions. The data confirmed that, in these areas, the large majority of people are either black or Latino/Hispanic and that they indeed include high-crime areas.

Specifically, the Unit collected data from the Century, Compton, East Los Angeles, Industry, Lakewood, Norwalk and South Los Angeles stations. Their data shows that, for Part I crimes (excluding larceny theft, which is not eligible for canine deployments) and Part II weapons offenses and kidnapping between 2004 and 2013, 93.3 percent of suspects were black or Latino and, as of 2011, 80 percent of the population is black or Latino.

Ethnicity	Suspect #	Suspect %	Victim #	Victim %	Population Year 2000 #	Population Year 2000 %	Population Year 2010 #	Population Year 2010 %	Population Year 2011 #	Population Year 2011 %
Black	32,943	34.44%	28,412	18.90%	140,936	11.63%	136,873	10.11%	120,121	9.55%
Chinese	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Filipino	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Hispanic	56,315	58.87%	100,184	66.64%	777,562	64.19%	928,427	68.60%	885,547	70.43%
Am. Indian	24	0.03%	154	0.10%	4,987	0.41%	3,444	0.25%	5,116	0.41%
Japanese	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
All Others	370	0.39%	992	0.66%	10,928	0.90%	0	0.00%	3,699	0.29%
White	4,926	5.15%	13,399	8.91%	185,808	15.34%	176,157	13.02%	140,813	11.20%
Asian	912	0.95%	6,982	4.64%	86,199	7.12%	103,948	7.68%	95,963	7.63%
East Indian	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Multi-Race	29	0.03%	36	0.02%	0	0.00%	0	0.00%	0	0.00%
Pacific Is.	147	0.15%	173	0.12%	4,936	0.41%	4,596	0.34%	6,088	0.48%
Total	95,666	100%	150,332	100%	1,211,356	100.00%	1,353,445	100.00%	1,257,347	100.00%

Summary:

- 93.30% of the suspects are Blacks and Latinos in the seven stations jurisdiction area.
- 85.54% of the victims are Blacks and Latinos in the seven stations jurisdiction area.
- 79.98% of the total populations are Blacks and Latinos in the seven stations jurisdiction area.
- The population of Blacks and Latinos has increased from 75.82% in 2000, to 78.71% in 2010 and to 79.98% in 2011.

Source: LARCIS (Crime Summary Table)

Data Specification: All Part I Crimes (excluding Larceny Theft), Part II Weapons Offenses, and Kidnapping from January 2004 – June 2013 for Century, Compton, East Los Angeles, Industry, Lakewood, Norwalk, and South Los Angeles Stations.

Completed by CAP Statistics Staff on 10/24/13.

CAP# 13-036-LS

This data, however, does not answer whether canines are being used to apprehend suspects in a racially disproportionate manner. The question arises because of local and national concerns about

racial disparity in the justice system. More and more people are questioning the simple explanation most often given by law enforcement agencies—that racial disparity is caused because minorities are committing more crimes.

For example, recent studies show that, while minorities and whites use marijuana at about the same rates, blacks are arrested for marijuana possession at much higher rates, typically at double, triple or even quadruple the rates, including in California.⁴⁰ Blacks comprise 14 percent of regular drug users, but are 37 percent of those arrested for drug offenses.⁴¹

A two year study of over 13,000 traffic stops in a Midwestern city showed that minority drivers were stopped at a higher rate than whites and were searched for contraband at a higher rate, yet officers were no more likely to find contraband on minority motorists. Similarly, a New York State study found that minorities charged with felonies were more likely to be detained than whites, and that 10 percent to 33 percent would have been released if they had been detained at the rate comparable to similarly situated whites.⁴²

The possibility of an improper racial disparity with respect to canines should receive long-term, sustained attention.

Thus, when the LASD produces statistics that show that 80 percent of the populations in seven out of 23 stations are minorities, and 94 percent of the suspects apprehended by dogs are minorities, it does little to ease our concerns about the possibility of improper racial disparity.

The Department has noted that a newly created Inspectional Services Division is being created, and that this new Division can conduct an audit of their canine deployment practices. We hope that this is followed through on and happens soon. It already has been a year since our last canine report, and there has been no movement yet. This is something that needs long-term and sustained attention, so the sooner they start collecting more sophisticated data, the better.

The Seattle Police Department recently adopted policy regarding disparate impact. It provides one approach that the LASD could consider:

The Seattle Police Department is committed to eliminating policies and practices that have an unwarranted disparate impact on certain protected classes. It is possible that the long term impacts of historical inequality and institutional bias could result in disproportionate enforcement, even in the absence of intentional bias. The Department's

⁴⁰ Harry Levine, et al, The Drug Policy Alliance, LA, *Targeting Blacks for Marijuana: Possession Arrests of African Americans in California, 2004-2008* (2010).

⁴¹ *Id.*

⁴² The Sentencing Project, *Reducing Racial Disparity in the Criminal Justice System: A Manual for Practitioners and Policymakers* (2008).

policy is to identify ways to protect public safety and public order without engaging in unwarranted or unnecessary disproportionate enforcement.

This policy requires periodic analysis of data which will assist in identification of SPD practices—including stops, citations and arrests—that may have a disparate impact on particular protected classes relative to the general population.

When disparate impacts are identified, the Department will consult as appropriate with neighborhood, business and community groups, including the Community Police Commission, to explore equally effective alternative practices that would result in less disproportionate impact. Alternative enforcement practices may include addressing the targeted behavior in a different way, de-emphasizing the practice in question or other measures.⁴³

Language from the key United States Supreme Court opinion⁴⁴ on when it is proper to deploy lethal force against a fleeing suspect has been incorporated in countless police policy manuals. Seattle, for example, provides:

Deadly Force May Be Used to Prevent the Escape of a Fleeing Suspect Only When an Objectively Reasonable Officer Would Conclude That it Is Necessary and the Officer Has Probable Cause to Believe That:

- The suspect has committed a felony involving the infliction or threatened infliction of serious physical injury or death; and
- The escape of the suspect would pose an imminent danger of death or serious physical injury to the officer or to another person unless the suspect is apprehended without delay; and
- The officer has given a verbal warning to the suspect, if time, safety, and circumstances permit.

While canine bites have not been classified by the courts as lethal force, they come close to it in the permanent injury and disfigurement they can cause. We have recommended that the universe of dog bites be restricted, and the language quoted above might well suffice. If followed, the results could be fewer bites and lesser disparity without greater harm to LASD deputies or the community.

We renew our recommendation that there be a six-month moratorium on unleashed deployments except in the circumstances set forth above in the seven stations with the greatest degree of disparate impact. After six months, a sophisticated data analysis—looking at demographics, crime rates, bite ratios, accidental bites, number of deployments and other factors at the seven stations and in the balance of the Department—should give an evidence-based answer to some of the questions that arise when looking at the disparate effect of canine deployments.

⁴³ Seattle Police Manual §8.100.

⁴⁴ *Tennessee v. Garner*, 471 U.S. 1 (1985).

Recommendation # 2: Provide CSD with One Additional Sergeant

As noted in our 2013 report, an inability of the three CSD sergeants to cover every shift has led to the use of outside sergeants to fill the supervisory holes. This is insufficient supervision for a very difficult job that requires quick decision-making by experienced professionals in dangerous situations. We recommended that the Department provide CSD with one additional sergeant.

We are encouraged to hear that the Department has put an additional sergeant into the draft budget for the Canine Unit. We hope that it will remain there in the final budget at the start of the next fiscal year, in July 2014.

Recommendation # 3: Set More Aggressive Goals for the Bite Ratio and Number of Bites

Our recommendation last year was to set a goal of a bite ratio—the number of apprehensions by dog bite compared to total apprehensions—that stays below 15 percent and that ratio should include directed bites. We based this recommendation on a review of incident reports, the fact that the Department has achieved low bite ratios in the past, and on a review of bite ratios nationally.

The bite ratio, we noted, is only a tool to help raise red flags if the ratio gets high. It is not an absolute measure of whether the Department is employing too many or inappropriate bites. It is, nonetheless, an important tool. It can help create a long-term culture emphasizing that bites should be an irregularly used tool that is generally reserved for extreme circumstances. It also underscores that each bite will be reviewed and analyzed in a serious manner.

The Canine Unit, in years past, set an internal goal to keep the bite ratio below 30 percent. We are encouraged that the Unit has now chosen a more aggressive goal of 20 percent. While higher than our recommendation, it is still a good step forward and communicates to its personnel that bites should be taken seriously.

In 2012, the Unit's bite ratio was 31.5 percent, including directed bites.⁴⁵ In 2013, the ratio decreased to 24.3 percent. Out of 152 deployments, a suspect was apprehended by dog bite 37 times. This is a significant reduction and indicates that the Unit is moving in the right direction. As of May 2014, the bite ratio was down to 23 percent.

It should also be noted that other data indicates that the Unit is being more selective about when to employ dog bites to apprehend suspects. Specifically, the searches conducted with dogs went down from 656 in 2011 to 364 in 2013, a significant reduction of 44 percent.

⁴⁵ As noted in our 2013 Report, the Department currently subtracts "directed bites" – where a handler orders a dog to bite a suspect as opposed to ordering the dog to search for a suspect and bite him if found – from their bite ratio. We do not see the benefit or logic of this. We calculate the bite ratio with directed bites included.

Additionally, the Department's data shows that the total *number* of bites has decreased from 72 in 2011 to 37 in 2013, a reduction of 49 percent. As of the end of April 2014, there were only 10 bites for the year. If this trend were to continue, the Unit would be on track to reduce bites to 30 in 2014. It should also be noted that, during the first few months of 2014 to date, 16 percent of suspects apprehended by canines were white, almost triple the average of years past.

We are encouraged by numbers suggesting a more measured use of canines to pursue and apprehend suspects.

In 2013, directed bites decreased from 16 to 7, a decrease of 56 percent, and the number of incidents for which the Unit declined to deploy dogs after evaluating the request from the field, increased 40 percent. In 2011 the Unit declined to deploy 119 times. They did so 167 times in 2013.

Again, while these statistics only represent short-term tools to identify issues, they do indicate a much more measured use of canines to pursue and apprehend suspects. We are encouraged by these numbers and hope that the Unit can continue to critically evaluate the use of their canines and continue to strive for aggressive goals to reduce the number of bites.

Recommendation # 4: Document and Track Why Alternative Uses of Force Were Not Used, and Create a Culture Emphasizing Less Use of Force

Although the bite ratio is a good tool to help determine whether the Unit is being measured in its use of canines, it does not address anything about the quality of the Department's tactics, strategy, or decision-making. Thus, the Department should rigorously analyze and track how often less alternative uses of force could have been used. If the decisions leading up to the chase, and the decisions during the chase itself were judged to be the best strategy in terms of balancing officer safety, successfully catching the suspect and reducing the risk of harm to the suspect and the public, it would give the Unit powerful data to justify their uses of force.

If, on the other hand, the decisions before and during the chase could have included a lesser use of force, while still protecting the officer and the suspect and successfully apprehending the suspect, it would provide clear information to the Unit to help train officers on better tactical decision-making. It would also provide clear information to the public and policymakers about what the Unit is doing well—and what could be improved.

In response to this recommendation, the Unit states that as of January 1, 2013, the Department's force reporting procedural guide already instructs supervisors to explain why one particular method of force was used in a given situation if other alternatives were available or may have seemed more reasonable. The Unit states that it has embraced this philosophy and the new Use of Force Policy, which emphasizes the prevention of force whenever possible and using the least amount of force

whenever force is necessary.

Policy Number 3-10/000 states that, for planned tactical operations, Department members shall develop a tactical plan “predicated on preventing the use of force whenever possible.” Policy 3-10/005.00 states that force should be used “as a last resort.” The Policy continues: “Department members should endeavor to de-escalate confrontations through tactical communication, warnings, and other common sense methods preventing the need to use force whenever reasonably possible.”

As evidence of its application of this philosophy, the Unit cites the statistics above, which show that, while a higher percentage of suspects are being apprehended once chased (41.8 percent in 2013 compared to 33.5 percent in 2011), the number of bites and the bite ratio have decreased. Although we agree that the data is a good indicator of a more measured approach to the use of force, it again does not provide any real details about whether the deployment of canines was strategically and tactically sound when compared to other available force options.

The Unit states that a more detailed system to track other less-lethal means and tactical options in a new database is ongoing, with a computer program is still in the development stage. We are

The Department is taking too long to implement a simple mechanism for tracking less-lethal options and alternative tactical options.

encouraged that the Unit is stating that it will track this information in the future. However, we question the length of time that it appears to be taking the Department to implement, at the very least, a simple tracking mechanism. Indeed, each of the 37 bites in 2013, and the 10 in 2014, presumably, was reviewed by a supervisor with some focus on whether the above-noted use of force philosophy and policy were complied with. Pursuant to this review, a supervisor could indicate in a rudimentary database or tracking system whether pre-chase and chase decisions could or should have resulted in the application of different or lesser force.

Tracking supervisor determinations about force options would represent a significant step forward toward ensuring a culture of transparency in which the Unit constantly learns from each incident—whether a success or failure and whether canine deployment was warranted and reasonable or otherwise. This tracking system would also ensure that the thoughtful attention that Lt. Chase has given issues related to canines cannot as readily disappear if, or when, the Unit in the future comes under different leadership.

As noted in our 2013 report, long-term cultural change will not happen solely through internal or external reviews of incident reports. Only supervisors, with real-world experience, have the relationships and credibility to instill in front line officers the confidence and clarity—in the middle of an intense and potentially dangerous chase—to believe they can wait a few more minutes to release a dog, choose an alternative use of force, or be quicker to call a dog back without

compromising their safety.

For this reason, we recommend that the Unit begin tracking the availability and feasibility of other force options when canines are ultimately deployed right away—even if by hand. A good start would be evaluating the 37 bites that occurred in 2013 and the 10 in 2014.⁴⁶

Recommendation # 5: Maintain Other Measuring Tools

CSD does a good job of using other indicators to track the quality of their Unit. This includes, for example, tracking bites and bite ratios for individual dogs and handlers and ensuring constant, high quality training of dogs so that any dogs showing signs of not following commands will be pulled from the field.

In 2013, for example, one dog failed to respond properly during training and was therefore sent back to the kennel from which it was purchased. Handlers expressed concern about another dog and it was pulled out of the field for approximately two months before it was re-certified. It has not had any performance issues since.

Our review indicates that the Unit continues to do a good job in this area. For example, handlers and their canines are required to pass an annual, internal re-certification on performance standards, which includes ensuring the dog's ability to be recalled during any search or while in the act of advancing toward a suspect, even after previously being ordered to bite. Handlers and their canines also train, on average, between 16 and 20 hours per month. The industry standard is to train for 16 hours per month. If a canine shows any indication of failure on any obedience training, the dog is immediately removed from service and subject to re-certification before being cleared to deploy.

As another example, information about bites is tracked for each officer assigned to the unit, allowing supervisors to investigate if one officer's bite ratio is inordinately high.

⁴⁶ The Unit, in response to this recommendation, has stated that it would be difficult to capture statistically what force might have been used—especially when their overall analysis is more focused on whether the use of force was objectively reasonable. However, our view is that, while the objectively reasonable standard is appropriate for the legal analysis of whether a deputy's conduct was within policy, it does not sufficiently explore the range of important issues that will provide personnel with guidance on how to improve their decision-making in a manner that will enhance the safety of officers, the community, and suspects. Often, even when the application of force was objectively reasonable, a deputy's performance might have benefitted from different tactics or considering different approaches.

If the Unit can use a tracking tool to essentially "grade" their personnel's decisions and make clear that the inquiry is about making the Department and officers the best they can be (and not about punishment), it will provide substantially more robust information for Supervisors than a bite ratio. For example, if five suspects are bitten in a row and the bite ratio goes up, it might trigger a concern. If all five bites were deemed not only objectively reasonable but also received a top grade in how the deputies made decisions and chose force alternatives, the uptick in the bite ratio becomes much less of a concern.

Recommendation # 6: Develop Tools to Better Assess Bite Durations

As reported in our 2013 report, it is very difficult to assess whether the CSD is making its best efforts to limit the duration of dog bites. The deputies and the suspects are the only ones who witness the bite duration. The decision by the deputy about when to release a bite is subjective and difficult, given that officer safety is at the heart of the decision. This leaves CSD supervisors unable to have a clear understanding about a critical issue impacting officer safety, the risk of serious injury to suspects, and potential liability.

In response to this recommendation, the Unit states that it has re-emphasized the goal of releasing the bite as quickly as possible in briefings, and noted that their unit manual and training guidelines emphasize that the handler is supposed to remove the bite as soon as possible. It observes that no suspects have complained about being bitten too long.

The Unit also states that, for a large percentage of incidents, a Supervisor is present when the bite takes place, allowing for some degree of direct supervision. Although this appears true in many instances, in several other of the most recent incident reports we reviewed, no sergeant was present at the scene. In addition to recommending that the Unit receive an additional sergeant, we also recommend that each incident report note whether a supervisor witnessed the bite and release.

The Unit also contends that, short of videotaping incidents, which they do not believe is practical at this time given current technology—a proposition we would dispute, given the increasing use of body cameras by law enforcement agencies worldwide—there is no good way to monitor this issue more thoroughly.

One possibility discussed to address concerns about bite duration was the observation and grading of handlers during training scenarios on their decision-making in terms of balancing officer safety with removing a bite as quickly as possible. The Unit indicated that training scenarios, while valuable, cannot adequately duplicate the speed and context of real life incidents. We agree. Nonetheless, the bite duration issue should be addressed during trainings going forward in a manner that emphasizes the interaction between officer safety, suspect injury, and potential liability.

Although we are quite impressed with the current functioning of the Unit, it must seek to institutionalize the change that it is implementing. When bites take place with no oversight or supervision a significant number of times, it creates the risk for excessive force. It is foreseeable that an officer, at some point in the future, who has just risked his life chasing a non-compliant, dangerous suspect might let the dog attack the suspect for a duration longer than needed to ensure officer safety. The Department must provide such an officer with

The Department must ensure ongoing institutionalization of recent changes with respect to bite duration.

sufficient training on strategies for calibrating an appropriate bite duration.

Recommendation # 7: Improve Documentation Related To Efforts to Avoid Accidental Bites

In our 2013 Report, we noted that CSD could better document their efforts to avoid accidental bites. This could include inserting language in the Directive about the strategy to make sure the search area is clear of non-suspects; inserting in incident reports more details about how deputies determined that an area was safe to release a dog; and being more consistent in the reports indicating why the deputies believed that the announcements were audible and likely to be heard by people in the search area.

In response, the Unit amended their policy to note that, prior to deployment, “the canine handler or incident command post shall ascertain from units on containment positions if the announcements were clear and audible.” This provides an extra check that announcements made over a loud speaker, that a canine is being deployed, are audible.

The Unit also implemented a practice of ensuring that SEB personnel, trained in canine tactics, instead of field deputies, contact residents in the search area. The theory is that SEB personnel will be better at asking the detailed questions necessary to determine if non-suspects are in the search area, before releasing the canine into the search area.

We reviewed some examples of incident reports. On the whole, they detailed the officers’ efforts to avoid accidental bites. As in our last review, the reports provided more than enough explanation as to whether officers played a canine announcement, and they detailed post-incident interviews that confirmed that neighbors heard the announcement.

In some more recent reports, the author of the report made clear whether the officer spoke with a homeowner to ensure that no one should be in a back yard prior to searching that yard. This clarity was lacking in reports in our last review. It makes a big difference to an outsider reviewer and demonstrates the thoroughness of the officers trying to prevent accidental bites.

Recommendation # 8: Improvements to the revised⁴⁷ CSD policy

We praised the proposed revised policy of the Unit and made a few, minor recommendations to policy. Specifically, we recommended:

⁴⁷ LASD Memo from Special Enforcement Bureau to Homeland Security Division, “Recommendation to Place Current Canine Services Detail Deployment Policies into the Department’s Manual of Policy and Procedures,” 20 May 2013.

- In the policy's introductory paragraphs, adding a paragraph that clearly highlights the importance of strict handler control and a description of what the Department defines as handler control in terms of its canine techniques and training.
- Including a section in the policy memorializing that CSD will train its deputies on a semiannual basis, at a minimum. This continuous training should be documented by CSD trainers and verified by CSD supervisors to meet internal standards.

In response, the Unit agreed to the recommendations. They indicated that the added language would be more appropriate included in the Unit's, rather than the Department's manual because the changes relate to specific duties of an individual once he or she is assigned to the Unit.

Recommendation # 9: Incorporate the Revised,⁴⁸ Current CSD Deployment Policies into the Department's Manual of Policy and Procedures

As noted in our 2013 Report, currently, CSD operates under the parameters of Field Operations Directive 86-37, which was last revised in April 1999. The Directive is robust and thorough; however, we recommended that it be officially added (in its revised form with improvements listed in Recommendation 8) to the Department's Manual of Policy and Procedures with the appropriate modifications and revisions that keep it consistent with other Department policies, practices, and procedures.

The Unit agreed with this recommendation. A revised policy was submitted for approval to by the Unit. As of the writing of this report, the policy was published in the Department's Manual as MPP 5-09/265.05 SEB Tactical Canine Deployment.

Recommendation #10: Create a Tracking System of the Injuries Caused by Bites

In reviewing the unit, we were concerned that deputies have caused hundreds of bites over the past several years but do not have any mechanism to gauge the extent of physical damage they are causing. This lack of knowledge prevents the Department from truly assessing the appropriateness of using this type of force and being accountable to the public for such force.

We recommended that the Department obtain information from each suspect's medical records, to the extent possible, to inform them of the extent of injuries caused by each bite. We place this burden on the Department, as opposed to the Unit alone, because the Unit would need support from County Counsel and Medical Services to navigate the logistics and legalities of obtaining this information.

The CSD should then, perhaps with the help of a doctor to make sure the summaries are accurate

⁴⁸ *Id.*

and clear, reveal these injuries to the unit each year to help educate deputies about the damage they are causing—or not causing—by initiating dog bites. Injuries, in general, fall under six categories: damage to skin, bone, vascular, soft tissue, nerve damage, and infection. These categories of injuries could be readily identified, reported to, and tracked by the Unit.

Of course, patient confidentiality is a concern. However, so long as the request by investigators for medical information is narrowly tailored, used only for the investigation, and aggregated so that the Unit only learns of the injuries—and not the names of subjects—such a process appears to be legally and logistically possible.

In response, the Unit contends that this step is neither necessary nor practical. First, the Unit claims that the recommendation suggests that officers would be more reluctant to deploy a canine if they were aware of the potential for serious injury. It states that its personnel are indeed very aware of the damage caused by bites and that this awareness is precisely why the Unit remains so vigilant and follows several policies aimed at minimizing the use of canines.

The Unit did agree to track the physical impact of canine bites to a certain extent. The Unit has recommended adding to the upgraded statistical database categories indicating if injuries, occurring during an apprehension, were minor, moderate, or significant. “Minor” would be a rake or

The Department must
continue to focus on
collecting information on
canine deployments so
that LASD can improve
its tactics.

superficial puncture, “moderate” would mean punctures and/or lacerations that are moderately deep and require additional medical treatment, and “significant” would mean punctures or lacerations resulting in hospitalization, or skeletal fractures, other than minor fractures of the nose, fingers or toes.

We approve of the effort to track injuries. We support collecting information because it can provide important data that can enable the Department to improve tactics. That is, if the Sheriff's Department, without much administrative burden, develops the ability to track its injuries, it will contribute to a more reasoned debate—supported by evidence rather than hyperbole—while allowing the Department to more accurately inform its personnel how canines fit into their choices for using force.

Additionally, while obtaining medical records may be difficult in some instances, we believe that it is feasible in the vast majority of cases. Most of the suspects on whom canine bites are applied are booked into jail, at which point they are, or should be, examined by a doctor. Thus, medical records related to the suspect would be in the possession of the Department. Once basic steps were taken to comply with patient confidentiality laws, the important information about the extent of the injuries could be culled to provide valuable information to the Unit.

Conclusion

The good work that we noted in our last review under the Canine Unit's current leadership has continued. We have been impressed with the professionalism and discipline of the current Unit. The results are trending in a very positive direction. We commend the Unit for productively collaborating and working with us—and responding to each of our recommendations in a thoughtful manner.

We would still like to see the Department make a serious effort to study racial disparities related to this type of use of force. While we appreciate the Unit's efforts to attempt to analyze the situation, it will need substantially more support from the Department's leaders to provide the resources and focus to make the effort meaningful.

We also caution that, over the twenty years that we have been analyzing and evaluating the Department's use of canines, we have seen the culture of the Unit change on many occasions—sometimes for the good and sometimes for the worse. Thus, we urge this Unit to continue to look for mechanisms—such as training rituals, use of force reviews, and data analysis—through which it can institutionalize the current, sophisticated and nuanced approach to the use of canines.

Canines, when used properly, can be an excellent tool for bringing dangerous suspects into custody in a manner that protects the safety of the officer, preserves the safety of the community, and minimizes the risk to suspects. However, as noted above, the application of canines takes substantial skill, in-depth training, and the disciplined application of that skill and training in dangerous, fast-moving conditions. Today's leaders remain responsible for ensuring that such skill and discipline is maintained long into the future so that the Department's progress in the area can be enduring.

4. Revisiting the Education-Based Discipline Program

This chapter revisits the Education-Based Discipline (“EBD”) program that we examined in our previous Semiannual Report. EBD is classroom instruction and retraining in lieu of unpaid days off for founded instances of misconduct. To explore whether any modifications to the program had been made in response to the previous report’s recommendations, we researched the LASD’s business intelligence system (the “Personnel Performance Index” or “PPI”) and discussed the future of the program with the Department’s Professional Standards Division.

Overall, the EBD program has improved. LASD employees found to have committed serious or intentional misconduct are more frequently denied EBD. Those most likely to respond to education and training, and whose misconduct is less than reckless or serious, receive EBD. Thus, discipline decisions are better tailored to the seriousness of the violation of policy and the intentionality of the officer in question. The Department also appears to be working toward significant improvements to discipline policies that adhere to the recommendations provided in the 33rd Semiannual Report.

How EBD Was Used

We collected statistical information on EBD participants from April of 2013 to mid-June of 2014 to conduct analysis. These LASD employees received EBD after the implementation of the latest edition of the policy manual, *Guidelines for Discipline*, released in February 2013. Table #1 details the six most common sustained allegations against LASD employees who received EBD during the aforementioned time period is below.

Table 2: Number of Sustained Allegations Eligible for EBD

Source: LASD

Total Sustained Allegations (April 2013-mid-June 2014)	173
Performance to Standards (3-01/050.10)	44
Obedience to Laws, Regulations, and Orders (3-01/030.10)	42
Use of Seatbelts (3-01/090.07)	23
General Behavior (3-01/030.05)	7
Use of Code 3 – Authority & Responsibility (5-09/200.25)	5
Code 3 Vehicle Operation & Tactics (5-09/200.35)	4

The most common sustained allegations are for minor infractions. These policy violations are most appropriate for the EBD option. The most frequent sustained allegations are “Performance to

Standards” and “Obedience to laws, regulations, and orders,” respectively. These allegations are typically alleged in conjunction with other policy violations. They involve a range of behavior that can broadly be described as negligence or carelessness on the part of LASD personnel. There were 23 traffic collisions in which an LASD employee was not wearing a seatbelt—a large number for the little over a year we studied. In other cases where EBD was imposed, there were two occasions where there was an erroneous release of jail inmates, an over-detention of one inmate, an instance of leaving an inmate in a transport bus for over three hours, and one instance of holding inmates of the opposite sex in the same room, leading to a sexual assault. Except for this last instance—which seemed too serious a matter for EBD—the use of EBD was within the range of reasonableness.

During the aforementioned range of time that we observed, EBD was not used in cases of serious misconduct: unreasonable force, failure to report force, false statements, and failure to make statements and/or making false statements during a Department internal investigation. We did find one employee who was permitted to participate in EBD after being found of putting “false information in record.” As we did in the 33rd Semiannual Report, we recommend here again that this violation be ineligible for EBD.

Additionally, we believe that the Department should impose unpaid suspensions when there are multiple violations implicated in the underlying incident—particularly when they involve injury to inmates or suspects on the street.

EBD v. Suspensions Without Pay

During the surveyed period from April 2013 through June 2014, 93 LASD employees with founded allegations were granted EBD while 65 were required to take unpaid suspensions. Employees with unpaid suspensions had a higher average number of policy violations per incident and were assigned more suspension days. LASD employees who were granted the EBD option had, on average, 1.86 violations per disciplinary action, while those who were required to serve the suspensions had nearly double the number of allegations with 2.78 founded allegations on average.

Further, those employees who served their suspensions were assigned 6.23 suspension days, on average, while those who were allowed EBD only had 3.34 suspension days on record. Longer suspension periods, and more individual policy violations per disciplinary action, suggest that the LASD employee engaged in more grievous misbehavior. Therefore, we conclude that more serious policy violations were, on average, given “hard” suspensions as opposed to being allowed to take EBD coursework.

Evaluating the cases themselves, it appears that employees who appeared careless in their duties were assigned EBD classes to correct their behavior, while those who appeared to act out of policy intentionally or recklessly were given the more stringent discipline of “hard” suspension days.

Among the 65 individuals who were assigned to serve suspensions without pay, there were 14 charges of “Conduct Towards Others,” and “Professional Conduct.”

After reviewing details of these cases, we found instances of LASD employees making tacit threats to citizens, making unsolicited negative comments, and being discourteous to an immediate supervisor. Here are examples:

- An LASD Deputy was alleged to have said that she and her Department “Buddies” would “do something” to an individual who repeatedly honked at her patrol car.
- An employee at a medical center stated that a LASD Deputy was “rude” and “demanding” when attempting to admit a patient into the facility. It was alleged that the Deputy stated that he will “remember this the next time [the complainant] need[s] police help.”
- Within one month, an LASD employee displayed “rude” and “unprofessional” behavior to a Sergeant regarding “parking conditions” at the station.

We also discovered that the serious founded allegations of “sexual harassment,” “unreasonable force,” and “family violence” (domestic abuse in this case) were all assigned significant unpaid suspensions without EBD. The use of “hard” suspension days as discipline for these more serious and troubling policy violations is an unmistakable improvement to EBD since we last examined the program in our previous Semiannual Report.

Table 3: Assigned EBD Suspension Days vs. “Hard” Suspension Days

Source: SPD

	Assigned “EBD”	“Hard” Suspensions”
Total LASD Employees to Receive Discipline	93	65
Total “Founded” Allegations	173	181
Total Suspension Days Assigned	311	405
Average Number of Allegations	1.86	2.78
Average Number of Suspension Days Assigned	3.34	6.23

New Policy and Guidelines Manual

During our reexamination of the Education-Based Discipline program at LASD, we learned that a new edition of the manual on discipline, *Guidelines to Discipline*, has been written and will be implemented in the near future. In an interview with Lt. Reinhardt Schuerger Jr. of LASD’s

Professional Standards Division, it appears that many of the recommendations in our **33rd Semiannual Report** will soon be formally adopted by the Department. The purposed policy changes include:

- Founded allegations of Sexual Harassment and Retaliation will disqualify an employee from the EBD Program.
- EBD shall be offered for days 1-5 of suspension assigned to an employee. The unit commander with the approval of their Division Chief may also grant EBD to employees who received 6-15 suspension days. No EBD will be utilized for suspensions that range from 16-30 days.
- The Department has reviewed the Denver Police Department discipline matrix and is considering a similar model for LASD.
- Currently, the guidelines state that EBD may not be an option unless the grievance results in a change of the factual findings of the investigation, or if there is a reduction in the suspension days, or if the unit commander/chief considers that to be a viable option. The Department may remove the option for unit commander/chiefs to consider EBD a viable option for employees if they have grieved and no change in the discipline has resulted.
- Employees who have violated Department policy in a fashion similar to a previous sustained allegation may not be allowed the EBD option. Prior policy violations will have a stronger influence among the mitigating and aggravating circumstances that determine if an employee should be allowed EBD classes in lieu of unpaid suspension days.

Overall, the new *Guidelines for Discipline* manual will have clearer charts and more explicit language that will be easier to understand. The new draft has been presented to the Association for Los Angeles Deputy Sheriffs (“ALADS”). New ALADS members have been assigned leadership positions within the union and are currently meeting with members of the Department’s Professional Standards Division to finalize the new edition. Upon approval, the manual will then be implemented for discipline actions across the entire Department. We very much hope that the new edition of the manual delivers on what Lt. Schuerger reported to PARC.

Review of Discipline Going Forward

The PPI is more than simply a stagnant repository for unanalyzed data that the Department is required to collect. Rather, it is a dynamic database that can identify problematic trends and reveal pathways to minimize future risk. After our analysis of trends of the EBD program with the PPI, we made a series of recommendations that are currently being implemented into the discipline system. We are very encouraged the LASD has taken our recommendations for the EBD program seriously. Nevertheless, the Department must more proactively and affirmatively use the PPI continually to evaluate and refine its discipline system.

The evaluation and refinement of the system also should include interviewing LASD personnel of all ranks to examine the impact of discipline. For example, if a primary goal of discipline is to improve behavior, the Department should have a good handle on whether EBD or unpaid suspensions are working to change specific behavior. If not, the Department should be prepared to shift its policies to locate the best structure possible that will enable LASD personnel to succeed.

SPD has been engaged in ongoing efforts to implement systems—both an interim, stopgap database system, called IAPro, and a permanent, comprehensive business intelligence system—that can capture, review, and officer and departmental performance data.

Appendix A

The Special Counsel's reports on the LASD's Century Station is one of the best examples of the contribution a police auditor can make in terms of investigating a problem, making recommendations for change, and then revisiting the issue to assess whether the recommendations were implemented

At the time of the initial investigation, the Century Station was a troubled precinct in the LASD. The area, in impoverished South Central Los Angeles, was marked by high levels of violent crime, and a very high number of officer-involved shooting compared with other LASD stations (3 times as many as any other station in 1995 and 1996).

The Special Counsel's 1998 report concluded that the high number of officer-involved shootings was not the result of a few bad officers or an inevitable product of the high-crime rate in the neighborhood. Instead, the shooting problem was more the result of serious management deficiencies that could be corrected. The problems included the concentration of young and inexperienced officers assigned to the station; the youth and inexperience of many sergeants; and a ratio of sergeants to officers of 1 to 20 or even 25, which far exceeded the LASD's own recommended standard of 1 to 8. The LASD also imposed a very heavy training burden on the station, with as many as 30 new officers assigned to it at any one time. At times, new officers were being trained by officers with fewer than two years of experience of their own. The station suffered from a high turnover of officers at all ranks, in part because of the bad reputation of the station and the feeling of so many officers that they would be stigmatized if they remained there too long. Finally, only a few officers spoke Spanish despite the fact that an estimated half of the community's population spoke only Spanish.

The Special Counsel's analysis of officer-involved shootings identified a number of management-related factors. They included the practice of partners splitting up during foot pursuits, with the resulting loss of communication; the number of shootings related to vehicle pursuits and foot pursuits; shootings by trainee officers; and an insufficient number of officers who would be best qualified to be Field Training Officers (FTOs).

The LASD responded to the Special Counsel's report and recommendations by assigning a new commander to the station; having lieutenants spend more time in the field, responding to serious force incidents; and having supervisors make greater

use of positive reinforcement toward officer behavior rather than punitive discipline. The result was a dramatic decline in officer-involved shootings, from 14 in 1997 to 1 in 1999 and 4 in 2000. But when the Special Counsel revisited the Century Station in 2002 it found that many of the old problems had reappeared. Officer-involved shootings returned to their old high levels, with 12 in 2001, in part because the LASD had failed to maintain many of the important reforms. "The captains and other supervisors responsible for the improvements in the Century Station," moreover, "had moved on," and their replacements did not maintain the same level of attention to shootings. Two important lessons emerge from the Century Station experience. The first is that external oversight can make a significant difference in policing, with the time, resources, and outsiders' perspective to study a problem; identify the underlying causes; and make recommendations for change

The . . . lesson is how fragile reforms can be in policing. Improvements were undermined not by evil intent but by a combination of neglect, a failure of top commanders to ensure continuity, and to a certain extent the silent operation of traditional personnel procedures. The erosion of reforms in the Century Station probably offers a general lesson for all police departments. Perhaps the most important lesson is the role the Special Counsel can play, through its institutionalized auditing function, to monitor important accountability-related reforms and ensure that they are maintained.

—Samuel E. Walker & Carol A. Archbold, *The New World of Police Accountability* 187 (2013).