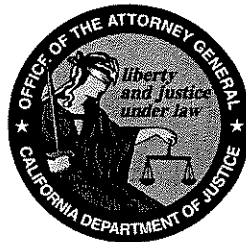


Policing in the Department of Developmental Services

A Review of the Organization and Operations

2000 - 2001

Commissioned by the
Office of the California Attorney General
Bill Lockyer
Attorney General



March 2002

Consultant Team

Loren W. DuChesne and Thomas H. Simms
Law Enforcement Consultants

EXECUTIVE SUMMARY

The California Department of Justice (DOJ) commissioned a review of the Department of Development Services (DDS) Law Enforcement Division (LED) and its functions during the summer of 2000. Independent law enforcement consultants, Loren DuChesne and Thomas Simms (Consultants) were selected to perform this review. A variety of management and operational review techniques were utilized including interviews, employee surveys, compilation and analysis of quantitative data, literature review, system and process evaluation, and surveys of stakeholder groups.

This report presents the findings and recommendations of the review.

Mission, Responsibilities and Performance

The DDS has a statutory mandate to care for clients diagnosed as developmentally disabled and, therefore, provides a variety of care services for approximately 160,000 such clients. The majority (156,000) receives services from some twenty-one community based regional centers throughout California. The most acute cases of developmentally disabled clients, some 4,000 individuals, however, are housed and cared for within seven State Development Centers (DCs) directly operated by the DDS. As part of this operation, the DDS maintains its own law enforcement personnel.

Law Enforcement Division personnel, both uniformed peace officers and special investigators, are employed at the DCs to keep the peace, prevent crime, investigate offenses occurring on the grounds and protect clients, employees, visitors, and state property. In the past two decades, their duties and responsibilities have evolved markedly, and now closely resemble the general law enforcement duties performed by municipal, county and university campus law enforcement. However, due to the clientele, LED personnel have a working environment much different from that of other law enforcement agencies and as such, require special training and skills to effectively perform their duties.

During the course of this review, the Consultants found a profound lack of written policies and procedures within the LED. As a direct result, law

enforcement practices and performance objectives varied from one DC to another. Additionally, due to the absence of consistent performance data, performance measurements were unreliable and difficult to evaluate.

Because the LED is not competitive with other law enforcement agencies, the recruitment and retention of well-qualified personnel are critical factors that affect its performance. The turnover rate within the division, most notably special investigators, is inordinately high, resulting in a constant drain of trained resources. Therefore, a concentrated effort must be made to curtail further attrition of trained personnel.

Organizational Structure and Resource Allocation

Due to the ever-increasing specialized protective services required by its clientele, the Consultants concluded there is no viable substitute for the Law Enforcement Division. Thus, the DDS should continue to maintain its own law enforcement professionals.

However, the division, as presently structured, does not have a functional chain of command. It also lacks unity of command, or one executive manager who has overall responsibility for the operation of the Law Enforcement Division. In addition, its operation is not supported by a sufficient number of adequately trained supervisory personnel and lacks consistent policies and strategies for appropriating and allocating human resources. Given these findings, the Consultants recommend that the LED develop and implement a new organization plan, a plan that addresses these issues and all other critical elements required improving its efficiency and effectiveness.

Operational Procedures

There are numerous procedures found within the DDS that directly or indirectly impact the efficiency and/or effectiveness of the LED. The Consultants not only found significant differences in the way these procedures were handled, but that some of them had an adverse impact on the law enforcement operation.

While LED personnel are receiving the required basic entry-level training, the process of continuing professional training has not been addressed. There is a definite need for a central training unit that will (1) design a program that offers courses and curriculum relevant to law enforcement

within the clinical environment; (2) determine number of training hours required each year; (3) have oversight responsibilities; and (4) manage a training budget.

The roles, duties, and responsibilities of LED personnel are not clearly defined; a factor that often leads to conflict with clinical staff that has a detrimental affect on certain law enforcement processes.

The process of reporting incidents requiring law enforcement attention varies. Standard and uniform procedures for communicating such incidents to the LED will eliminate inconsistencies and lead to timely responses by its personnel. The Consultants suggest the LED interact more frequently with outside law enforcement agencies and implement a policy of reporting designated incidents to these agencies.

The Consultants also found the majority of LED personnel lack the training, experience and proper equipment to competently preserve and collect crime scene evidence. While there is a critical need to train personnel, there should also be pre-arranged agreements with outside agencies to take over the evidence processing upon request.

Case management practices need to be improved by implementing such standard procedures as supervisory pre-assignment review, ongoing progress reviews and case-assignment priority assessment. Furthermore, there must be policies and procedures for identifying and handling cases that have the potential for conflict of interest.

People and Culture

A questionnaire was distributed to each LED peace officer to survey their sentiments and perceptions regarding the work environment. The responses included comments about perceived issues that negatively impact job performance and hinder law enforcement operations. The Consultants subsequently interviewed a number of these officers and were able to discuss their responses in greater detail.

Systems, Equipment and Facilities

The Consultants evaluated basic systems and resources including safety equipment that is commonly required for any successful law enforcement operation. Their findings included the following.

The existing radio communications systems are substandard and do not allow for direct communication with local law enforcement agencies or emergency units. The access to information from the California Law Enforcement Telecommunications System (CLETS) is inadequate. Some facilities have insufficient space and are inadequately equipped. The safety equipment is not standard and in some cases, not provided by the DC. At the present time, LED peace officers are not authorized to carry firearms, which limits their ability to adequately perform all required duties.

SUMMARY OF RECOMMENDATIONS

Chapter 3 - Mission, Personnel, Responsibilities, and Performance

1. The Law Enforcement Division should pursue all available means to attract and recruit the highest qualified employees and to retain its trained incumbent personnel.
2. The Law Enforcement Division should prepare a mission statement and define both its short-term (one-year) and long-term (three years) goals.
3. The Law Enforcement Division should complete a policy and procedure manual.
4. A system to measure performance, which provides timely and usable information in direct support of the LED organizational goals, should be developed and implemented.
5. The number of Senior Special Investigators assigned to the developmental centers should be increased, their role and responsibilities should be expanded and the current openings should be filled.

current?
 part
by archival?

3-2-73

1-1-73

Chapter 4 - Organizational Structure and Resource Allocation

6. The DDS should create an executive management position that is vested with the responsibility and authority to manage the Law Enforcement Division, and then recruit and hire a highly qualified and experienced law enforcement candidate as that executive.
7. The Law Enforcement Division should develop and implement a new organization plan.
8. As part of the reorganization, should immediately move to resolve intra-organizational conflicts in the Law Enforcement Division.

? reorganizational
structure?

9. The Law Enforcement Division should develop specific criteria for determining its human resource needs and allocating its personnel.
10. The DDS should move swiftly and decisively to reorganize and change operational processes within the Law Enforcement Division.

Chapter 5 - Operational Procedures

11. *training program*
The Law Enforcement Division should institute a training program with relevant specialized courses so its personnel can increase job proficiency.
12. The role and authority level of Law Enforcement Division personnel should be explicitly defined to eliminate conflicts and inconsistent practices throughout the DDS.
13. The duties and responsibilities of uniformed peace officers should be clearly defined and standardized to maximize individual potential and productivity.
14. The DDS should standardize the process of reporting incidents to the Law Enforcement Division.
15. Policies and procedures should be established wherein local law enforcement agencies are immediately notified (as mandated in legislation enacted in 2001) about certain crimes and incidents occurring at DDS centers.
16. *Death review*
The DDS should establish a joint agency committee within the jurisdiction of each DC to review all DDS death investigations.
17. The DDS should develop and use standard criteria to determine which cases are referred to local prosecutors for review.
18. Law Enforcement Division personnel should be trained and equipped with proper supplies and resources to adequately preserve and collect forensic crime scene evidence.
19. Before cases are assigned to special investigators, they should be reviewed and prioritized based upon system wide standardized criteria.

20. The Law Enforcement Division should consider contracting with outside vendors to perform pre-hire background investigations.
21. Conflict of interest cases should be defined and identified by applying agency wide criteria, and assigned out for investigation.
22. The current practice of merging criminal and administrative investigations that involve the same circumstance and employee should be modified.
23. The DDS should develop and implement a formal FTO program for all newly hired Law Enforcement Division personnel.

*Some of the
current code*

Chapter 7 - Systems, Equipment, and Facilities

24. The Law Enforcement Division radio communication systems should be upgraded and direct access to local law enforcement's systems should be acquired. The radio dispatcher positions should be POST certified public safety dispatchers.
25. The methods of accessing CLETS information should be improved and additional terminals should be installed in DC facilities.
26. The Law Enforcement Division should have a policy that standardizes safety equipment.
27. DDS should exercise their authority per the Penal Code, to provide firearms and authorize Law Enforcement Division peace officers to carry them while on duty.
28. The Law Enforcement Division should expand and improve all sub-standard facilities and co-locate uniformed officers and special investigators.

PROJECT BACKGROUND

During the spring and summer months of 2000, a number of issues and questions were raised about the ability of the DDS's law enforcement personnel to protect the clients at the state's seven developmental centers. Although these issues initially focused on allegations of specific incidents occurring at the Sonoma Center, largely promulgated by articles in the Sonoma-Index Tribune, it was ultimately determined these issues called into question the adequacy of police and investigative activities at all developmental centers.

Upon learning of this, State Senator Wesley Chesbro of the Second District and Chair, Senate Select Committee on Developmental Disabilities and Mental Health, and his staff, studied this matter and determined there were a number of areas and issues that needed review. Senator Chesbro, in his letter dated May 26, 2000, asked California Attorney General Bill Lockyer to examine these issues in a review and "make recommendations for improving the quality of police and investigative activities at the state developmental centers and for eliminating the likelihood of real or perceived conflicts of interest for state employees in conducting these activities."

In addition, on August 17, 2000, Assemblyman Dick Dickerson of the Second District wrote a follow up letter wherein he asked that Attorney General Lockyer expand the review of the issues and questions requested by Senator Chesbro to include additional areas he had identified.

During July 2000, Loren DuChesne and Thomas Simms, independent law enforcement consultants, were retained by the California Attorney General's Office to conduct the review of and make recommendations for improving the DDS law enforcement function, with a focus on examining the issues raised by both Senator Chesbro and Assemblyman Dickerson. In September 2000, the Consultants met with the Project Coordinator, Martin Ryan, Chief of the California Bureau of Investigation (CBI) and certain DOJ legal staff, and obtained approval of the plan and scope of the impending review. The Consultants were given documentation that DDS had forwarded to CBI and the review process commenced.

On September 28, 2000, Mr. Ryan wrote Cliff Allenby, Director, Department of Developmental Services and informed him of the Consultant's work assignment. He also asked Mr. Allenby to provide the

Consultants with additional documents from DDS files. During October 2000, the Consultants received the documentation and upon its review, began field visits to DDS sites.

Scope and Focus of Review

The purpose of this project was the organizational review of the LED and the study of DDS components that impact its responsibilities, functions and effectiveness. Although its scope included an in-depth assessment of the current operations and activities that traditionally affect the efficiency and effectiveness of an organization, the investigation of specific cases or complaints was outside the purview of this project.

The Consultants developed an organizational review plan that focused on the following general areas:

- Qualifications and training of DDS uniformed peace officers and special investigators;
- Investigative procedures;
- Client protection;
- Incident reporting requirements and responsibilities;
- Crime reporting and prosecution;
- Relationships with outside law enforcement agencies and stakeholders;
- Issues of perceived or actual conflicts of interest;
- Management practices in relation to the LED policies, procedures and effectiveness; and
- Organizational structure.

Methodology

The Consultants recognized that the issues and questions raised by the media and the legislators extended beyond the Sonoma Center. The Consultants also determined it was vital they sample processes and procedures on a statewide basis in order to gain a comprehensive understanding of policies, procedures, and practices from a macro-organizational perspective.

Because DDS is a large complex organization consisting of a headquarters in Sacramento and seven developmental centers spanning the State of California, the Consultants decided it was imperative to visit and survey the largest centers (a total of five) and relevant sections located at the DDS headquarters. Personnel from each locale were interviewed and documents from each respective center were collected and reviewed. In addition to DDS personnel, it was deemed equally important to survey stakeholders with close operational relationships to DDS and its services.

The stakeholders included:

- Client rights advocate organizations;
- California Union of Safety Employees (CAUSE);
- State licensing and certification evaluators;
- District Attorney representatives, DOJ personnel, and outside legal experts;
- Coroner office representatives;
- Local law enforcement agencies with jurisdiction adjacent to DDS centers; and
- Media representatives.

During the course of the project, the Consultants completed the following tasks:

- Interviewed more than 75 individuals and studied relevant documents from DDS and stakeholder organizations in six geographic locations across the state.

- Collected and reviewed over 4,000 pages of documents including policies, procedures, directives, plans, organization charts, employee classifications, training records, personnel procedures, audit reports, stakeholder reports, reporting forms, statistics, newspaper articles, correspondences, and legal statutes.
- Developed a survey questionnaire, which was completed and returned by 71% (61 of 86) of the LED peace officer staff;
- Analyzed workload statistics;
- Analyzed information systems and communication systems;
- Analyzed staffing procedures, staffing allocations, and processes for directing staff;
- Reviewed training levels in relation to workload demands;
- Reviewed facilities and equipment status;
- Analyzed workflow processes, reporting processes, accountabilities, performance measurement, and relevant organizational relationships;
- Reviewed California Commission on Peace Officer Standards and Training (POST) regulations and prior training audit reports. Met with POST consultants;
- Studied two prior reports issued by Protection and Advocacy Inc., which criticized investigations at two separate centers;
- Reviewed Advisory Report to the Legislature on the Feasibility of a Department of Public Safety;
- Prepared interim conclusions and findings and briefed DDS principals and Senator Chesbro; and
- Prepared the final report.

MISSION, PERSONNEL, RESPONSIBILITIES AND PERFORMANCE

This chapter discusses the Law Enforcement Division, its history and evolution within DDS, its mission, its statutory authority; descriptions of law enforcement positions and functions; its role within the DDS; its duties and responsibilities, its performance measurements, and how it recruits and retains its personnel. As a matter of background, a brief history of the DDS, as well as its overall mission statement is presented.

Historical Overview Department of Developmental Services

The Department of Developmental Services directly operates seven developmental centers throughout the State of California. They are as follows:

Name	County
Agnews	Santa Clara
Canyon Springs	Riverside
Fairview	Orange
Lanterman	Los Angeles
Porterville	Tulare
Sierra Vista	Yuba
Sonoma	Sonoma

The State of California has been involved in providing services for the developmentally disabled since 1885, beginning with the establishment of the Agnews Insane Asylum, now more appropriately named the Agnews Developmental Center. In 1891, the Sonoma Center was established, followed by the Lanterman, Porterville and Fairview centers, with Fairview being the newest of these centers, opened some 50 plus years ago. In recent years, Canyon Springs and Sierra Vista, two specialized and smaller centers, were established.

Since the 1972 Lanterman Developmental Disabilities Services Act became law, any client diagnosed as mentally ill, was moved to another type of state operated facility, leaving the DDS to exclusively treat clients with defined developmental disabilities.

A "developmental disability" is a condition, which originates before an individual attains age 18; continues, or can be expected to continue indefinitely; and constitutes a substantial handicap. Developmental disabilities include mental retardation, epilepsy, cerebral palsy, autism, and disabling conditions closely related to mental retardation or requiring treatment similar to that required by people with mental retardation.¹

The California Department of Developmental Services provides a variety of care services for approximately 160,000 developmentally disabled clients, has a budget of \$2.6 billion and employs more than 7,000 persons. Approximately 4,000 of the 160,000 clients are residents in one of the seven developmental centers. The seven DCs care for the most acute cases of developmentally disabled clients, some with serious behavioral, medical, and mental retardation issues and some with multiple forms of these disabilities. The other clients, some 156,000, are served by twenty-one community based, non-profit "regional centers".

The DDS is responsible for administering the earlier mentioned Lanterman Developmental Disabilities Services Act and another law entitled as the Early Intervention Services Act. Both laws ensure the coordination and provision of services and support that enable persons with developmental disabilities to lead more independent, productive and normal lives and ensure the delivery of appropriate services to infants and toddlers at risk for having developmental disabilities and their families.²

Approximately 65%, or 2,600, of the 4,000 clients residing at the developmental centers were placed there by a court commitment and will remain there as long as they continue to fit their commitment profile. A court, as required by statute, periodically reviews their status. A small number of these clients, referred to as "forsenics", were allegedly involved in serious or violent crimes. "Forensic" clients, are usually higher functioning, have serious behavioral issues, and are sent to the Porterville Center, the most secure of the seven centers.

¹ Department of Developmental Services, *Fact Book, Third Edition*, Preface Page.

² IBID.

DDS Mission

The DDS has outlined its mission, its goals and strategies in its 2001 - 2006 Strategic Plan. This plan contains the following overall mission statement for the organization.

The Department of Developmental Services provides leadership and direction to ensure that individuals with developmental disabilities have the opportunity to make choices about their own lives, receive needed services and supports, are safe and healthy, and have a high quality of life.³

Additionally, each of the seven DCs has augmented this statement by developing a separate mission or vision statement, which addresses the quality of care issues affecting its respective clients.

DDS Law Enforcement

Beginning with the advent of California's mental health centers in the late 1800's, there was some form of protective or police services included in the system. Initially, there was no full time law enforcement personnel at any facility. Early legal statutes, however, gave peace officer authority to the hospital administrator and enabled that individual to appoint part-time peace officers from the ranks of hospital employees, but with no extra compensation. In those days, such part-time peace officer duties were most likely relegated to actions of searching for and retrieving escaped patients, security of the grounds, and occasionally quelling disturbances at the facility.

Statutory Authorities

Over the years, a number of statutes were enacted that provided the basis for the evolution of the DDS police services up to the current times.

These statutes and how they have affected the police service functions are as follows:

³ Department of Developmental Services, *Strategic Plan, 2000-2005*, page 1.

Welfare & Institution (W&I) Code 4491

The hospital administrator shall be responsible for preserving the peace in the hospital buildings and grounds and may arrest or cause the arrest and appearance before the nearest magistrate for examination, of all persons who attempt to commit or have committed a public offense thereon.

- This statute is the foundation for the current law enforcement structure and the command and control functions at the developmental centers. The DDS has deemed the peace officer authority addressed in W&I 4491 rests with the present day Administrative Services Director (ASD) position, therefore, DC law enforcement personnel report to the ASDs.
- The Canyon Springs and Sierra Vista Developmental Centers are, however, the exceptions. The law enforcement personnel at these centers report to the Business Manager, an employee who acts as the combined Administrative Service Director and Executive Director. However, like the Administrative Services Director position, DDS has determined that peace officer authority also rests with the Business Manager position.
- Although both the Administrative Services Director and Business Manager positions are deemed vested with peace officer authority, the DDS has not followed the training and selection requirements mandated by state law and POST. For example, the individuals presently in these positions have not been subject to background investigations, medical and psychological examinations, and appropriate peace officer training.

Welfare & Institution Code 4493

The hospital administrator of each state hospital may designate, in writing, as a police officer, one or more of the bona fide employees of the hospital. The hospital administrator and each such police officer have the powers and authority conferred by law upon peace officers listed in Section 830.38 of the Penal Code. Such police officers shall receive no compensation as such and the additional duties arising therefrom shall become a part of the duties of their regular positions. When and as directed by the hospital administrator, such police officers shall enforce

the rules and regulations of the hospital, preserve peace and order on the premises thereof, and protect and preserve the property of the state.

- This statute gave the hospital administrator authority to appoint hospital employees as peace officers. As previously noted, there was no compensation for these extra duties, nor was law enforcement training provided.

California Penal Code 830.38

The officers of a state hospital under jurisdiction of the State Department of Mental Health or the State Department of Developmental Services appointed pursuant to Section 4313 or 4493 of the Welfare and Institutions Code, are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to PC836 as to any public offense with respect to which there is immediate danger to person or property, or the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code provided that the primary duty of the peace officers shall be the enforcement of law as set forth in Sections 4311, 4313, 4491, and 4493 of the Welfare and Institutions Code. Those peace officers may carry firearms only if authorized and under terms and conditions specified by their employing agency

- Provides statutory authority for regular DDS peace officers.

California Penal Code 830.3

*The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. These peace officers may carry firearms only if authorized and under the terms and conditions specified by their employing agencies...**(h)** All investigators of the State Departments of Health Services, Social Services, Mental Health, **Developmental Service**, and Alcohol and Drug Programs, the Department of Toxic Substance Control, the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of these peace officers shall be the enforcement of the laws relating to the duties of his or her department or*

office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement system shall not carry firearms.

- Provides statutory authority for DDS special investigators.

Finding 1

The LED has evolved from a part time function to a specific law enforcement function requiring general law enforcement duties and specialized training and expertise.

CURRENT DDS LAW ENFORCEMENT POSITIONS

Peace Officer I & II Developmental Center

The peace officer positions and the corresponding responsibilities and duties have been refined and enhanced to closely resemble those of a municipal police officer, a deputy sheriff, or a university campus police officer employed in today's law enforcement community.

Early on, they were called Hospital Peace Officers and functioned much like hospital security officers. A minimum of 40 hours of entry level training was required, followed by little or no in-service continuing professional training. In 1994, the Hospital Peace Officer position was upgraded to the current Peace Officer I & II series, with a revised and enhanced job description providing for the performance of general law enforcement duties on the DC's grounds.

In 1996, the Peace Officer I & II positions were certified under POST regulations. Therefore, each new peace officer is required to have a Basic Training Certificate (a minimum of 18 weeks training) and successfully attain a POST Basic Certificate after one year of successful probationary service. A minimum of 24 hours of continued professional training every two years is also mandated by POST. Those employed prior to 1996 were "grand fathered" into the POST program, and now constitute a decreasing minority.

The two levels of police officers are as follows:

Peace Officer I

- Entry and journeyman level uniformed police officer assigned to a DC.
- First responder and reporter of law enforcement incidents within DDS jurisdictions.
- Reports to Peace Officer II.

Peace Officer II

- First level supervisor of uniformed police officers.
- Serves as “Chief of Peace Officers” and reports directly to the DC’s Administrative Services Director or Business Manager. (The Department of Personnel Administration specifications for Peace Officer II make no reference to the term “Chief of Peace Officers”). It is further noted that in the Porterville DC, the Peace Officer II’s reflect the rank of Sergeant.

Special Investigator Classification Series

In 1995, the Special Investigator classification series was established. In 1996, the investigator classification became POST certified i.e. investigators must either possess a POST Basic Training Certificate, or attain a POST Specialized Investigator Training Certificate (16 weeks of training) within the first year of employment.

The four levels of investigators are as follows:

Special Investigator I

- Entry-level position.
- Journeyman investigator working cases as assigned.
- May report to a Supervising Special Investigator I or an Administrative Services Director subject to assignment location.

Senior Special Investigator

- Experienced investigator responsible for conducting the most difficult and complex investigations.
- Acts as lead investigator, providing guidance to others.
- Non-supervisory position.
- May report to a Supervising Special Investigator I or an Administrative Services Director subject to assignment location.

Supervising Special Investigator I

- First level supervisor for Special Investigator and Senior Special Investigator positions.
- Two positions statewide.
- Reports to a Supervising Special Investigator II located at the Headquarters Special Investigation Section.

Supervising Special Investigator II

- "Chief Investigator".
- Manages and supervises investigators assigned to the Headquarters Special Investigation Section.
- Reports to Manager, Administration Division.

Responsibilities and Organization Overview Special Investigator Classification

Due to a reorganization in April 2000, that decentralized the command and control functions for the Special Investigators classification, special investigators are assigned to either (1) one of five developmental centers or, (2) Headquarters Special Investigation Section.

The responsibilities and chain of command for these two areas differ and are as follows:

Special Investigator or Senior Special Investigator - Developmental Centers

- ✕ Reports to the center's Administrative Services Director who manages case assignments, workload priorities, and case strategy decisions.
- Responsible for criminal and administrative investigations assigned by the respective Administrative Services Director.

Special Investigator or Senior Special Investigator - Headquarters Special Investigation Section

- Reports to Supervising Special Investigator I, who is a direct report to a Supervising Special Investigator II.
- Designated duties and responsibilities include:
- Quality assurance, which includes after the fact inspection of written reports and review of investigator work product;
- Training, including POST liaison, training record maintenance for peace officer personnel and indoctrination training for new hire special investigators;
- Technical assistance that provides, on a case by case basis, expertise and/or additional manpower to the developmental centers;

- Recruiting new hires, maintaining eligibility hire list for all investigator classes, and conducting POST mandated pre-hire background investigations;
- Development of and authoring policies and procedures applicable to LED functions and personnel; and producing written manuals containing these established policies and procedures; and
- Special assignments in developmental centers to supervise or assist with sensitive or potential conflict of interest cases.

Finding 2

The Consultants find merit, as an interim step, in the concept to decentralize the command and control of special investigators assigned to the DCs.

During April 2000, a decision was made to decentralize the command and control of special investigators assigned to the DCs, and to assign functional supervision of these investigators to the centers' respective Administrative Services Director.

This decision sparked concern by client rights advocates and other stakeholders, who worried that the decentralization and shift of the special investigation management authority from headquarters to local DC authority would result in a conflict of interest at the DC management level. Some client advocates opined that there would be unwillingness by Executive Directors and Administrative Services Directors to aggressively pursue abuse cases, arguing that sustaining complaints against staff would result in adverse action against the DCs under the Department of Health Services Licensing and Certification Program. As one advocate told the Consultants, "It not what they investigate that worries me, its what they don't that is the concern."

The Consultants find that the changes implemented in April 2000 were an appropriate interim step given the only other alternative i.e. leaving the existing structure in place. As a result of shifting the investigators' daily assignments and responsibilities to management personnel within the investigators' work unit, the daily operating decisions, adjustment to caseloads, and response to changing facts, is addressed in a more timely and efficient manner.

The Consultants also find there is an immediate need for more comprehensive organization changes and managerial reforms. These topics are covered in Chapter 4 of this report.

DDS Law Enforcement Mission

Finding 3

The Law Enforcement Division does not have a written mission statement.

The LED functions within the overall structure of a vast decentralized social services agency. It is currently struggling to understand its role, authority level, responsibilities and mission within the larger context of the DDS. It appears the division is often perceived as a “step child”, not to be embraced but to be tolerated. This perception is unhealthy and stymies the morale and the professional growth of its employees. It also results in a profound weakness in this segment of the organization.

As noted in Chapter 3, the DDS has a Strategic Plan that outlines its mission, goals and strategies, which has been augmented by a separate mission or vision statements by the DCs. The LED, however, has never prepared a written mission or vision statement and as a direct result, no one in the DDS has a clear established understanding of its full purpose and direction.

Law Enforcement Division Mission Statement

The Consultants conclude it would be a beneficial process for the Law Enforcement Division to outline its mission in a written statement. This exercise should result in a well-defined understanding of purpose and direction and how the division should operate within the DDS system and structure. This statement should also address the needs and requirements of its customer base, which includes the clinical staff, the clients, the family members, and the visitors to the campuses. Such a statement would be a productive initial step in attenuating many of the conflicts and frustrations expressed by LED personnel and clinical staff alike.

A mission statement could include the following:

The mission of the Department of Developmental Service Law Enforcement Division is to use resources of the Department of Developmental Services, and all available outside law enforcement assistance to protect the life and property of clients, employees and visitors at all DDS facilities. LED personnel will strive to enhance the quality of life, safety, and self-esteem of clients while protecting the property and financial interests of the State of California. Its staff will seek to serve the public interest in an efficient and professional manner.

Goals

After establishing its mission, the LED should define its short-term (within one year) goals, and its long-term (within three years) goals. While defining goals beyond one year may seem ambitious, the process should be helpful in determining baselines for measuring performance.

Given that organizations need established goals, and that goal setting is an essential component of organizational management, the ongoing process of setting goals will ultimately provide the direction and basis for future changes within the LED.

Performance Measurement

Measuring the effectiveness of a public law enforcement unit or division is an inexact science. Because the LED personnel police and investigate incidents within the confines of restricted public clinical treatment facilities, measuring effectiveness is even more challenging.

In general terms, LED responsibilities include the following:

- Enhancing the safety and quality of life for its clients;
- Protecting the state's property and interests;
- Protecting the life and property of the DCs employees and visitors; and

- Reporting incidents of crime and other incidents, and following up on reports of crime and/or abusive conduct by staff and members of the public.

Finding 4

The duties and responsibilities of uniformed peace officers vary from one DC to another, a factor that contributes to vague and inconsistent performance objectives.

Uniformed peace officers are the equivalent of city or university campus patrol officers. They patrol the DC campuses, monitor vehicular and pedestrian traffic, and respond to calls for service inside and outside the residential units. While on patrol, they observe the activities of employees, visitors, and residents, and in doing so, suppress crime. They are the first responders and the report takers for all reported incidents.

Typically, LED uniformed peace officers perform the following duties:

- Investigate minor traffic accidents and call the CHP to handle serious or injury accidents;
- Investigate thefts, disturbances, suspicious persons and trespassing;
- Respond to medical assistance and missing client reports;
- Stop cars containing suspicious persons or persons suspected of driving under the influence; and those fleeing from a crime on or adjacent to a DC campus;
- Serve legal documents and enforce restraining orders on the DC grounds;
- Detain and arrest suspected offenders for committing crimes on DC grounds, then transport subjects to external custodial facilities; and
- Respond in a capable and prepared manner, like their counter-parts in municipal law enforcement agencies, to hazardous and/or emergency events.

While developmental centers are residential communities for a protected class of clients, in many aspects, the peace officers face many of the same challenges found in local communities. This is clearly confirmed by the following:

- Several centers have retail stores and credit unions on the grounds. At one location, armed suspects reportedly have robbed the credit union on two occasions. At the Fairview campus, a disgruntled employee went on a shooting rampage and killed one employee and wounded another. The Sonoma DC has a busy county highway, with heavy traffic, running through it. Both the Lanterman and Porterville DCs have California Conservation Camps on the property.

During the review, the Consultants determined that peace officers generally understand their duties and responsibilities. However, because the Law Enforcement Division does not have a complete manual that clearly defines its policies, procedures and practices, there are system wide operational inconsistencies that obscure and hinder performance objectives.

Additionally, performance expectations and standards are not uniform throughout the system, but are determined by local DC management; and performance statistical data is not collected, consolidated and analyzed on a system wide basis, therefore, performance measurement, especially comparative evaluation, is virtually impossible.

*not reported
in the report
6/30/01*

Finding 5

The ability to adequately monitor and track the performance, effectiveness, and efficiency of special investigators is not possible given the lack of standardized statistical indicators and measurements.

Measuring the performance and effectiveness of investigators involves many of the same issues and limitations discussed in the prior section, Uniformed Peace Officer Performance. Because investigators are fairly autonomous and are involved in few work activities that are recorded and measured, their performance is often more difficult to measure and evaluate.

The Consultants found it was not possible to measure and track the performance of the special investigators, given the insufficiency of the only available performance-measuring tool that exists throughout the system,

the monthly caseload report. As detailed below, this report is deficient in both its content and format.

The report format varies from DC to DC, and no one format contains a sufficient amount of information that can be used to effectively measure performance or to make management decisions;

- The reports documented numerous cases that were dated, but did not provide sufficient information about status and progress;
- Current tracking methods did not provide sufficient information on the progress of investigations nor include a plan or strategy for completing cases;
- Cases were transferred from one investigator to another, only to be active on paper without any record of recent progress;
- There was no department wide system that prioritized cases at time of assignment; and
- There was insufficient supervisory review of case progress and investigation strategies.

Finding 6

In addition to the general public and relatives of the clients, various individuals and groups are significant stakeholders and based upon the nature of their profession or mission, have unique perspectives about the performance of the Law Enforcement Division.

In an effort to gain additional information and to broaden their perspective regarding this area, the Consultants interviewed a number of stakeholders, including state licensing and certification evaluators, representatives of client rights organizations, local law enforcement organizations, district attorney representatives, and county coroner officials.

The opinions obtained from these stakeholders are as follows:

Client Rights Advocates

In general, this group gave satisfactory marks on protection of clients and follow up work by investigators. Their primary interests continue to be sustaining the level of reported abuse cases and the timeliness of investigating these cases. Most advocates voiced concerns about the potential for conflict of interest due to the current organization structure and the lack of investigator autonomy to reach independent conclusions. Some commented that a lack of communication and feedback from staff was a problem. A representative from Protection & Advocacy, Inc., which has published two investigative reports that were critical of the DDS, expressed concerns about the capabilities of peace officers to perform at an effective level.

State Licensing and Certification Evaluators

These representatives were concerned about the diligence of clinical staff to report incidents of suspected abuse. Once reported, the inherent lack of independence by the investigators, who report to the DCs management staff, troubled these evaluators. No specific cases were cited that would give rise to concern that incident reporting is intentionally compromised.

District Attorney Representatives

Based upon the cases they see and process, this group generally gave satisfactory marks to the LED. In some jurisdictions, there are far fewer cases and less contact than in others.

County Coroner Representatives

The coroner representatives were generally satisfied with the death reporting process and apparent cooperation between their agencies. In Tulare County, several reporting and processing issues are currently being addressed.

Local Law Enforcement Agencies

This group has had little regular business contact with the DDS. This contact will increase since W&I 4427.5 requires that deaths of residents and serious injuries be reported to the local law enforcement agency.

Finding 7

Based upon the current level of staffing in the Law Enforcement Division, the recruitment and retention of well-qualified personnel is a critical issue that effects the division's performance.

On an overall basis, the Law Enforcement Division is generally not competitive with other uniformed law enforcement agencies in the areas of salary, benefits, and working conditions. As a result, recruiting and retaining highly qualified trained employees is a difficult undertaking. The DDS is a unique and specialized agency with a working environment and client profile that presents many challenges for law enforcement personnel. It is therefore very important to attract the right kind of employee, and when trained, make every effort to retain them.

During this review, which included numerous interviews with incumbent personnel, the Consultants identified various areas that should be considered as the division works to improve the recruitment process and employee retention. These include:

- Develop a program to attract a high caliber of POST Basic Academy graduates;
- Offer additional incentives and improve current working conditions in order to retain recently hired personnel, many who are dissatisfied and considering other employment opportunities;
- Institute a structure that provides career advancement and workplace mobility, including one where existing peace officers and investigators can apply for a position and transfer to another center; and
- Recruit future peace officers from the existing non-peace officer employee base, i.e. some 7,000 persons. Implement procedures to identify employees with exemplary work histories who have expressed the desire to become peace

officers, support them financially during their POST basic training academy and require a work commitment from them for a prescribed period of time upon academy graduation.

Finding 8

The turnover rate for investigators is excessive and unacceptable.

The LED has gravitated into a training ground for other state law enforcement agencies. The result is a drain on trained resources and a continuous process of recruitment and training. During a recent 36-month period, the turnover rate for special investigators approximated 100%. A total of 24 left the division and 13 of the 24 transferred to other state operated agencies. Given this, the majority of investigators on staff are inexperienced and most will likely leave before becoming experienced journeyman investigators.

Our review revealed there are vacant Senior Special Investigator positions, but that local DC management has yet to fill them. For the more experienced and competent investigators, these positions are promotion opportunities and thus incentives to remain with the DDS.

Mission, Personnel, Responsibilities, and Performance Recommendations

Recommendation 1

The Law Enforcement Division should pursue all available means to attract and recruit the highest qualified employees and to retain its trained incumbent personnel.

The Consultants find the salary structure for uniformed peace officer personnel is far below comparable positions in all geographic areas where developmental centers are located but one. In several locations, cost of living incentive pay is offered to uniformed peace officers but not to special investigators, causing disharmony between the two classifications of officers. The rationale behind this process, granting a pay incentive in one area but not others, or excluding the special investigators, appears arbitrary and should be reviewed by management.

The wide differential in compensation between the uniformed peace officer classifications and special investigator classifications is far beyond what is considered normal and desirable salary banding. Currently there is a 23% difference between the classes at the top step. The Consultants recommend a review of the current salary structures.

The Consultants recommend parity in salary and benefits with the University of California and California State University Police. DDS policing closely resembles university campus policing, and the DDS should aspire to bring the LED in line with the state university salary system.

The DDS should institute a creative recruiting program to attract and select at least a portion of its entry level uniformed peace officer candidates from within the organization and sponsor these in-house candidates through entry-level academy training. Benefits to such a program include creating improved relations with non-peace officer staff, adding more peace officer staff that have extensive knowledge and understanding of the DDS clients and their unique needs, and providing a career path for advancement including promotions into the special investigator classifications.

The reasons special investigators leave the DDS for other state agencies and employers must be identified and appropriate steps should be taken to curtail attrition.

Recommendation 2

The Law Enforcement Division should prepare a mission statement and define both its short-term (one-year) and long-term (three years) goals.

The Consultants recommend a contingency that adequately represents all LED personnel participate in this process. It will be an essential step in clearly and succinctly defining the division's purpose, role, and responsibilities within the larger context of the DDS.

Recommendation 3

The Law Enforcement Division should complete a policy and procedure manual.

The Law Enforcement Division does not have a manual that clearly defines its policies, procedures and selected protocols. As a result, procedures are not clearly defined and there is no uniform standard for performance or explicit definition of responsibilities. Thus continual confusion and ambiguities exist, and the effectiveness and perception of the division on a system wide basis are greatly diminished. The Consultants determined that due to the lack of a manual, each DC often improvised and incorporated its own law enforcement policies and procedures into the center's respective clinical policies. This practice, although well intended, only produced further inconsistencies.

The Consultants also found that, at some point, the process to develop a manual began, but was abandoned in 1997. While it appears some work resumed on it within the last year, the Consultants determined that the product falls short of what will be required.

The completion of a policy and procedure manual should be a high priority for the Law Enforcement Division and in order to expedite the process, use of an outside consultant during the initial stage of development is recommended. Such a consultant should have access to any necessary resources that benefit the process. For example, representatives from all segments of the division should provide input, a practice that has not been

effectively utilized in the past. This interaction should continue during development and approval of new policies and procedures. All updates, amendments, additions, printing and distribution responsibilities should be centralized as a function of headquarters.

Recommendation 4

A system to measure performance, which provides timely and usable information in direct support of the LED organizational goals, should be developed and implemented.

It is not possible to measure and track the performance of law enforcement personnel with any reliability and consistency because of the following:

- There are no established uniform standards or tools to monitor and measure the performance or effectiveness of personnel;
- Performance statistical data is not collected on a division wide basis; and
- There are no established processes or systems wherein data could be collected, consolidated and analyzed.

Consistent and reliable performance information is essential in developing and sustaining a successful organization. Therefore, the importance of developing and implementing such an information system cannot be over emphasized. Such information is vital so management can track the performance of individual personnel, assess progress in meeting objectives, identify areas for growth and improvement and identify areas that merit reward.

Performance measurement information should be regularly transferred to headquarters management through an automated electronic system, thereby giving managers timely information with minimum investment of staff time and maximum return in data.

Recommendation 5

The number of Senior Special Investigators assigned to the developmental centers should be increased, their role and responsibilities should be expanded and the current openings should be filled.

Although the Special Investigation Section at headquarters is routinely staffed with Senior Special Investigators, the same cannot be said about the developmental centers, where the potential of this position appears to have been overlooked. The result is too few in number are on the DC staff, their experience is under utilized, and when a position in this classification is vacated, it is not used as a means to promote another special investigator.

During the review, the Consultants found, in most cases, no discernible separation of duties and responsibilities at the DCs between Special Investigators and Senior Special Investigators. However, by job description, the latter are very experienced people who handle the most complex and difficult investigations, provide guidance to others and are lead investigators. Given this, it only seems logical and appropriate that their skills should be utilized more effectively to fill the void in leadership, training, and expertise at the DC level, even though, reportedly, due to a past labor agreement, Senior Special Investigators are not permitted to assume direct supervisory duties.

Lastly, by implementing this recommendation there will be new career advancement opportunities available for the most experienced and capable special investigators and thus, a greater incentive for them to remain employed at the DDS.

4

ORGANIZATIONAL STRUCTURE AND RESOURCE ALLOCATION

This chapter will address and evaluate the organizational structure of the Law Enforcement Division and the management system that exists and operates within this structure. Other organizational issues such as the allocation of resources to headquarters and the developmental centers, chain of command, command and control, unity of command issues, and communications will also be covered.

Finding 9

The Department of Developmental Services should continue to maintain its own law enforcement division, as there is no alternative law enforcement agency that would be a viable substitute.

During the course of this review, the Consultants addressed a number of questions that surfaced about the Law Enforcement Division and its viability and usefulness within the DDS. For example, should DDS have a law enforcement division and function under its province; should DDS revert back to employing only hospital security officers; should DDS contract with local jurisdictions for uniformed police protection and services; should DDS contract with another state agency for investigative services and if so, who.

Following their research of these questions and other issues, the Consultants ultimately determined there was not a viable substitute for the Law Enforcement Division. An overview of the factors leading to this conclusion is presented below.

Because the DDS is a complex and uniquely specialized service organization, its law enforcement function has evolved into its current structure due to the ever-increasing specialized protective services required by the clientele; this is the most compelling case for employing and continuing to employ in-house law enforcement professionals. The incumbent personnel, as a result of frequent contact with the clients and clinical staff, already possess the training, knowledge and experience to administer these specialized protective services, as opposed to other law enforcement agencies with personnel that have never operated inside a clinical setting, much less a clinical setting comparable to that in the

developmental centers. The Consultants also found that the LED peace officers react to the clients they protect and serve with an extremely high degree of sensitivity and empathy, very vital traits in their working environment.

Even if the DDS could find an agency jurisdiction that would be willing to assume some or all law enforcement obligations at a specific location, one can only imagine the difficulty in negotiating similar contracts and sustaining the required level of service.

In a 1988 Report to the California Legislature by the Advisory Committee on the Feasibility of a Department of Public Safety, the committee rejected the notion of combining the DDS law enforcement function and other similar operations into a combined State Department of Public Safety. The committee felt the DDS law enforcement function was highly specialized and peculiar to that department, and that nothing would be served by removing it. The committee also felt that removing the function might well have a detrimental impact on the services being delivered.⁴

By maintaining a law enforcement function within the DDS, the service will be consistent and delivered by trained professionals from within its own ranks.

Finding 10

The lack of a unified command structure is the most critical impairment to the operational success of the Law Enforcement Division.

Under the current structure, the LED is fragmented into eight semi-autonomous components i.e. Headquarters Special Investigation Section and the seven developmental centers.

⁴ Report by the Advisory Committee on the Feasibility of a Department Of Public Safety - a Report to the California State Legislature, December 1988, page five.

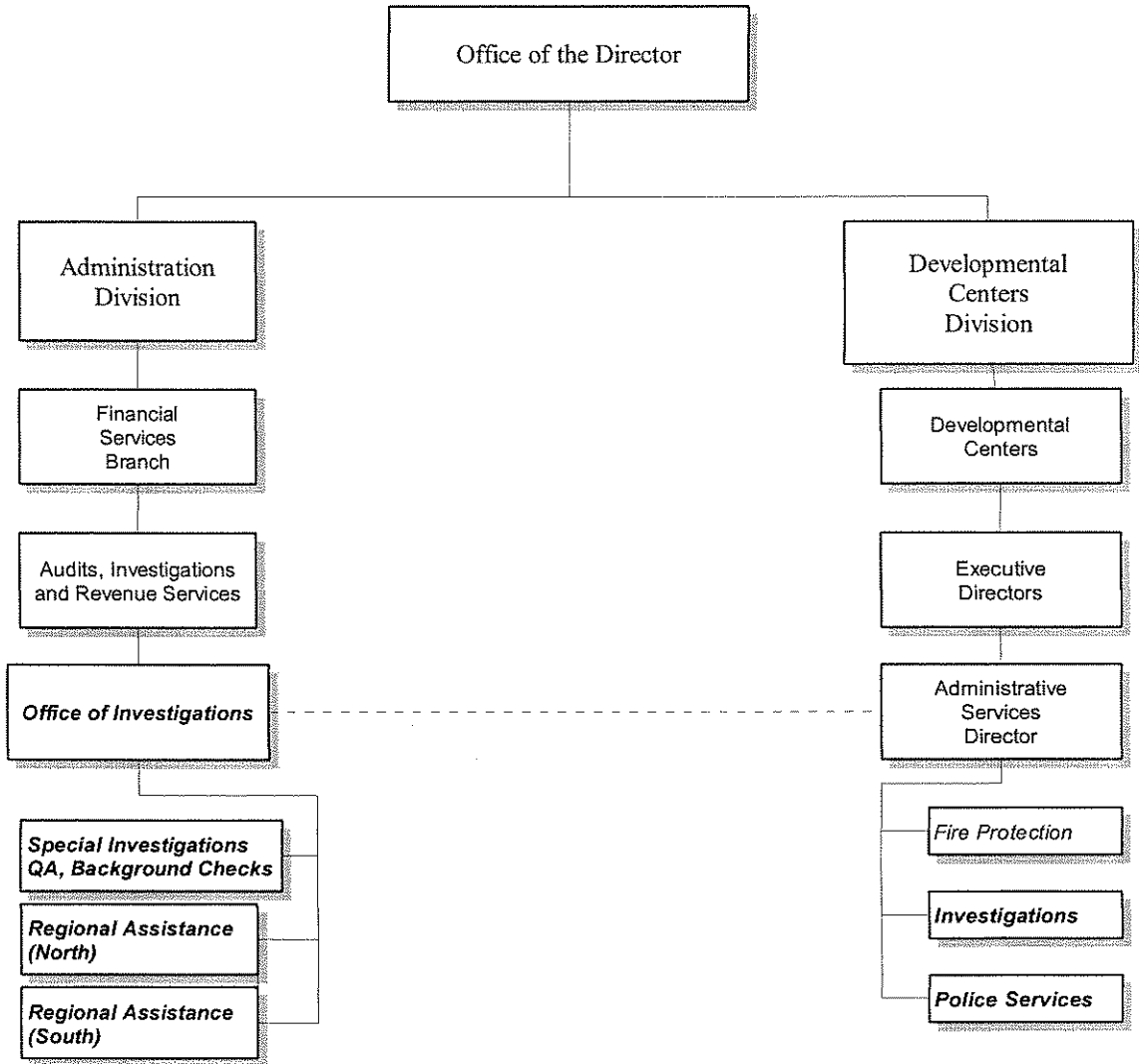
Finding 11

The current organizational structure does not provide for a functional chain of command.

The Current Plan of Organization, which became effective in April 2000, can be found on page 31 of this report. After reviewing this plan, the Consultants noted that complete unity of command does not occur below the Office of the Director due to an awkward and fragmented command structure. To establish a unified command, the organization is in dire need of an executive manager who is vested with the responsibility and authority to manage the Law Enforcement Division in its entirety.

DEPARTMENT OF DEVELOPMENTAL SERVICES LAW ENFORCEMENT ORGANIZATION

April 1, 2000



Finding 12

The deficiencies in the current organizational structure have created the following barriers that impede the operational efficiency and effectiveness of the Law Enforcement Division.

- The command and control of peace officers assigned to developmental centers is decentralized and is vested with the Administrative Services Director. This structure insulates each center's law enforcement component from all others. As a result, there are independent and inconsistent procedures and practices throughout the LED.
- Since the division lacks centralized executive manager leadership, untrained and inexperienced personnel are making independent and disparate decisions, policies, and procedures that affect the LED.
- The lack of central command and control results in conflicting and confusing directives, and inadequate oversight of work product, training, and performance standards.
- The fragmented organizational structure has led to poor communications, misunderstandings, divided loyalties, personnel conflicts and distrust, operational inefficiencies and overall loss of effectiveness.
- The turnover rate of line-level personnel is high due to lack of professional leadership and support.
- Due to the absence of a centralized command structure and uniform/consistent workload and production data, the division lacks a cohesive strategy for planning and staffing.

Finding 13

The LED has an insufficient number of adequately trained supervisory personnel to support its operations.

- The Administrative Services Directors and Business Managers are not certified by POST, a legal requirement to function as a peace officer. They are not adequately trained in law enforcement

procedures or qualified to assume the responsibility of supervising peace officer functions. Given their lack of law enforcement experience, and their many other complex responsibilities, which includes managing numerous non-clinical functions, it is unrealistic to expect they can supervise the peace officer function. For additional information, please refer to Appendix C.

- Investigators assigned to the DCs rely on the Administrative Services Directors for direct supervision and assistance. While they can request technical assistance from the Headquarters Special Investigation Section, such requests must be approved by their respective Administrative Services Director, a process that becomes cumbersome given the current sub-standard level of coordination and collaboration between headquarters and the DCs. During the course of this review, it became apparent that there should be a greater number of investigator supervisory personnel assigned to the DCs, thereby ensuring constant oversight of both personnel and their caseloads.
- Concurrent with this review project, the DDS began work to add a new supervisory position, Chief of Protective Services, a position for the five largest DCs (responsibility for two smaller DCs would be included within the confines of the five new positions). Although this position is designed to supervise the peace officer functions, the Chief of Protective Services, given the existing organizational structure, will report to the respective Administrative Services Director, which only perpetuates the unity of command and lack of qualified management issues. Although this position is a positive step toward overall improvement of peace officer supervision, the remainder of the organization should be restructured to receive any benefit from it.
- The lack of effective peace officer supervision creates operational deficiencies that impact all levels in the LED. Listed below are deficiencies identified during the review.
 - Inconsistent command and decision making processes;
 - Difficulties in setting uniform performance standards;
 - Inadequate evaluation of personnel and unit performance;
 - Insufficient and inconsistent training;
 - Impeded access to key decision makers;

- Weak oversight of caseload priorities and processing;
- Poor communication with decision makers;
- Reduced effectiveness of current supervisors;
- A perceived lack of leadership; and
- Insufficient coordination and disharmony between uniformed peace officers and the investigator classification.

Finding 14

The Law Enforcement Division does not have a coherent strategy for determining human resource needs and allocations.

The process for appropriating and allocating manpower, most notably at the DC level, is especially troublesome to the Consultants. In most instances, the appropriation and allocation of law enforcement positions are made on a discretionary basis by the DC management, without the benefit of clear and consistent department wide policy and criteria for such appropriations and allocations. As a result, there are widely disparate fiscal and allocation practices throughout the DCs.

Porterville Developmental Center

The Porterville DC is unique and, in contrast to the other six DCs, exhibits a number of exceptions in its law enforcement staffing, duties, training, and supervision. An overview of this center is presented in the following paragraphs.

During the last four years, Porterville has received large numbers of "forensic" clients due to (1) the closure of the Stockton and Camarillo State Hospitals; (2) transfers from the Napa State Hospital; and (3) new clients committed by the courts under W&I 6500 and PC 1370.1. A small contingent of clients was also transferred in from other DCs. These "forensic" clients tend to function on a higher level, present the most behavioral problems, and can be the most challenging. Of the 820 clients residing at the center, approximately 250 or 30%, are considered "forensics." The maximum "forensic" capacity at Porterville is presently established at 351, 43% of the clients in residence at this time.

Due to the unique population in residence and concerns from the neighboring populous and local politicians about escapes, a number of security adjustments have been made. Inside Porterville there is what is referred to as the “south campus”, a high security area with prison like fences and manned guard towers. This area has the appearance of a modern, high security prison facility, and is secured in similar ways. In addition, Porterville has, by far, the largest number of peace officer positions and as a result, has implemented higher levels of command and control processes.

A Director of Police and Custody Services manages Porterville’s peace officer personnel, on a day-to-day basis. This management position is classified as a Career Executive Assignment I position. As of May 2000, the law enforcement personnel at Porterville was reportedly as follows:

Position	Number
Investigator	5
Police Officer II	5
Police Officer I	35
Temporary Security Guards	50
Total	95

When the Consultants visited Porterville, there was a process under way to phase out approximately one-half of the security guard positions and to convert the remainder to Peace Officer I positions. In addition, DC management planned to add two “lieutenants” to staff as Peace Officer III positions, one to manage the high security facility and the other to manage the regular campus policing. The Director of Police and Custody Services expects to increase the staffing needs within the high security area as the “forensic” population continues to expand.

Organizational Structure and Resource Allocation Recommendations

Recommendation 6

The DDS should create an executive management position that is vested with the responsibility and authority to manage the Law Enforcement Division, and then recruit and hire a highly qualified and experienced law enforcement candidate as that executive.

It is imperative that this new position, which the Consultants call a Director of Protective Services, is staffed with an experienced law enforcement executive, preferably one with extensive management experience directing uniformed peace officer and investigation operations. This executive, a direct report to the Director of the DDS, will assume the authority and responsibility for all protective service components within the LED, thus unifying its command structure.

The Consultants recommend that DDS enter into a service agreement with the California Highway Patrol (CHP) to provide a high ranking manager from that agency to serve as the first Director of Protective Services. By doing so, DDS will have immediate access to a credible leader with experience in statewide law enforcement operations. For continuity, the Consultants recommend the first appointment be for a minimum of two years. During this time, DDS can evaluate whether to continue with the contract or to conduct an open recruitment and examination to fill the position permanently.

Recommendation 7

The Law Enforcement Division should develop and implement a new organization plan.

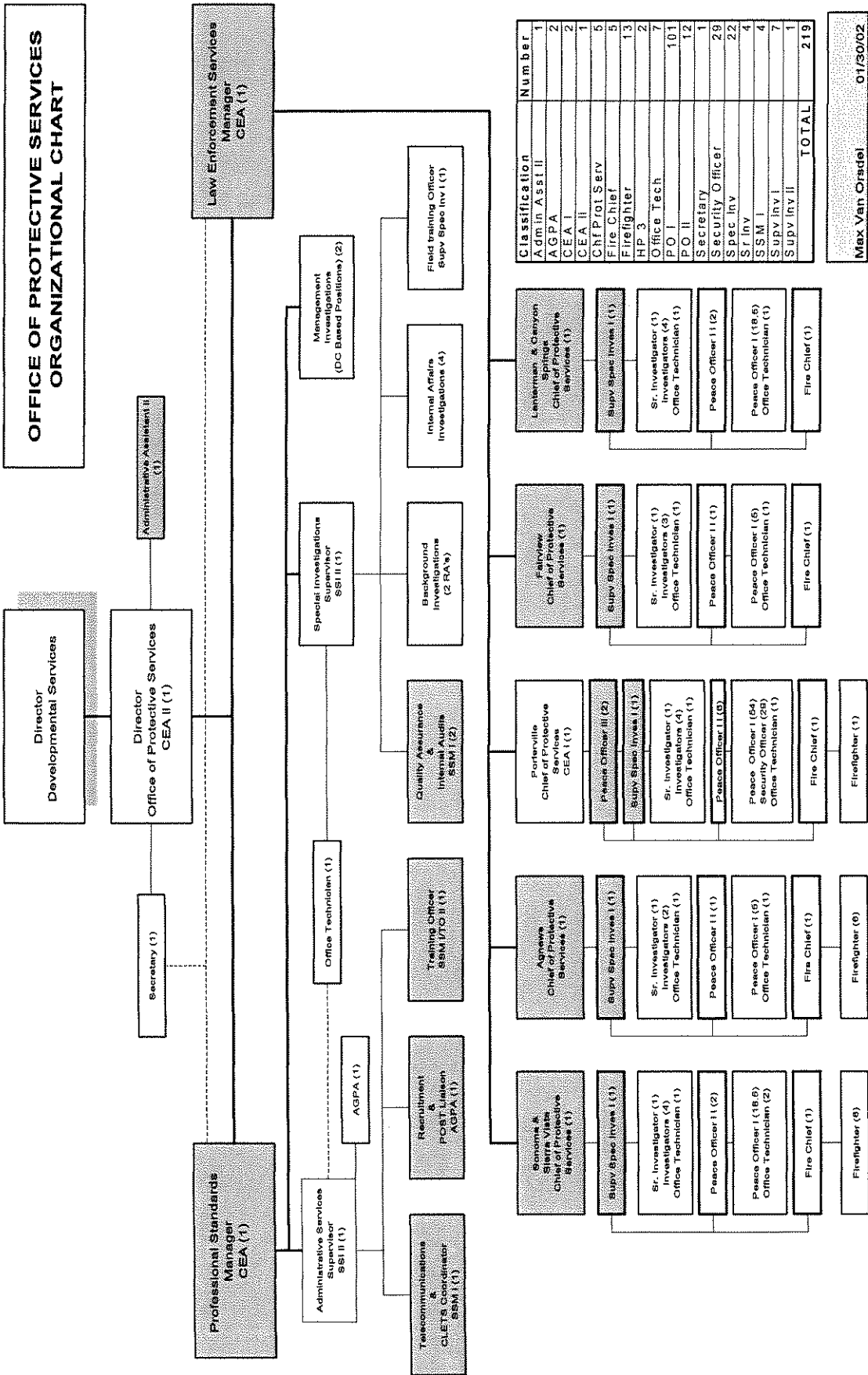
Due to the number of serious structural and operational deficiencies that impede the division's effectiveness and performance, the division should move forward as expeditiously as possible to institute a new organization plan.

When the field study portion of the review concluded in June 2001, executive staff from the DDS requested an exit interview with the Consultants so they could ask questions and be briefed on preliminary findings and recommendations. During this meeting, the executive staff advised they would like to quickly progress into reorganization of LED management, and upon receipt and review of the Consultants' final report, implement additional organizational changes.

During November 2001, the DDS hired an Interim Director of Protective Services, a highly qualified retired former Assistant Chief with the California Highway Patrol. As part of his responsibilities, this individual designed a new Law Enforcement Division organizational plan and upon completion, shared it with the Consultants. The Consultants reviewed it and recommend its implementation as soon as possible.

The proposed plan can be found on page 44. The shaded areas represent proposed new positions.

OFFICE OF PROTECTIVE SERVICES ORGANIZATIONAL CHART



Classification	Number
Admin Ass II	1
AGPA	2
CEA I	2
CEA II	1
Chief of Serv	5
Fire Chief	5
Firefighter	13
HP 3	2
Office Tech	7
P.O. I	101
P.O. II	12
Secretary	1
Security Officer	29
Spec Inv	22
Sr Inv	4
SSM I	4
Supv Inv I	7
Supv Inv II	1
TOTAL	219

Max Van Orsdel 01/30/02

DDS Proposed Organizational Plan

Although this DDS plan is basic, it appears to be very functional and can be expanded upon. It also addresses all the critical elements that should be in any professional law enforcement organizational profile. These include:

- A clear table of organization and chain of command;
- Unity of command;
- Clear lines of authority and proper span of control over all line and staff functions;
- Unobstructed lines of communication up and down the organizational chain;
- Established support and auxiliary functions;
- Recruitment and personnel functions;
- Professional standards function;
- Training and POST liaison;
- Quality control, audits, and inspections;
- Telecommunications, communications, and technical equipment; and
- Records and evidence storage and security.

The plan introduces two new job classifications and three new positions into the organization.

- Manager of Law Enforcement Services and Manager of Professional Standards; and
- Chief of Protective Services: Supervises and coordinates the law enforcement functions (peace officer and investigator) at the developmental centers. Direct reports are the Peace Officer II and the Supervising Investigator.

The Consultants support this new position, but are concerned (after examining the position minimum qualification statement and salary scale) that lesser-qualified

candidates, rather than the experienced law enforcement professionals, will be the attracted applicants. The Consultants suggest improving the salary ranges and modifying the minimum qualifications to emphasize supervisory experience rather than education. It is further recommended that rather than utilizing the title of Chief of Protective Services, that DDS utilize the title of Protective Services Commander for these positions. This is a more accurate reflection of the rank and responsibility necessary for this position.

The plan optimizes the Supervising Special Investigator positions by assigning multifunction units to their command and increases the number of Supervising Special Investigators at the developmental centers.

The Consultants support the increase in the number of supervisors at the Developmental Centers as noted in Finding 13. It is an important step to ensure ongoing oversight of personnel and their caseloads.

Recommendation 8

As part of the reorganization, immediately move to resolve intra-organizational conflicts in the Law Enforcement Division.

The Consultants found palpable levels of employee distrust and acrimony throughout the division. This was largely due to a decentralized organizational structure, which segmented the division into virtual "fiefdoms" managed by non-law enforcement personnel with differing styles. As a collateral part of the reorganization, priority should be given to resolving the conflicts, which may include engaging an outside consultant to expedite the process.

Recommendation 9

The Law Enforcement Division should develop specific criteria for determining its human resource needs and allocating its personnel.

The collection of specific performance and workload data is essential in today's environment and should be supported by electronic data collection, transmission and analysis.

Recommendation 10

The DDS should move swiftly and decisively to reorganize and change operational processes within the Law Enforcement Division.

Rather than deal with the findings and recommendations of this review in a piecemeal way, the Consultants suggest dealing with them and the impending changes as a whole through well planned and decisive actions. Although changes will produce disruption, swifter change will result in less long-term disruption.

5

OPERATIONAL PROCEDURES

This chapter covers various operational procedures the Consultants evaluated that impact the efficiency and/or effectiveness of the Law Enforcement Division.

The Consultants found significant differences in the way some operational procedures were interpreted and applied, and found the diversity largely due to the DDS management philosophy of delegating much of the authority and autonomy to the development center management.

Although many of the procedures are complex and diverse enough to be the subject of individual studies, for the purpose of this report, the Consultants limited their focus to procedures determined to be the most relevant.

Finding 15

Although the peace officers are receiving the required entry-level academy training for job qualification, their ongoing continuing professional training is insufficient.

During the course of the review, the Consultants reviewed training records, POST audit reports and met with POST consultants. While it was determined peace officers generally receive the initial training and certification as prescribed by POST; it was determined there was no structured program to increase job proficiency through specific and planned continuing professional training. The Consultants noted the following weaknesses and deficiencies in the training process:

- The LED does not have a training budget;
- There is no annual training plan that identifies and plans for essential courses;
- Headquarters does not receive sufficient information to evaluate training status;

- Peace officers usually select continuing professional training courses without regard to relevance or special need. Off site training is generally regarded as a perk or reward for the employee and is not based on professional need;
- Some Administrative Service Directors were less supportive than others of time off for LED training activities;
- The division lacks a centralized training unit with the authority and responsibility to manage a training budget and curriculum; and
- Training courses are not evaluated to gauge benefit and after action reports rating external training are not required.

Training Delay - Special Investigator New Hires

Special investigators should be equally trained and skilled in both complex criminal and administrative investigation techniques. Although it was found that “criminal investigation cases” make up less than ten percent of the casework for the special investigator and the rest are “administrative investigations”, most “administrative investigation cases”, at the initial stages, have the potential of being criminal in nature.

Special investigators come to the job with various levels of training and experience. Some have previous general law enforcement experience and are academy graduates; others are previously untrained and just beginning law enforcement careers. In the latter case, newly hired investigators must complete a 16-week basic investigator academy during the first year of employment. However, due to long delays in gaining entry into the academy, they are initially sent to a 40-hour introductory course of law enforcement training i.e. “PC 832 class”, which only qualifies the “trainee” to function as a peace officer and have arrest powers.

Specialized Training

While it was determined that uniformed peace officers and special Investigators, upon completion of the basic academy training, possess the necessary basic skills to perform as peace officers; the Consultants quickly determined the working environment within the DDS is different from other law enforcement agencies and presents many unique challenges.

Therefore, it is important the LED have a managed master training program that includes specialized courses, courses that will equip its officers with the knowledge to deal with these challenges. Examples include:

- Investigation of elder abuse;
- Investigation of abuse and neglect of the mentally disabled;
- Investigation and guidelines of sexual assault;
- Crime scene preservation and evidence collection;
- Detection and investigation of physical injuries and assault;
- Interview techniques for disabled victims/suspects/witnesses;
- Death investigation;
- Domestic violence; and
- Workplace violence.

LED Training Center

The Consultants suggest that the DDS establish a LED in-service training center where specialized courses can be taught. Since the Porterville DC employs the majority of the LED staff, has the most challenging and diverse client population, is centrally located in the state, and has the available space, it would provide a ideal site for such a training center.

Finding 16

The Law Enforcement Division's role and responsibility is not defined on a system wide basis.

Since LED personnel work within a predominantly clinical environment, they have operational conflicts with the clinical staff that frequently inhibits and obstructs their ability to perform efficiently and effectively. As such, there is a critical need for the DDS to clearly define the role of the LED personnel, so they can explicitly understand what is required of them and can be held accountable for meeting those requirements. The descriptions

must be precise rather than generic, including the kinds of tasks that are normally required.

Some of the conflicts and issues that frequently occur are as follows:

- Clinical personnel assert authority and control over potential crime scenes at the DCs, especially when clients have sustained injuries and require medical examinations or treatment. This conflict has led and will lead to compromised or mishandled physical evidence and delayed witness statements. While it is vital that injured or victim clients receive immediate medical treatment, there are ways to provide client services and concurrently allow for proper law enforcement actions;
- Clinical staff gives priority to completion of required clinical processes prior to notifying and involving LED personnel in an incident;
- Clinical staff, due to a lack of training, may unintentionally clean up, destroy, or contaminate potential crime scene evidence before law enforcement personnel have been notified or have had the opportunity to investigate and collect evidence. In some instances, clothing and trace evidence have been contaminated or lost before LED personnel have been allowed access;
- Clinical staff exercise authority and make decisions regarding physical examinations and bodily evidence collection, such as SART exams of suspected sexual assault client/victims; and
- LED personnel report there is constant confusion and conflict with clinical staff about policies on restraining and handcuffing out of control clients.

In the past, there were reports of serious failures to properly investigate and collect evidence, which produced adverse and unfortunate results.⁵ Since these reports were published, there has been little change or improvement instituted to avoid similar scenarios from reoccurring.

Finding 17

⁵ Report of An Investigation Into The Failure To Protect Residents Of California's Developmental Centers From Physical Abuse, Protection and Advocacy, Inc., August 1992, pages 3-6, 54-59, and An Investigation Into Allegations of Sexual Abuse Upon Jeanette Ann Schultz At Fairview Developmental Center, Protection and Advocacy, Inc., May 1996, pages 3-12.

The uniformed peace officer position is under utilized within the developmental centers.

As previously noted, uniformed peace officers generally understand their duties and responsibilities, but due to the autonomy of DC management and the lack of a policy and procedure manual, practices and procedures are inconsistent and vary between the DCs. For example, some DCs don't allow officers to detain "walk away" clients, while other DCs place that responsibility with the officers; others call them into residential units to assist with a violent or combative client while others do not; and some have a practice allowing the officers to use restraints on combative clients, other DCs do not.

In addition to duties varying between DCs, the Consultants also found that the scope of work activities of the uniformed peace officer were limited throughout the system, especially if a reported incident occurred inside a client residence or other facility. Throughout this review, as the Consultants interviewed and talked with the uniformed officers, they often conveyed their dissatisfaction with these limitations.

As detailed in Chapter 3, uniformed officers are POST certified peace officers capable of performing all required law enforcement duties, conducting required preliminary investigations, assisting special investigators on more difficult assignments, and performing individual follow up investigation on less complex cases. In the opinion of the Consultants, if further challenged, these officers will achieve greater job satisfaction and professional growth.

Finding 18

The process of reporting incidents to the Law Enforcement Division is not standardized.

Incident Reports

While conducting field reviews at the DCs, the Consultants reviewed the internal incident reporting process and determined that a clearly defined procedure was in place and being followed by the clinical staff. By way of definition, a reportable incident is any event that has an adverse effect on the safety, care, treatment and habitation of a client.

The distribution and review of this report, however, did differ from one DC to another. At some centers, the staff met daily to review all new reports, while at other centers they did not formally meet for this purpose. At some centers, investigators and/or LED supervisory personnel were members of the daily contingent that reviewed reports; at another, a client rights advocate also attended the meetings. At other DCs, the special investigators independently reviewed the incident reports. Depending on the location, interaction between special investigators and client rights advocates varied. The client rights advocates expressed a higher level of satisfaction and trust when regular sharing of incident report information was formally in place.

Internal Administrative Case Referrals

Internal administrative issues may be referred to special investigators by clinical management staff or referred to other clinical staff for review as "management inquiries". Some internal incidents initially referred to non-peace officer staff for investigation or inquiry may subsequently be referred to special investigators after the initial staff inquiry. Administrative complaints against peace officers are immediately referred to headquarters for investigation.

Reports Requiring Immediate Law Enforcement Attention

Incidents such as suspected physical abuse, sexual assault, client neglect, theft, injuries of unknown origin, client deaths, threat of work place violence or any other issue that is a possible violation of criminal law, should be brought to the immediate attention of the uniformed peace officers and/or special investigators.

The Consultants found, however, the notification process varies from one center to another. For example:

- Uniformed officers are called on the phone by clinical staff and respond to take a report;
- Special investigators are called directly by clinical staff;
- Special investigators are called by responding uniformed officers;
- Special investigators receive copies of staff incident reports and read about an incident that may or may not require follow-up. The special investigator may have some previous

knowledge or involvement in the incident, or may only have the information in the incident report;

- Special investigators may be part of an incident review team that routinely meets and discusses all reports not previously reviewed; and
- Special investigators may regularly meet with or receive specific questions about reports from a client rights advocate.

All of the above processes could be effective, especially when applied in a prescribed procedure and with sufficient redundancy to eliminate the proverbial “falling through the crack” effect. However, once again the primary weakness is each DC follows its own independent procedure, which is largely based on the inclination of DC management and the independent discretion exercised by clinical staff.

In the Consultants’ opinion, standard and uniform procedures for communicating law enforcement matters to the LED should be adopted and will ultimately lead to a more efficient and effective process.

Special Investigator On-call Policy and Response

The special investigator off duty on-call availability and response time to serious incidents is of concern to the Consultants. Special investigators are assigned off duty on-call status on a rotation basis to respond to calls from DC staff or uniformed peace officers. The criterion for off duty call outs varies and the decision whether to come to workplace immediately or wait until the next day is discretionary on the part of the investigator.

This present call out policy and response criteria deserves management review and the creation of a department wide policy. Given that some investigators reside long distances from the work place, the policy should address such issues as maximum acceptable response time, on call pay-issues, and criteria for mandatory responses.

Finding 19

The DDS does not have policies and procedures wherein local law enforcement agencies are notified of all incidents of suspected assault, client abuse or neglect, sexual assault, workplace violence, and other crimes that affect the health, safety and well being of the DDS clients and staff.

Throughout this review, the Consultants noted that the stakeholders or client advocates were concerned about the lack of independent review and oversight of specific incidents that affect the clients' safety and welfare, and the need to eliminate the potential conflict of interest that could occur within the DCs if its management chose to cover up incident(s) of abuse.

While there was no evidence of any such conflict or intentional manipulation of a criminal investigation, the Consultants agree it would be in the best interest of all parties if certain types of incidents were reported to the appropriate local law enforcement agency, thereby eliminating any suggestion or perception of impropriety. This would be in addition to the mandated reporting of suspected child abuse and elder adult abuse.

During the course of this review, a new piece of legislation was enacted requiring DDS centers to report various incidents immediately to local law enforcement agencies. In combination with the Consultants' suggestions, the reporting requirements mandated by this legislation should sufficiently mitigate the stakeholders and client advocates concerns about an independent review process.

Welfare and Institutions Code Legislation

The important new legislation, the Welfare and Institutions Code Section 4427.5, was added in 2001, and requires DDS centers immediately report all resident deaths and serious injuries of unknown origin to the appropriate local law enforcement agency that may, at its discretion, conduct an independent investigation.

Within its current policies, DDS defines a serious injury in policy #508 as such: "serious injuries" to clients as injuries involving internal organ damage or bleeding, unconsciousness, injuries requiring five or more sutures or staples, fractures, injuries involving loss or partial loss of body parts, injuries requiring surgery, injuries involving one-fourth or more of the body.

DDS Implementation - W&I 4427.5

The DDS has responded to the legislation by distributing a Directive for Implementation of Welfare and Institutions Code 4427.5, which states in part:

...Abuse Allegation:

The directive instructs, "the officer (PO) will respond to the location where the abuse is alleged to have occurred, and complete a preliminary report and take photographs where warranted. The PO or other staff at the scene will notify the facility's Special Investigator as appropriate. The investigator, in consultation with the officer and others, may conduct an investigation."

...Serious Injuries of Unknown Origin:

The directive also states that facility police officers will be called and respond in the event of serious client injuries of unknown origin. "The officer shall complete a preliminary report, and take photographs where warranted." The completed report "shall then be signed by the ASD/Bus MGR or designee. The officer shall also forward a copy of the report to the facility's office of Quality Assurance. As soon as possible after the serious injury of unknown origin has occurred, a copy of the completed report shall be forwarded to the local law enforcement agency which has jurisdiction in the area where the DC/CF is located."

...Client Death:

The procedure for responding to a client death is essentially the same as for serious injuries of unknown origin, except the officer completes a death investigation report rather than the crime/incident report.

The client death procedure directs that "each DC/CF shall establish a procedure with local emergency facilities such as community hospitals, so that those facilities shall notify the DC/CF when a client expires after admission to a community facility. Such procedures should include a protocol in which the investigator is contacted. The investigator shall contact the community facility and begin a death investigation."

This death reporting procedure will facilitate closure of a reporting gap the Consultants discovered i.e. in several counties, death cases in community health facilities were not always reported to the DDS in a timely manner.

...Reporting Felonies against Clients:

Although not included in or required by Section 4427.5, DC/CFs will also report to local law enforcement, felonies against clients where there is an alleged assailant.

...Other Directive Provisions:

The directive states that each DC/CF will establish procedures with representatives of local law enforcement for making reports to comply with the legislation.

Recommended Expanded Reporting Requirements to Outside Agencies

The Consultants suggest expanding the types of incidents reported to local law enforcement agencies to include the following:

- Incidents of suspected client abuse with any kind of visible injury;
- Incidents of suspected client neglect;
- All crimes involving clients as victims;
- All client assaults that result in injury (including client to client altercations), provided that injuries are at a level as defined in DDS policy #508;
- Work place violence threats and complaints; and
- Suspected thefts or embezzlement of personal or state property.

To achieve the maximum benefit of this reporting, the DDS should have written MOUs or protocols with local law enforcement agencies that provide the following:

- Authority for these agencies to independently review incident investigations completed by LED;
- Authority and proper process for local agencies to assist or take over a LED in progress investigation; and

- Definition of the circumstances and processes involved wherein the LED can request and receive local agency assistance.

Finding 20

The DDS should establish a joint agency committee within the jurisdiction of each DC to review all death investigations. At a minimum, the committee should include representatives from all the following groups; local coroners' office, local law enforcement agency with concurrent jurisdiction, and a member of the district attorney's office.

Whether a death is anticipated due to the serious illness of the client and occurs within an acute medical care unit or is unexpected and occurs outside a medical unit, there is the potential, in either instance, that death resulted from staff negligence or an intentional act.

Regardless of the circumstances, each and every death must be thoroughly investigated in a diligent and timely manner, and the possibility of all intentional acts, client neglect, negligent medical care, over medication and physical abuse must be completely eliminated.

Upon the death of a client, the DC staff is required to summon a uniformed peace officer to the scene. The officer is required to take photos, collect evidence, preserve the medical records, notify a special investigator, and complete a client death report.

Upon notification by the uniformed officer, the investigator makes the decision whether it is necessary to visit the death scene. While the investigator may choose to attend a client autopsy, it is a practice rarely done. Since these events are crucial elements of an investigation, the Consultants recommend that investigators routinely respond to the scene of death, attend autopsies and actively participate in decisions about evidentiary and toxicological tests.

The Consultants strongly believe that death investigations should be a high priority and conducted in an expeditious manner, although they found this was often not the case. For example, a sampling of open cases was reviewed and many were found to be older than one year, a significant number were pending medical and toxicological test results and documents from local coroner's offices.

In order to expedite the process and ensure the credibility of investigations involving the death of a client, the Consultants suggest that DDS form a committee of officials within the jurisdiction of each DC that would meet

periodically and review each death investigation, perhaps at the time the case is deemed ready for closing. Some of the derived benefits would be:

- Improved cooperation between agencies;
- More timely case processing;
- Defined policies on toxicological testing and autopsy criteria;
- Collective expertise focused on investigation procedures;
- Complete and thorough screening of case facts prior to closing; and
- Improved public confidence in the quality of investigative conclusions.

Finding 21

The cases referred to local prosecutors are not determined by use of standard criteria.

The Consultants found a lack of clear criteria for deciding which cases were referred to prosecutors for criminal complaint review and wide disparities between the DCs about what criteria to use. In general, most case referrals were determined on a discretionary basis by the assigned special investigator, although the philosophies and personal inclinations of the investigators' supervisor, who may or may not have prior law enforcement training or experience, often played a pivotal role in the decision. Although there was no evidence that cases had been inappropriately manipulated, the Consultants believe the use of concise standard criteria to determine both the number and nature of cases referred to local prosecutors, rather than personal discretion, will only increase the integrity of the process.

There is an ongoing debate between the LED personnel and many clinical executive managers regarding the diminished mental ability of clients and the related issue of prosecuting clients for acts they commit within DDS facilities. For example, the issue of client assaults on other clients or staff. Some DC managers rely on Penal Code Section 26, where the definition of persons capable of committing crimes excludes those with diminished mental capacity. By definition, DDS clients have reduced mental capabilities and as a result of individual leanings, DC managers often advocate policies, practices, and make decisions that should be made by

local prosecutors. Some elect not to refer such assault cases to special investigators, but rather handle them informally within the clinical staff.

The Consultants are of the opinion that DC managers are not trained or qualified from a legal perspective to unilaterally set policy or make decisions affecting criminal prosecutions. Therefore, local prosecutors should be involved in the process of developing the policies and standard criteria covering case referrals. The prosecutors contacted during this study expressed their agreement with this premise and offered their support.

Finding 22

The Law Enforcement Division is not adequately trained, prepared or equipped with the resources to preserve and collect crime scene evidence.

The Consultants found that the majority of LED personnel lack the training or the experience to competently process evidence at complicated crime scenes. At the present time, the collection of evidence, such as body fluids, trace evidence and other critical evidence for forensic processing, would be at great risk.

Although LED personnel rarely have the need to preserve and process major crime scenes, they regularly preserve and collect basic evidence related to more routine types of incidents. Although some officers had evidence collection kits in their police cars, it was determined the majority did not. In some instances, the officers were not equipped with such basic items as yellow crime scene tape and proper collection bags. While most DCs have the basic camera equipment, its immediate availability is often problematic. Furthermore, photography training is almost non-existent.

Because the officers could be first responders to either a routine or complex incident, it is vital they are prepared and adequately trained. In prior years, there have been incidences that generated considerable criticism because LED peace officers failed to recognize and preserve critical evidence. For additional information, please refer to footnote 5 on page 44.

The Consultants also reviewed the evidence storage process and inspected storage facilities at five DCs. With the exception of Porterville, no other center had the appropriate controls in place and/or supplies available to ensure the integrity of the process.

Lastly, the division does not have pre-planned forensic support agreements and protocols with local law enforcement agencies in the event such assistance is deemed necessary. Such agreements and procedures should be in place and detailed in the division's written policy manual.

Improved Evidence Processing

To ensure that LED peace officers have the basic capabilities to preserve and collect evidence, the following actions should be taken immediately:

- Equip peace officers with readily available supplies to preserve and collect case related evidence;
- Write policy defining the conditions and circumstances where officers will be responsible for evidence collection and retention; and when to call for alternative outside assistance;
- Provide training in basic crime scene preservation and evidence collection; and
- Establish protocols and agreements with outside agencies to provide technical assistance and crime scene processing services upon request.

Finding 23

The Law Enforcement Division does not have standardized case management procedures for monitoring, reviewing and prioritizing cases.

The LED does not have uniform procedures and established criteria to track and prioritize its open cases. As a result each DC has developed its own rudimentary method of monitoring and prioritizing its respective cases. Decisions are generally subjective and not subject to input from other than local level management.

A standardized system with clearly defined procedures for supervisory review, analysis and prioritization will ensure cases are managed and closed in a proper and expeditious manner.

Cases involving serious injuries, sexual assault, abuse, neglect, and death would logically be given a high priority status along with internal administrative investigations where employees are temporarily reassigned or placed off-duty pending the investigation outcome. Other cases can be assigned a lower priority based on their nature and potential for follow up. The least complex cases could be assigned to uniformed officers under the supervision and tutelage of a Supervising Special Investigator.

Finding 24

Pre-hire background investigations could be completed by outside contractors.

In today's environment, it is common for the law enforcement "industry" to hire an independent contractor to conduct pre-hire investigation backgrounds, an alternative the LED should explore instead of using special investigators assigned to headquarters for this task. Given their qualifications, the time investigators spend on pre-hire background investigations would be better utilized on other assignments.

Finding 25

There is an absence of agency (DDS) wide written policies that (1) define specific types of incidents or complaints as "conflict of interest cases" and (2) outline the process for referring those cases to headquarters and subsequent assignment.

A policy of this nature will eliminate the confusion and inconsistencies on a system wide basis and address the concerns of client advocates that cases could be manipulated and subject to bias by management at the local level.

Finding 26

The current practice of assigning the same special investigator to investigate both criminal and administrative implications that involves the same employee under the same set of circumstances should be reviewed.

Although the legal and procedural issues of this finding have been researched by the LED and set forth in a written document, this process is contrary to the "industry" standard, which is to conduct two separate investigations by two separate investigators. Establishment of this practice would ensure the integrity of the criminal investigation by preventing the inadvertent contamination of the criminal investigation through the use of involuntary statements acquired through administrative admonishments. Furthermore, the Consultants found the interpretation of this process varied within the investigator ranks from one DC to another.

In the past, the current practice was deemed necessary because of lack of manpower. With the new LED organizational structure and additional personnel resources, there will be an opportunity to explore other alternatives as well as more conventional procedures.

Finding 27

The LED does not have a POST approved field training officer program for all newly hired personnel.

The LED is in need of a specific and relevant field training officer program, which should be developed and approved by a headquarters based training unit.

To date, the Porterville DC is the only center (out of five main centers) that has implemented a formalized field training officer program. At the present time, its program is limited to the training of uniformed officers.

Operational Procedures Recommendations

Recommendation 11

The LED should institute a training program with relevant specialized courses so its personnel can increase job proficiency.

While all personnel within the division have received the basic entry-level training to do their jobs, the division does not have a structured training program where personnel can increase job proficiency through ongoing professional training.

Due to its clientele, the LED-working environment is much different from that of other law enforcement agencies. Therefore, the division should develop a training program with this in mind, a program that offers specialized courses and curriculum relevant to law enforcement within the clinical environment. The program should have an annual plan that mandates course material and number of training hours required. The overall training requirements, evaluation and oversight of the program should be vested with a central unit from headquarters.

Recommendation 11

The role and authority level of LED personnel should be explicitly defined to eliminate conflicts and inconsistent practices throughout the DDS.

Due to a number of factors, the role and authority level of the LED has never been clearly defined or established within the DDS. While this lack of clarity causes confusion that has led to numerous operational and procedural inconsistencies, it also clearly promotes personnel conflicts, namely conflicts between the law enforcement personnel and the clinical staff. In an effort to affix accountability and reduce these conflicts, the DDS should take immediate measures to precisely define the function, role and authority of the LED, so all personnel (clinical as well as law enforcement) understand what is required of them and what they will be held accountable for.

Recommendation 12

The duties and responsibilities of uniformed peace officers should be clearly defined and standardized to maximize individual potential and productivity.

The position of uniformed officers is under utilized within the DCs. Due to the autonomy of the DC management and lack of system wide written procedures, non-law enforcement staffs unilaterally institute policies and procedures that directly limit and restrict how the peace officer performs his or her job. The direct consequence of this is twofold, i.e. the productivity of the position, given its description, is hampered and ineffectively utilized, and the potential growth of the individual officer is automatically minimized. The uniformed peace officers are POST certified and capable of performing all required law enforcement duties including assisting special investigators with less complex tasks; they should be used in this manner.

Recommendation 13

The DDS should standardize the process of reporting incidents to the Law Enforcement Division.

The methods of reporting crimes and incidents to the LED vary from one DC to another and by type of incident. To rectify this situation, the DDS should develop and adopt standard procedures for all clinical staff to follow when reporting all incidents and suspected crimes to the LED. The result will be law enforcement personnel can respond in a timely and effective manner to the scene when called and, if deemed necessary, collect evidence and protect the integrity of a potential crime scene. Overall, the standardization of this process will provide system wide consistency, continuity and control, and eliminate the independent procedures set in place by non-law enforcement personnel.

Recommendation 14

Policies and procedures should be established wherein local law enforcement agencies are immediately notified (as mandated in legislation enacted in 2001) about certain crimes and incidents occurring at DDS centers.

This reporting requirement will automatically ensure an independent review process for certain types of incidents and mitigate, for the most part, the concerns of special interest groups about potential conflicts of interest at the DC level. There is also the added benefit that LED personnel will interact more often with local law enforcement agencies and be able to take advantage of the experience and technical assistance that comes from this interaction. Note: Existing legislation currently mandates the reporting of suspected child abuse and elder adult abuse cases to designated agencies.

Although Welfare and Institutions Code 4427.5 requires the reporting of deaths and serious injuries of unknown origin to local law enforcement, the Consultants recommend expanded reporting beyond the requirements of this legislation.

Recommendation 15

The DDS should establish a joint agency committee within the jurisdiction of each DC to review all DDS death investigations.

The Consultants found death investigations, in most instances, are not prioritized or given the attention they deserve. Investigations drag on for inordinate periods of time, often pending test results and documents from the coroner's offices. Although most deaths are expected and are due to natural causes, each one must be thoroughly investigated in an expeditious manner. The committee review process will help ensure this happens and will eliminate concerns about client care and protection.

The committees will provide the logical group settings to develop thorough and consistent protocols for investigating client deaths, including criteria for requesting post mortem exams and tests. Collectively, its members will be able to focus combined expertise on any suspicious or unusual case and ensure all aspects are covered before the case is closed. The levels of cooperation generated across lines of the participating agencies will likely result in improved and more efficient processes.

Recommendation 16

The DDS should develop and use standard criteria to determine which cases are referred to local prosecutors for review.

There is lack of established criteria and far too much discretion involved in determining which cases are referred to local prosecutors for criminal complaint review. There is also anecdotal evidence of wide disparities between DCs regarding non-specific criteria used to determine case referrals. In some DCs, its management plays a pivotal role in the decision, while in others, the assigned special investigators have the independent authority to make such a decision. Given all this, there is an overriding need to remove the subjectivity and use concise standard criteria to determine both the nature and number of cases referred to local prosecutors.

It was found that some special investigators personally visit prosecutors and discuss cases when they are ready for final review. Other special investigators, however, just forward the case file and thus miss the benefits of any personal interaction or discussion.

The Consultants strongly recommend that special investigators personally review all their cases with a prosecutor from the local district attorney's office. Prosecutors are valuable assets who, by adding their legal expertise and perspective to the process only increase the integrity of the overall case review process and any resulting decisions.

Recommendation 17

LED personnel should be trained and equipped with proper supplies and resources to adequately preserve and collect forensic crime scene evidence.

The LED has an immediate need to improve the important processes of preserving, collecting and retaining crime scene evidence. To accomplish this, personnel should be trained in basic crime scene preservation and evidence collection, and then equipped with the proper supplies to collect the relevant evidence. Concurrent with these actions, a policy and procedure should be put in place establishing crime scene processes. In addition, the evidence storage procedures, forms and facilities should be reviewed and brought into conformance with industry standards.

Written forensic agreements and protocols with local law enforcement agencies should be put in place in the event LED personnel deem their assistance necessary. The Consultants, under certain defined circumstances, recommend such assistance.

Recommendation 18

Before cases are assigned to special investigators, they should be reviewed and prioritized based upon system wide standardized criteria.

There are many criteria in the law enforcement "industry" that can be used to prioritize cases and the LED will need to identify what those criteria should be.

As a result of this process, each special investigator will be able to manage time more effectively and focus on the most sensitive and serious of cases. The time for closing a case, a major concern with clinical managers, should significantly improve.

Based on the current organization, there is an insufficient number of supervising special investigators at the DCs to implement this recommendation. As detailed in the proposed organization plan (refer to Chapter 4), this will change and each DC will have a supervising special investigator on staff whose duties will include the initial pre-assignment case reviews as well as the ongoing case progress and strategy reviews.

Recommendation 19

The LED should consider contracting with outside vendors to perform pre-hire background investigations.

Many law enforcement agencies are currently contracting out for a portion or all pre-hire background investigations, an alternative the LED should explore. An expected result of outsourcing is the more productive use of time for headquarters special investigator personnel.

Recommendation 20

Conflict of interest cases should be defined and identified by applying agency wide criteria, and assigned out for investigation.

The DDS should define certain classes of incidents and investigations as "conflict of interest cases" and write policies and procedures prescribing how such cases will be handled. In all instances, the case should be transferred to an independent source for investigation. Such possible sources include the Professional Standards Section (a new unit included in the proposed organizational plan), local law enforcement agencies not related to the case, and independent contractors.

Recommendation 21

The current practice of merging criminal and administrative investigations that involve the same circumstance and employee should be modified.

The "industry" standard calls for bifurcation of the investigation into two phases and assigning different investigative personnel to each phase. The criminal case takes precedence and the administrative case is subordinated pending completion of the criminal phase.

Given the proposed new organizational structure and the increased manpower, the LED will be in a position to address and revise this process.

Recommendation 22

The DDS should develop and implement a formal FTO program for all newly hired LED personnel.

Such a program should follow POST guidelines and can be modified to focus on the special training needs for all peace officers.

PEOPLE AND CULTURE

The beliefs, perceptions, customs and values of employees often characterize an organization's culture and from the employee's perspective, these same elements frequently define the quality of a work environment. Using this as a premise, the Consultants sought to understand and assess the culture of the Law Enforcement Division by gathering information from its employees. A survey questionnaire and personal interviews were the specific means of obtaining such information. The Consultants also received input from the California Union of Safety Employees, the labor bargaining group for LED peace officers.

At the time this review was conducted, the LED was comprised of 86 peace officers. This small contingent of peace officer employees was contrasted by 7,000 non-peace officer employees, most of which were employed in some form of clinical classification. Given the large, decentralized complex nature of the DDS organization, it was evident that peace officer personnel function was out of the organization's mainstream and focus. The management and direction of the peace officer function had been assigned to "non-law enforcement" managers within each DC and were absorbed into the clinical environment and culture of each respective facility.

Employee Survey

Prior to commencing site visits, the Consultants prepared and distributed a written questionnaire to the division's sworn peace officers that was designed to survey and sample staff sentiments, beliefs and perceptions regarding various key issues. Using this information, the Consultants directed their focus toward specific problems or areas of employee concern. The questionnaire was also a useful tool in preparing for and conducting interviews during subsequent site visits.

The questionnaire gave employees the opportunity to remain anonymous or to include their name. It also included a section wherein each respondent could request to be personally interviewed by the Consultants. Many employees included comprehensive written comments with their questionnaires, and a significant number requested to meet with the Consultants. In an effort to provide confidentiality and independence in this process, the employees were directed to forward their completed

questionnaires to a centralized collection point at the California Department of Justice where its personnel reviewed and analyzed them and then forwarded that analysis to the Consultants.

Responses

The questionnaire received a 71% response rate, with 61 out of a total of 86 questionnaires returned; a response directly indicating the high level of interest in this review.

In general, the questionnaire addressed the following areas:

- Employee morale;
- Policies and procedures;
- Reporting procedures;
- Training;
- Employee professional experience;
- Management support;
- Client protection;
- Organization structure and function;
- Human resource management; and
- Job independence and discretion.

Finding 28

The responses highlighted a number of significant issues that impact job performance and hinder operations.

- Special investigators indicated a low level of job satisfaction, with over 50% of respondents reporting they planned to leave DDS;
- Experience levels of special investigators are minimal, averaging just 1.54 years with the division;

- Communications and working relations between special investigators and uniformed police officers are strained and interfere with performance and mission;
- LED officers perceive there is 1) interference from clinical managers/supervisors, thereby creating conflict that affects job performance, and 2) insufficient autonomy and discretion to perform their duties;
- Training is generally inadequate to achieve high performance levels;
- Employees are dissatisfied and critical of the current organizational structure and the command control of their function;
- Policies and procedures are inadequate and incomplete;
- Employees are not sufficiently prepared to perform all their duties; and
- Reports of incidents are not reported or investigated as promptly as they should be.

Sample questionnaires and response summaries are included in the Appendices.

Sentiment and Recommendations of California Union of Safety Employees (CAUSE)

The Consultants reviewed the CAUSE representatives' opinions and concerns. Since its representatives communicate regularly with the LED employees in a labor representation context, they have identified various issues that contribute to defining the culture and people realities within the division.

CAUSE outlined its opinions/concerns about the LED and provided its recommendations in a letter, dated August 21, 2001, to California Attorney General Lockyer. Subsequent to this letter, a Consultant spoke with a CAUSE representative and determined that no additional issues/concerns or recommendations had been identified. The following summarizes the positions of this group:

- Objection to Peace Officer IIs at DCs being designated as "Police Chiefs" rather than first line supervisors. CAUSE expects the new position, Chief of Protective Services, will help resolve this issue, and proposes that it be a peace officer position, with the selected individual successfully completing at least a POST Basic Academy;
- Objection to LED personnel reporting to Administrative Services Directors, who they deem unqualified to manage or supervise peace officers;
- Concern about the wide salary ranges between the special investigator and the peace officer classes. CAUSE recommends realignment of salary ranges, thereby providing even and proportionate career and salary ladder steps;
- Mandatory reporting of criminal activity occurring at DCs, and increased training of staff to better recognize potential criminal acts;
- Independent review of investigations that confirm criminal acts. All decisions dealing with case evaluation for criminal-filing purposes should be exclusively in the hands of local prosecutors; and
- Need to arm peace officers with firearms when they work outside client residences or transport clients from one facility to another.

- Need to change the current DDS Peace Officer Penal Code classification to one which provides DDS with greater opportunities for recruitment and retention, and which aligns LED personnel more closely with traditional law enforcement classifications.

As detailed in other chapters of this report, the Consultants' findings and recommendations are very similar to those outlined by CAUSE. Therefore, no recommendations are included in this chapter.

Systems, Equipment, and Facilities

There are a number of resources law enforcement personnel should have to perform the most basic law enforcement tasks, irrespective of their affiliated law enforcement agency. This chapter discusses three of the most commonly required resources (communication systems, safety equipment and facilities), addresses their status in the LED and DDS, and identifies how each affects the duties of the LED personnel.

Finding 29

The radio communication systems are sub-standard.

Each DC has its own system that operates exclusively on a closed local frequency, therefore, LED personnel are on the same frequency as maintenance workers and other radio equipped employees. Since peace officers do not have an exclusive radio dispatcher, they must communicate through a shared receptionist/telephone/radio operator, who also answers phones, receives and transmits radio messages for all other DC personnel and often handles other reception and clerical duties. Overall, the system has many shortcomings and is an impediment to a safe and efficient law enforcement operation. Some examples are:

- Peace officers must compete with other staff radio traffic that can delay access to a radio operator in emergency or hazardous situations;
- Radio operators are not trained to the level required by the POST public safety dispatcher program, and thus lack the basic skills to perform at the "industry" standard to assist and protect peace officers, clients, staff, and the public in time of emergency or crisis;
- Radio operators are not trained or qualified to access the CLETS system (California Law Enforcement Telecommunications System), therefore officers in the field must drive back to the police facility and personally request or access the information. This presents an added problem during a car stop if information is needed prior to releasing the driver and vehicle. During day shift or other times when

there is more than one officer on duty, another officer or an office technician may be available to assist the officer in the field; but this process is time consuming and inefficient, and not always possible;

- Because DDS peace officers are not on a common frequency with other law enforcement agencies, all requests for back up assistance, outside agency help, or emergency responses from outside the DC facility must be relayed through the receptionist/radio operator. This process can result in dangerous delays in securing backup assistance for officers;
- The lack of direct radio communications with outside law enforcement personnel can result in potentially hazardous delays when there is a need for officers to direct outside law enforcement personnel to locations in and around a DC facility, or to coordinate a joint response; and
- The radio ranges are limited and there are “dead spots” at most DCs where radio communication is not possible. This exposes peace officers to added danger, especially uniformed officers working alone and unarmed at night.

Finding 30

LED personnel cannot easily access CLETS information.

The California Law Enforcement Telecommunications System (CLETS) is the primary source of vehicle registration and vehicle operator information for law enforcement agencies. This information is immediately available via a direct line using a terminal. At the present time, the only centers equipped with CLETS terminals are Fairview and Sonoma DCs.

During normal business hours, it is difficult for LED personnel to access the CLETS information they need. Some call Fairview or Sonoma for information, others directly call DMV in Sacramento, while others have informal arrangements with local law enforcement agencies. The latter arrangement, however, is inefficient, as most agencies will not give LED personnel this information over the phone, but require personal contact and written request forms. After regular business hours, access to CLETS becomes even more difficult and cumbersome, especially for officers working alone at facilities without terminals.

In addition to the above, there are obvious officer safety issues which arise from a lack of immediate CLETS access to such information as subject wants/warrants, criminal histories, weapons information, etc.

Finding 31

There is a lack of standard policy regarding the use of safety equipment by LED personnel.

The Consultants found the policies regarding the use of officer safety equipment were usually informal and varied from one center to another. Some examples that exhibit the variances are as follows:

- Uniformed officers carry several different makes and styles of police batons and are often untrained or unqualified with the actual weapon carried;
- Some centers provide LED personnel with body-armor vests while others do not. The centers that provide armor vests, however, do not have a policy that requires the officers to wear it;
- Uniformed officers carry different types of canisters with different types of chemical agents (either mace or pepper spray). Some centers do not provide replacement chemical agents and officers must either purchase their own or to go without it; and
- Marked police cars are not standard in exterior markings or equipment and vary in appearance and equipment from one center to another. The Consultants received complaints from various personnel that their police cars and other equipment lacked repairs.

Finding 32

The LED personnel should be authorized by DDS to carry firearms while on duty to protect clients, the public, employees and themselves.

The DC campuses are a microcosm of neighboring communities. Each has a slightly different neighboring demography, but the LED shares the same basic policing and risk factors as the neighboring outside law enforcement agencies. The DC campuses operate in an open environment without posted guards or closed gates. Each day, employees, service personnel, vendors and client family members freely travel in and out of the facilities and traverse the grounds. There are retail businesses, employee housing, and offices for support programs on the grounds. Overall, the LED officers keep the peace, deter crime and respond to policing incidents on campus in the same manner that police and sheriff personnel respond in the adjacent jurisdictions.

The Consultants found that LED peace officers share the same risks as their counterparts in outside law enforcement and perform many challenging and hazardous law enforcement duties. Consequently, the Consultants conclude that LED personnel should be issued firearms and authorized to carry them on duty as necessary tools to protect the clients, visitors, employees and themselves alike. The Director of DDS has the statutory authority to authorize this action. In the opinion of the Consultants, to do less could invite a future disaster, civil liability, and perhaps protracted litigation.

Some specific considerations that led to this finding are as follows:

- LED personnel are expected to detain individuals, make arrests, serve search warrants, and transport prisoners;
- Uniformed officers must drive on public streets in marked police cars to reach portions of their campuses or satellite facilities, and special investigators often follow investigative leads and interview witnesses outside DDS facilities. As a result, these officers could observe a violent crime they should react to, be summoned for help by the general public in a dangerous situation or become involved in an action that exposes them to a serious assault;
- Most centers have retail and banking facilities on the grounds that have been targets for armed robberies;

- On two campuses, the Conservation Corps has facilities that house troubled youth. Within recent years, some of their residents committed serious crimes on campus grounds including the violent physical assault of a LED uniformed officer;
- Uniformed officers are called to intervene in domestic violence and work place violence threats involving employees. In this instance, the exposure to potential violence and danger is at its highest level. There have been two shooting incidents on campuses. In one case, a disgruntled worker went on a shooting spree, causing the death of one employee and inflicting life-threatening injuries on another. In another case, an employee's angry husband reportedly fired at an officer as he confronted this individual on the campus grounds; and
- Due to the open environment of center campuses, uniformed officers regularly stop cars containing suspicious acting persons and confront trespassers, some who could be fleeing crimes from nearby areas. Many car stops occur during the nighttime hours when most uniformed officers are working alone and unarmed.

Finding 33

Some LED facilities have inadequate working space. Although the facility at one center has adequate space, the uniformed and special investigator personnel are not located within the same building.

The Consultants found that LED personnel were housed in inadequate space at the Agnews and Sonoma centers, which creates difficult working conditions and loss of efficiency.

At the Fairview DC, uniformed officers and special investigators were housed in different buildings at opposite ends of the campus; an arrangement that has led to loss of work-related communications, interaction and common goals.

Systems, Equipment, and Facilities **Recommendations**

Recommendation 23

The LED radio communication systems should be upgraded and direct access to local law enforcement's systems should be acquired. The radio dispatcher positions should be POST certified public safety dispatchers.

The stand-alone communication systems are grossly inadequate and obsolete, and expose the LED personnel and their clients to unwarranted risks. Until brought up to industry wide standards, including the ability to communicate directly with outside law enforcement agencies for mutual aid via a common radio frequency, the law enforcement operations will continue to be create officer and client safety concerns. The communication links to local agencies will be subject to availability and will vary by DC location. Communications should be attained through a mutual aid radio frequency or, as a last resort, through a direct landline.

The LED should have radio dispatchers whose duties are primarily related to the protective services function. Dispatcher training should meet POST public safety dispatcher standards.

Recommendation 24

The methods of accessing CLETS information should be improved and additional terminals should be installed in DC facilities.

The current methods of accessing CLETS are inefficient, far too fragmented and informal. If outside law enforcement continues to be an access source, formalized agreements and improved access should be established to ensure efficiency and safety. Dispatchers, trained and approved as CLETS operators, should be available 24 hours a day to access the system for LED officers

Recommendation 25

The LED should have a policy that standardizes safety equipment.

The policy should identify the types of equipment that will be issued and the mandatory training requirements for that specific piece of equipment. The division should issue body-armor safety vests to all its peace officers and develop a policy requiring the wearing of the vests.

Recommendation 26

LED peace officers should be provided firearms and authorized to carry them while on duty.

LED officers must be subject to mandatory intensive training on the use of firearms and comprehensive testing to ensure they meet the industry level of qualification before they are issued firearms and authorized to carry them on duty. The division should also have a comprehensive written firearm policy that clearly and thoroughly covers subjects such as use of deadly force, areas on campus where firearms will be permitted, safe storage of firearms, training and qualification requirements, and any other definitive and restrictive issues deemed necessary.

An officer's failure to meet a training requirement or qualification standard, however, is a separate issue that should be addressed on an individual basis and should not over shadow the fact that LED peace officers should be equipped with firearms.

Recommendation 27

The LED should expand and improve all sub-standard facilities and co-locate uniformed officers and special investigators.

Without regard to type of industry or business, a well-maintained facility, which includes adequate space and proper equipment, will, in most cases, have a positive impact on the efficiency and productivity of all employees.

To facilitate communications and improve working relations between uniformed officers and special investigators, their workspace should always be located in close proximity within the same building.

Appendices

Appendix A	Consultants' Professional Biographical Summaries
Appendix B	Letters from Senator Wesley Chesbro and Assemblyman Dick Dickerson to Attorney General Bill Lockyer
Appendix C	Sample Documents <i>Organization Chart, Duty Statement and Policy Regarding Responsibilities for Administrative Services Director</i>
Appendix D	Organization Chart, Department of Developmental Services
Appendix E	CAUSE Letter to Attorney General Lockyer
Appendix F	Employee Survey Results