

**DOMESTIC VIOLENCE
in the
LOS ANGELES POLICE DEPARTMENT:**

***HOW WELL DOES THE
LOS ANGELES POLICE DEPARTMENT
POLICE ITS OWN?***

The Report of the
DOMESTIC VIOLENCE TASK FORCE



**OFFICE OF THE INSPECTOR GENERAL
KATHERINE MADER, Inspector General**

DOMESTIC VIOLENCE TASK FORCE

Nancy Lauer, Police Sergeant II
Carolyn Jones, Police Officer II
Julie Cuttrell, Management Analyst II
Benita Robinson, Management Analyst II
Virginia Elling, Management Aide

STAFF OF THE OIG

Sue Gordon, Senior Management Analyst I
Mark Johnson, Police Sergeant II
John Forland, Management Analyst II
Ingrid Herda, Management Analyst II
Carl Paneno, Management Analyst II
Lisa Harris, Senior Clerk Steno
Danielle Belt, Clerk Typist

INTRADEPARTMENTAL CORRESPONDENCE

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TO: Board of Police Commissioners

FROM: Inspector General

SUBJECT: DOMESTIC VIOLENCE REPORT

The attached report examines how the Los Angeles Police Department handled domestic violence investigations involving its personnel between 1990 and 1997. This study was the result of the combined efforts of the Domestic Violence Task Force and Office of the Inspector General staff, as well as the cooperation and assistance from a variety of entities, both inside and outside the Department. It is with gratitude and appreciation to all those who participated in this project that I submit this report for your consideration.



KATHERINE MADER

Inspector General

EXECUTIVE SUMMARY

The Office of the Inspector General (OIG) conducted a detailed review of all completed 1990-1997 internal investigations of Los Angeles Police Department (LAPD) employees accused of domestic violence. The OIG found that in approximately 40 percent of the 227 cases, the Department sustained domestic violence related allegations of police misconduct and administered discipline. However, the discipline imposed was exceedingly light when the facts of each incident were examined. In 58.3 percent of the instances where the Department responded to a domestic violence incident in Los Angeles, the case was presented to a prosecuting agency for review. The preceding statistics rebut recent television reports suggesting that the Department has an unwritten practice neither to mete out discipline internally nor to present cases to prosecuting agencies.

Yet, the OIG found that many of the investigations lacked objectivity or were otherwise flawed or skewed. Additionally, the OIG found that among the 227 investigations there were many repeat offenders: 30 employees accounted for 71 of the 227 investigations (31 percent) and 29 out of 91 sustained allegations (32 percent). Also, five employees had sustained allegations of both domestic violence and additional off-duty altercations not involving domestic violence.

Approximately one-third of the cases involving Department employees occurred within the City of Los Angeles.¹ In those instances where the Department responded, officers were directed by command staff to make an arrest in only 6 percent of the cases. On the other hand, when the incident occurred outside Los Angeles city boundaries and another police agency responded, arrests were made of a Department employee in 16 percent of the cases. The inference is that the Department is less willing than outside agencies to make arrests in cases involving its employees.

During the period of this study, only four Department employees were convicted of domestic violence; two in Los Angeles and two in outside jurisdictions.

Both the Department and other police agencies presented the same percentage of domestic violence related cases involving LAPD employees to prosecutors for their review (approximately 58 percent). This refutes the implication that the Department is less likely to present a case for prosecution where its own employees are involved than other agencies. However, according to the examined investigations, the Department should have presented many more internal investigations to Los Angeles prosecuting agencies. Also, the Department does not present such cases until completion of its internal investigations, which often take close to one year. This negatively impacts criminal prosecution as the statute of limitations for misdemeanor domestic

¹ Approximately 85% of all Department employees live outside the city of Los Angeles. Most domestic violence incidents occurred in the city where the employee resided. For further discussion of this issue see Sections III-C, D, and F.

violence is one year. This lengthy delay also negatively affects the memory of witnesses and the willingness of the victim to cooperate.

The OIG found that there was no significant disparity in the manner in which allegations against different ethnic groups were adjudicated, although Black and Hispanic employees were accused in 69 percent of the Department's domestic violence investigations. Disparities, however, were found in the treatment of sworn and civilian personnel: allegations against civilian Department employees were sustained at a 71 percent rate, whereas allegations against sworn Department employees were sustained at a much lower 37 percent rate.² Allegations against female employees were also sustained at a significantly higher rate (57.7 percent) than allegations against male employees (37.8 percent).³

In two instances - one of which occurred in 1991 - there was significantly more favorable treatment when sworn employees of a rank higher than police officer were involved. In both instances, the allegations were ultimately disposed of as Miscellaneous Memorandum, the method of classifying allegations that in effect removes them from the employee's records, which was heavily criticized by Special Counsel Merrick Bobb.

In more than 75 percent of the sustained cases, the performance evaluations of the employee failed to mention the sustained allegations of domestic violence, and many of the performance evaluations that did mention sustained domestic violence incidents tended to minimize the misconduct. In one example, an employee received 129 days off as a result of an incident in which he pointed his service revolver at his wife's head and threatened to kill her. His performance evaluation merely noted that, during the rating period, the employee was "off due to disciplinary reasons."

Another instance echoed the 1991 Christopher Commission's observation that sustained allegations of excessive force rarely impacted an accused employee's performance evaluation. In that instance, an officer was found to have grabbed the complainant by the hair, thrown her and caused her to fall, and pushed and punched her in the upper torso with a closed fist. His performance evaluation ignored the incident and concluded that the "[officer] has consistently displayed a calm and professional demeanor even when dealing with the most highly agitated and stressful situations."

Sustained allegations of domestic violence did not appear to impair an officer's promotability. Twenty-six (29 percent) of the 91 employees with sustained allegations were promoted,

² This finding parallels a similar finding in the OIG 6 Month Report on page 37, which found that all types of allegations against civilians were sustained at a much higher rate than allegations against sworn personnel. See Recommendation No. 44.

³ See Recommendation No. 45.

including 6 employees who promoted within 2 years of the sustained domestic violence incident. Employees with sustained allegations were neither barred from moving to desired positions nor transferred out of assignments that were inconsistent with the sustained allegation. In one such instance, following a sustained allegation of domestic violence involving a firearm, an individual was transferred to the Police Academy to become an instructor. In another case, an employee who spent several days in jail after an arrest for making terrorist threats, following an altercation with his wife, was nonetheless retained as an instructor in the Department's premier instructional program.

The Task Force noted that alcohol was a significant factor in many of the cases analyzed.⁴

According to representatives of outside prosecutorial agencies, the Department has shown innovative leadership in the manner in which it conducts domestic violence investigations where both the complainant and suspect are members of the public. However, the Department has clearly not demonstrated that same leadership or commitment in the manner in which it investigates its own personnel.

The Task Force identified numerous policies and practices affecting internal investigations which are in need of substantial change. For example, several weeks into this study, Police Chief Bayan Lewis was advised by the OIG that the Department should not haphazardly assign domestic violence investigations within the Department to any available investigator. The investigator should possess specialized domestic violence training in order to conduct thorough and competent investigations. Further, a specialized unit within Internal Affairs should conduct domestic violence investigations. Chief Lewis immediately agreed to implement new policies in those areas.⁵

The principal recommendations resulting from the OIG's study of domestic violence complaints against Department employees are:

- A specialized unit should be created within Internal Affairs Division with primary responsibility to conduct investigations of Department personnel involved in domestic violence incidents.
- A Department employee should be treated no differently than any other citizen. A crime report should be taken in every instance where a crime is alleged or there is evidence that

⁴ According to the Department's domestic violence expert, Detective Tim Williams, Operations-Headquarters Bureau, this finding mirrors the results of research studies of the population at large.

⁵ See Recommendation No. 1.

a crime occurred. An arrest should be made in every instance where it is legally mandated.

- Every domestic violence investigation with prima facie evidence of criminal misconduct should be referred to the appropriate prosecuting agency in a timely manner.
- Domestic violence investigations should not be “written off” merely because the victim recants or is unwilling to testify in disciplinary hearings.
- Termination of employees should be a mandated penalty in serious cases of domestic violence where an officer has demonstrated by a convincing pattern that he or she cannot control their abusive conduct.
- Suspensions for sustained acts of domestic violence should be increased in length and severity and long-term suspensions or terminations should be meted out to those who have repeated instances of sustained allegations.
- Sustained allegations of misconduct should be mandatorily documented and considered in performance reviews and promotions.
- The Department should develop a “Batterers’ Program” under the direction of the Behavioral Science Services Section. In all sustained complaints involving domestic violence, the Department should recommend a contract which should include, but not be limited to, mandated counseling.

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I. BACKGROUND

As described in the Executive Summary, this study by the Los Angeles Police Commission's Office of the Inspector General (OIG) concerned the Los Angeles Police Department's (the Department's) handling of domestic violence allegations against its personnel. Allegations of improper handling of such cases were initially raised by reporter Harvey Levin in a television news series shown on Channel 2 in Los Angeles on April 28 and 29, 1997.

The televised reports described a disturbing unwritten practice in the Department, whereby allegations of domestic violence by a Department employee are addressed solely through the internal disciplinary process instead of being promptly presented to a prosecutorial agency. According to those reports, in many cases, including some where blatant allegations of abuse appeared evident, internal departmental investigations resulted in no disciplinary action against the Department employee.

On May 6, 1997, the Los Angeles City Council passed a motion strongly urging that the Board of Police Commissioners instruct the Inspector General "to investigate the Department's handling of domestic violence incidents involving Department officers." On May 13, 1997, the Police Commission requested that the OIG conduct this investigative study.

The OIG was authorized five new positions by the City Council in order to create a Domestic Violence Task Force (Task Force). In order to begin as quickly as possible, personnel from throughout the Department were selected and loaned by the Department to the OIG. The investigation formally began on May 19, 1997, with the arrival of the loaned personnel to the OIG.

The Task Force analyzed 227 internal domestic violence related investigations against Department employees which were initiated from the beginning of 1990 and completed by May 15, 1997. Each investigation involved allegations of physical violence and/or threats of physical violence.⁶

⁶

The Department's collection of statistics involving domestic violence investigations, while more advanced than most other jurisdictions, lacks accuracy. The Task Force attempted to accurately tabulate all Department domestic violence investigations using the varying methods described in Section II-A.

II. THE TASK FORCE INVESTIGATION

A. SELECTION OF INVESTIGATIONS

It was determined that this study would focus on internal investigations alleging domestic violence which were initiated through the assignment of an "IA#" in 1990.⁷ It was also decided that only Internal Affairs investigations which concluded on or before May 15, 1997, would be included in this study.⁸ As a result, this study encompasses close to **seven and one-half years** of data, sufficient to determine meaningful patterns.

The information used by the Task Force to analyze all Department domestic violence investigations may be incomplete. Internal Affairs Division classifies each investigation under one subject heading, regardless of whether multiple allegations involving different subjects are involved. As many investigations involve multiple allegations, domestic violence may not be the classification chosen by Internal Affairs Division to describe that complaint for tracking purposes.⁹

"Domestic Violence" was not captured as a separate computer classification by Internal Affairs Division until sometime in 1993. Until that date, domestic violence was subsumed within the classification of "conduct unbecoming an officer" (CUBO). It was necessary to review all of the internal investigations classified as CUBO from 1990 through 1993 in order to determine how many CUBO investigations actually involved elements of domestic violence.

Additionally, the Task Force reviewed all Miscellaneous Memorandums issued during the seven and one-half year period encompassed by this study. Miscellaneous Memorandums are a method intended to be used by the Department to prevent certain allegations, **not** amounting to misconduct, from being included in an employee's official disciplinary history. However, allegations of domestic violence, by definition, involve misconduct. Nonetheless, two domestic violence investigations were inappropriately classified as Miscellaneous Memorandums. Interestingly, the domestic violence investigation involving one of the highest ranking Department employees was improperly filed as a Miscellaneous Memorandum.¹⁰

⁷ An "IA #" is assigned when a personnel investigation is formally opened. Facts may be gathered for a period of days, weeks, or months prior to a formal number being issued. Thus, a 1990 IA # may relate to acts alleged to have occurred prior to the 1990 calendar year.

⁸ May 15, 1997, is the approximate date that this study began. The Task Force decided not to review personnel investigations closed after May 15, 1997, to eliminate the continual revision of the statistics.

⁹ See Recommendations Nos. 30 and 31.

¹⁰ For further discussion of this issue see Section III-G.

Due to time constraints and lack of computerized data, the Task Force did not hand-search every internal investigation conducted from 1990 through mid-1997. As described, the OIG staff searched every CUBO, every domestic violence investigation, and every miscellaneous memorandum.¹¹

The Task Force also noted that the Department, on 12 occasions, identified a domestic violence investigation which included elements of physical force or threats of physical force as merely "conduct causing the response of an outside law enforcement agency." In those instances, when the Task Force determined that elements of domestic violence were in fact involved, the Task Force included the investigation in its matrix and analysis.

The Task Force additionally discovered six instances in which the completed sustained investigation was missing from Department files with no explanation. This required substantial file searches by the Task Force in order to gather the facts of those cases. The Task Force noted that personnel files are not updated on a regular basis. In two cases, the Task Force was unable to locate any documentation of the investigation to analyze, and consequently had to drop those two cases from inclusion in the matrix.

More important than the Task Force not having information readily available, however, is the lack of information available to managers responsible for assessing employees' performance, evaluating employees' suitability for promotion, and adjudicating disciplinary matters.¹²

B. DEVELOPMENT OF MATRIX

The initial weeks of the Task Force were spent developing the statistical data from which trends and patterns could be identified.¹³ A matrix was created, working with the Department's Internal Affairs Division, analyzing each domestic violence investigation. The matrix is a compilation of domestic violence investigations completed between the beginning of 1990 through May, 1997. To protect the identity of Los Angeles Police Department employees who were involved in administrative personnel investigations involving domestic violence, all names have been removed from this matrix. For reviewing purposes, this detailed matrix is sectioned by

¹¹ See Recommendation No. 31.

¹² See Recommendation No. 38.

¹³ The OIG was fortunate that the Department, under the direction of Internal Affairs Administrative Lieutenant Pete Trilling, had already begun gathering some statistics relating to domestic violence after becoming aware of news reports of possible irregularities in this area. Lieutenant Larry Shelley, of the Department's Legal Affairs Division, also had resource materials which had been gathered as a result of responding to civil litigation. Both Lieutenants Trilling and Shelley were extremely generous with their resources and time.

Employee Case Number. The Employee Case Number was formulated by assigning a three-digit number to each employee, a two-digit number representing the year the incident occurred, and a one-digit number assigned to each domestic violence personnel investigation involving the employee (e.g., 001-93-1).

Once the matrix was developed, an in-depth analysis was conducted of the data. Additionally, each of the 227 investigations was separately analyzed by Task Force members, paying particular attention to all of the factors described in Section IV of this report.

The matrix consists of the following criteria and may be reviewed as Attachment A:

<u>COLUMN HEADING</u>	<u>DATA INCLUDED</u>
Employee/Case No.	Identifying numbers
Accused	Rank, gender, ethnicity, age, tenure
Complainant	Relationship to accused, gender, ethnicity, rank (if Department employee)
Domestic Violence Allegations	Domestic violence related charges
All Other Allegations	Allegations not related to domestic violence
Alleged Injury	Injuries claimed, weapons used
Classification and Rationale	Administrative dispositions, Board of Rights/findings, penalty ¹⁴
Jurisdiction	City of occurrence, crime report, arrest, presented to City Attorney/District Attorney

¹⁴ The Board of Rights is a three-person Department tribunal consisting of two members of the command staff and one civilian. Prior to 1994, there was no civilian member on the Board. A Board then consisted of three members of the command staff. Board members listen to witnesses and advocates for the Department and the accused, and determine the innocence or guilt and punishment for an officer accused of misconduct.

C. DEFINITION OF DOMESTIC VIOLENCE USED BY TASK FORCE

Penal Code Section 13700 (b) defines "domestic violence" as:

"abuse committed against an adult or fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or has had a dating or 'engagement relationship'."

Domestic violence crimes include assaults, threats, vandalism, harassment crimes (harassing phone calls, stalking), property crimes (theft, trespass, vandalism), and violations of restraining orders.

The purpose of this report was to broadly analyze the Department's handling of domestic violence complaints against its employees. As described above, domestic violence may be found in varied forms such as vandalism or harassing phone calls. However, the Task Force has limited its analysis to the 227 Department domestic violence investigations conducted between 1990 and 1997, which included **allegations of physical violence and/or threats of physical violence. All categories of victims as described in Penal Code Section 13700 (b) have been included.** Given the large sampling of 227 investigations of domestic violence involving physical violence and/or threats of physical violence from 1990 through 1997, any analyses, findings, and recommendations should be applicable to all domestic violence-related incidents.

III. STATISTICAL ANALYSIS

A. RESULTS OF ADMINISTRATIVE INVESTIGATIONS (SUSTAINED, NOT RESOLVED, EXONERATED, UNFOUNDED) BY YEAR

During the period of this study, the Department investigated 227 complaints against Department employees involving domestic violence allegations. Figure A - 1 describes the adjudication of complaints.¹⁵

YR.	Total	S	% S	N/R	% N/R	U	%U	E	% E
1990	21	8	38.1%	7	33.3%	3	14.3%	3	14.3%
1991	42	18	42.9%	19	45.2%	4	9.5%	1	2.4%
1992	25	8	32.0%	12	48.0%	4	16.0%	1	4.0%
1993	44	20	45.5%	19	43.2%	3	6.8%	2	4.5%
1994	41	21	51.2%	11	26.8%	7	17.1%	2	4.9%
1995	42	11	26.2%	21	50.0%	7	16.7%	3	7.1%
1996	11	4	36.4%	4	36.4%	2	18.1%	1	9.1%
1997	1	1	100.0%	0	-	0	-	0	-
Total	227	91	40.1%	93	41.0%	30	13.2%	16	5.7%

Classification of Complaint: S - Sustained; N/R - Not Resolved; U - Unfounded; E - Exonerated

FIGURE A - 1

¹⁵ The Department defines four adjudication categories as follows:

Sustained - When the investigation discloses that the act complained of did occur and constitutes misconduct.

Not Resolved - When the investigation discloses insufficient evidence to prove or disprove the allegations made.

Unfounded - When the investigation indicated the act complained of did not occur.

Exonerated - When the investigation indicates the act occurred but that the act was justified, lawful, and proper.

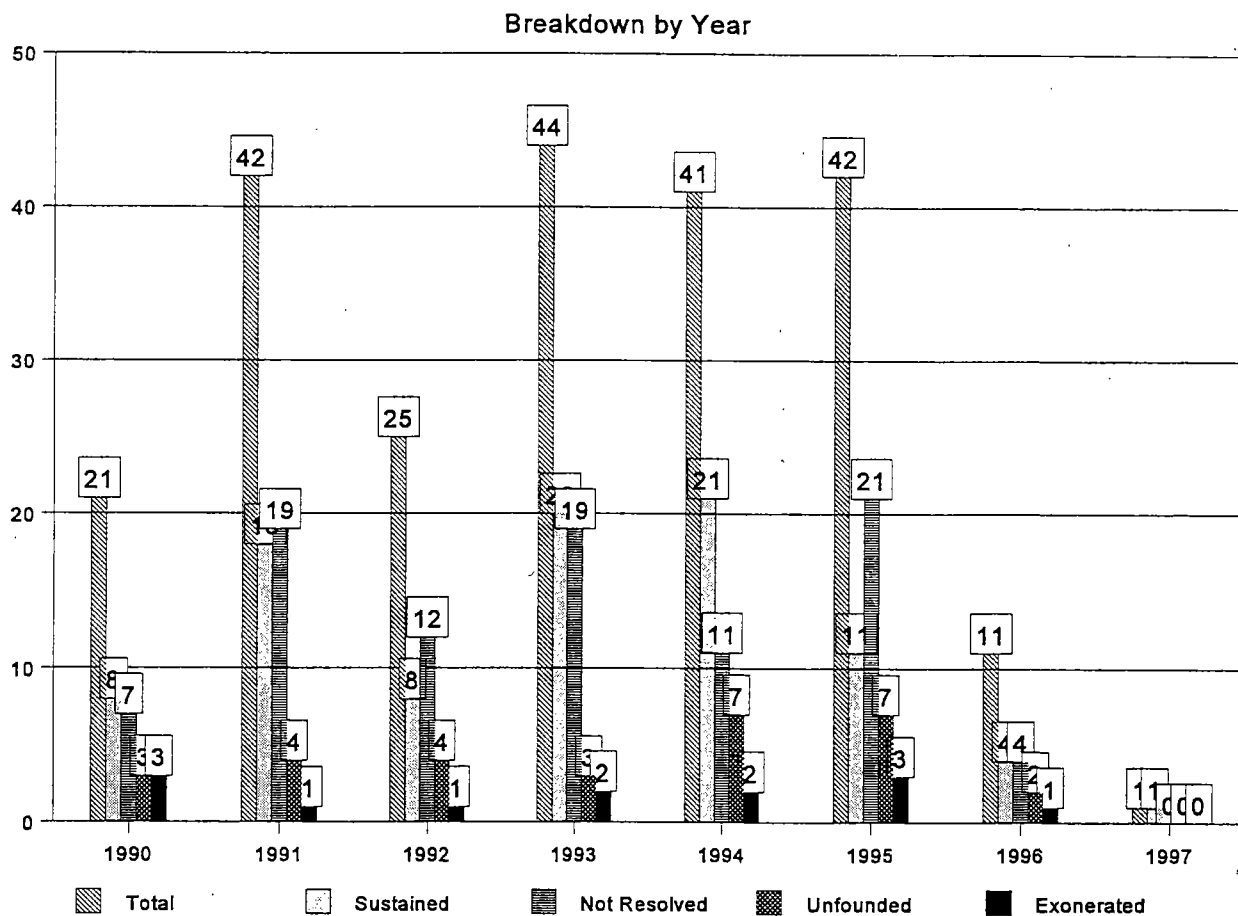


FIGURE A - 2

It should be noted that the number of adjudications in 1996 included only completed investigations. Many are still under investigation and are not part of this study. Therefore, one cannot draw any conclusions about the decrease in adjudications in 1996 as reflected in Figure A - 2 above, based on the time frame of this study. It does appear that the number of sustained complaints was fairly consistent during the three preceding years (1993, 1994, and 1995).

Interestingly, allegations of domestic violence made against civilian employees of the Department were sustained at a much higher rate (71%) than allegations against sworn personnel. Civilian employees have long complained that the Department's disciplinary system treats them more harshly than it treats sworn personnel. In reviewing the cases, there did not appear to be any plausible justification for the disparity.

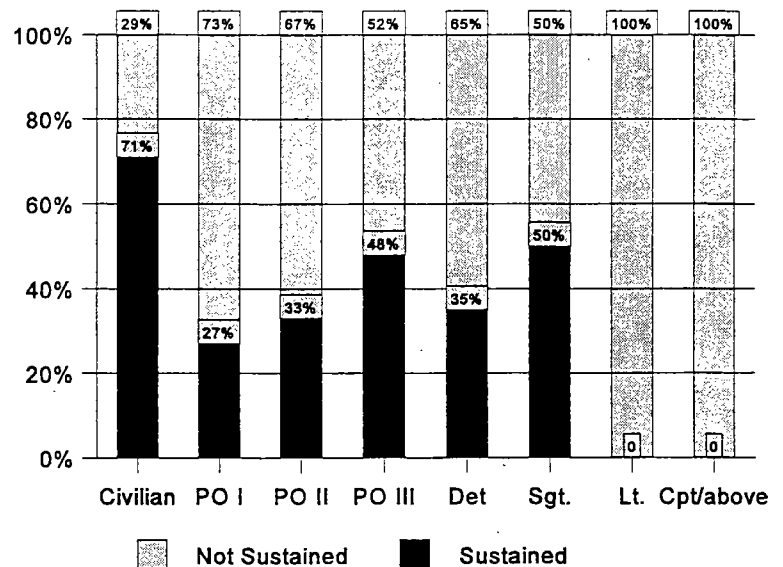


FIGURE A - 3

B. DISCIPLINE ADMINISTERED BY THE DEPARTMENT FOR SUSTAINED DOMESTIC VIOLENCE ALLEGATIONS

This study, as displayed in Figure A - 1, revealed that 91 (40.1%) of Departmental investigations resulted in sustained allegation(s) of domestic violence against Department employees and the Department did administer discipline. Figure B - 1 shows the actions taken by the Department against employees in sustained investigations. The "Other" category consists of retirements (2), resignations (3), withdrawal of charges (1), and deceased (1). The Department has three types of "Terminations" which are represented in this category on the Chart: 1) Removal by a Board of Rights; 2) Termination for sworn probationary employees; and 3) Discharge for civilian employees.

Penalty	No.	%
Official Reprimand	9	9.9%
Admonishment	11	12.1%
Suspension	56	61.5%
Termination	8	8.8%
Other	7	7.7%
TOTALS	91	100%

FIGURE B - 1

Most of the sustained allegations resulted in suspensions in the following ranges:

Range ¹⁶	No.
1 to 4 days	16
5 to 9 days	14
10 to 14 days	10
15 to 29 days	8
30 to 39 days	4
40 to 44 days	1
129 days	3
TOTAL	56

FIGURE B - 2

The OIG, conducted a comparison of discipline for domestic violence with other off-duty altercations.

Critics have alleged that Department discipline for domestic violence is more lenient than Department discipline for other off-duty altercations. The Task Force found that the available data, while sparse, does not necessarily support that assertion. The available data indicates that discipline for domestic violence is generally similar to discipline for other off-duty altercations.

The Task Force analyzed Department discipline for assaults involving the following assaultive acts: striking a victim in the face, choking, pulling hair, and brandishing a firearm. Investigations in two victim categories were compared: victims fitting the legal definition of domestic violence victims¹⁷ (33 investigations) and victims who did not fit that legal definition (15 investigations).

¹⁶ The Task Force was troubled by some of the light penalties given for sustained misconduct when the facts of each incident were examined. The Matrix in Attachment A describes on a case by case basis the actual allegations and the penalty assessed for each sustained domestic violence allegation.

¹⁷ See Section II-C.

Only employees in each victim group **without** sustained disciplinary histories were used for this analysis.

Within each victim group, employees received penalties ranging from an official reprimand to removal and resignation. However, a total of 29 employees received suspensions (22 for domestic violence-related violations; 7 for off-duty altercations). The Task Force determined that the average length of suspension for the above-described assaultive conduct was approximately **13 days for each** victim group. As described, the factual patterns and disciplinary histories of the employees in each group were similar.

Thus, in this very limited comparison, the Task Force did not find that the Department's imposed discipline for domestic violence was less severe than the discipline imposed for other off-duty altercations.

C. INVESTIGATIONS CONDUCTED IN LOS ANGELES VS. OUTSIDE JURISDICTIONS

Of the 227 internal investigations conducted, 84 of the investigations resulted from domestic violence investigations that occurred within the City of Los Angeles. In those 84 incidents, the Department was responsible for conducting both the internal investigation and any resultant criminal investigation. One hundred forty-three incidents occurred outside of the City of Los Angeles and thus, any criminal violations were investigated by other law enforcement agencies.

Every Department employee has a duty to report to the Department any domestic violence incident which resulted in a crime report being taken. Failure to report such an incident will subject the employee to discipline. The Department generally initiates an internal investigation in every situation where an outside agency responds. Thus, internal Department investigations for domestic violence include all incidents involving its sworn personnel, regardless of the city in which the incident occurred. Figure C shows, however, that the Department sustained allegations against employees involved in domestic violence outside the City at a higher rate than against employees whose misconduct occurred in Los Angeles.

The Department standard for sustaining an allegation is a "preponderance of the evidence" or 51%. However, while the Department's Board of Rights Manual states that "preponderance of the evidence" is the standard to be applied in determining guilt at a Board of Rights hearing, that standard has never been formally codified in any Department document used for training purposes for adjudicators in circumstances other than Board of Rights hearings. Some Department employees hypothesize that the relatively low rate of sustained allegations may be attributable to some adjudicators simply not agreeing on the appropriate standard for sustaining an allegation.¹⁸

¹⁸

The anticipated new version of the Internal Affairs Manual is reportedly going to formally codify the "preponderance of evidence" standard for use by adjudicators.