

REPORT
OF THE
INDEPENDENT
COMMISSION
ON THE
LOS ANGELES
POLICE
DEPARTMENT

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July 9, 1991

TO: Mayor Tom Bradley
City Council President John Ferraro
and Members of the City Council
Chief of Police Daryl F. Gates

Ladies and Gentlemen:

It is our privilege to present the report of the Independent Commission on the Los Angeles Police Department.

Since our Commission began its work early in April 1991, we have conducted a comprehensive investigation into the use of excessive force by the Los Angeles Police Department and related issues. We have sought to examine every aspect of the law enforcement operations and structure that might cause or contribute to the problem. This report documents our findings and makes recommendations for your consideration.

We have completed this report within a restricted time frame because delay would not be in the public interest. We would not have been able to do so without the full support and cooperation from many areas of local government, including the entities which each of you heads. Nor would we have been able to do so without the unprecedented volunteer efforts of lawyers, accountants, and other experts acknowledged in our report.

July 9, 1991 -- Page two

We commend our recommendations to your earnest and prompt consideration. It is our conviction that, if faithfully implemented, they will help to avoid a repetition of the abhorrent Rodney King incident and others like it.

Providence destined Los Angeles for greatness as City. It is in your hands to help fulfill this destiny by promptly addressing the reforms recommended in this report.

Respectfully,

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cc: District Attorney Ira Reiner
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Foreword

The Rodney King beating stands as a landmark in the recent history of law enforcement, comparable to the Scottsboro case in 1931 and the Serpico case in 1967. Rightly called "sickening" by President Bush, and condemned by all segments of society, the King incident provides an opportunity for evaluation and reform of police procedures. Many saw the incident as particularly tragic because it happened in Los Angeles, whose police officers are among the most efficient and innovative in the nation.

Police violence is not a local problem. Recognizing its national character, police chiefs from 10 major cities convened soon after the King incident and emphasized that "the problem of excessive force in American policing is real." The same theme was stressed by Hubert Williams, President of the Police Foundation and former Chief of Police for Newark, New Jersey: "Police use of excessive force is a significant problem in this country, particularly in our inner cities." With the Knapp Commission on police corruption as a precedent, the most fundamental challenge for the Independent Commission is to recommend

Report of the Independent Commission

reforms that will help insure that such an incident is not repeated in Los Angeles or elsewhere in the nation.

Our Commission owes its existence to the George Holliday videotape of the Rodney King incident. Whether there even would have been a Los Angeles Police Department investigation without the video is doubtful, since the efforts of King's brother, Paul, to file a complaint were frustrated, and the report of the involved officers was falsified. Even if there had been an investigation, our case-by-case review of the handling of over 700 complaints indicates that without the Holliday videotape the complaint might have been adjudged to be "not sustained," because the officers' version conflicted with the account by King and his two passengers, who typically would have been viewed as not "independent."

In the wake of the King incident and the public outcry, the Independent Commission was created by Mayor Tom Bradley on April 1, 1991, and soon merged with the Commission created by Los Angeles Chief of Police Daryl Gates. (See Appendix I for foundational documents.) Our efforts were endorsed by City Council President John Ferraro, District Attorney Ira Reiner, City Attorney James Hahn, and many other public officials.

Our Report concentrates on excessive force under color of law. We have sought to examine any aspect of the law enforcement structure in Los Angeles that might cause or contribute to the problem of excessive force, and this has led us to consider almost every aspect of the LAPD. We have tried, however, to avoid being drawn into issues that are only peripheral to our central inquiry.

Our Commission has conducted an unprecedented inquiry into the use of excessive force by a police department. More than 50 expert witnesses have been heard in 26 executive sessions. More than 150 representatives of community organizations and private citizens have been heard in five public hearings held by the full Commission in different sections of the City. Members of the Commission have taken many individual initiatives ranging from night time "ride-alongs" in patrol cars to meetings with groups of ministers and priests. More than 500 current and retired Los Angeles police officers have been interviewed. A staff of more than 60 lawyers, supported by three accounting and data analysis firms, has been at work for 100 days and many nights.

Our work has been informed by nine major computer-aided studies of documents and statistics that yield their own truths independent of after-the-fact opinions or reconstruction. For example, we have conducted computerized studies of the Department's use of force reports from 1987 to 1991 and of all complaints filed by members of the public between 1986 and 1990. Our staff has reviewed the Mobile Digital Terminal communications (MDTs) of the Department's patrol cars for six sample months drawn from a 16 month period. We have examined with special care the files in the 83 civil damage cases involving excessive force claims that were settled by the City Attorney, with the approval of the City Council, for more than \$15,000. In all, more than one million pages of documents have been reviewed.

Police work is dangerous. A routine arrest may suddenly turn into a violent confrontation, sometimes triggered by drugs, alcohol, or mental illness. Neighborhood gangs often directly challenge an officer's authority. To cope, police officers are given the unique right to use force, even deadly force, against others. The right to use force carries with it a heavy responsibility not to abuse it. The principal purpose of this Report is to present the results of our efforts to understand why and how often this authority has been abused, and to offer some down-to-earth recommendations for avoiding a repetition of incidents like that involving Rodney King.

This is a blunt report. We have received impressive cooperation from the LAPD as well as other agencies in the Los Angeles and national law enforcement communities. We seek to respond to this cooperation by being plainspoken.

The Commission found that there is a significant number of officers in the LAPD who repetitively use excessive force against the public and persistently ignore the written guidelines of the Department regarding force. This finding is documented and confirmed, from several perspectives, by the detailed analyses of documents and statistics performed by the Commission. Our computerized study of the complaints filed in recent years shows a strong concentration of allegations against a problem group of officers. A comparable study of the use of force reports reveals a similar concentration. Graphic confirmation of improper attitudes and practices is provided by the brazen and extensive references to beatings and other excessive uses of force in the MDTs

The Commission also found that the problem of excessive force is aggravated by racism and bias, again strikingly revealed in the MDTs.

The failure to control these officers is a management issue that is at the heart of the problem. The documents and data that we have analyzed have all been available to the Department; indeed, most of this information came from that source. The LAPD's failure to analyze and act upon these revealing data evidences a significant breakdown in the management and leadership of the Department. The Police Commission, lacking investigators or other resources, failed in its duty to monitor the Department in this sensitive use of force area.

The Department not only failed to deal with the problem group of officers but it often rewarded them with positive evaluations and promotions.

Our findings drive our principal recommendations. We urge that the leadership of the LAPD go beyond rhetoric in carrying out its existing policies against excessive force. From the Chief of Police on down to the sergeants, this means taking a firm stand against the "bad guys" on the force and employing all the instruments available -- training, discipline, assignments, and promotion. It also means monitoring and auditing all available data -- patrol car transmissions, use of force reports, and citizen complaints -- and then acting on the data. We urge a comparable effort to monitor and root out the manifestations of racism and bias.

We recommend a new standard of accountability. Los Angeles should have a Police Department whose Chief is accountable to civilian officials for the Department's performance, and where ranking officers are responsible for the conduct of those they lead. The Police Commission needs new personnel, more resources, and an enhanced commitment to carrying out its duties under the Charter. Ugly incidents will not diminish until ranking officers know they will be held responsible for what happens in their sector, whether or not they personally participate.

It will be said, and rightly so, that this Report does not devote enough attention to the good work done by the men and women of the LAPD. We have tried to recognize the enormous contribution to public safety made by police officers. Certainly we do not wish to cast a shadow on the multitude of police officers who perform their arduous duties in exemplary fashion. Our principal responsibility, however, was to assess the question of excessive force. Having

found the problem to be serious, we have been obliged to concentrate on causes and cures.

It will also be said that excessive use of force by police officers is only a reflection of the violence of our society. Television and motion pictures have not only excused excessive force but have sometimes portrayed it in positive hues. The vast majority of Los Angeles police officers, members of a Department with nationally recognized strengths, aspire to a higher standard and deserve a nobler image. We hope this Report will help achieve both.

Summary of Report

The videotaped beating of Rodney G. King by three uniformed officers of the Los Angeles Police Department, in the presence of a sergeant and with a large group of other officers standing by, galvanized public demand for evaluation and reform of police procedures involving the use of force. In the wake of the incident and the resulting widespread outcry, the Independent Commission on the Los Angeles Police Department was created. The Commission sought to examine all aspects of the law enforcement structure in Los Angeles that might cause or contribute to the problem of excessive force. The Report is unanimous.

The King beating raised fundamental questions about the LAPD, including:

- the apparent failure to control or discipline officers with repeated complaints of excessive force
- concerns about the LAPD's "culture" and officers' attitudes toward racial and other minorities

- the difficulties the public encounters in attempting to make complaints against LAPD officers
- the role of the LAPD leadership and civilian oversight authorities in addressing or contributing to these problems

These and related questions and concerns form the basis for the Commission's work

LOS ANGELES AND ITS POLICE FORCE

The LAPD is headed by Police Chief Daryl Gates with an executive staff currently consisting of two assistant chiefs, five deputy chiefs, and 17 commanders. The City Charter provides that the Department is ultimately under the control and oversight of the five-member civilian Board of Police Commissioners. The Office of Operations, headed by Assistant Chief Robert Vernon, accounts for approximately 84% of the Department's personnel, including most patrol officers and detectives. The Office of Operations has 18 separate geographic areas within the City, divided among four bureaus (Central, South, West, and Valley). There are currently about 8,450 sworn police officers, augmented by more than 2,000 civilian LAPD employees.

While the overall rate of violent crime in the United States increased three and one-half times between 1960 and 1989, the rate in Los Angeles during the same period was more than twice the national average. According to 1986 data recently published by the Police Foundation, the Los Angeles police were the busiest among the officers in the nation's largest six cities. As crime rates soar, police officers must contend with more and more potential and actual violence each day. One moment officers must confront a life-threatening situation; the next they must deal with citizen problems requiring understanding and kindness. The difficulties of policing in Los Angeles are compounded by its vast geographic area and the ethnic diversity of its population. The 1990 census data reflect how enormous that diversity is: Latinos constitute 40% of the total population; Whites 37%; African-Americans 13%, and Asian/Pacific Islanders and others 10%. Of the police departments of the six largest United States cities, the LAPD has the fewest officers per resident and the fewest officers per square mile. Yet the LAPD boasts more arrests per officer than

other forces. Moreover, by all accounts, the LAPD is generally efficient, sophisticated, and free of corruption.

THE PROBLEM OF EXCESSIVE FORCE

LAPD officers exercising physical force must comply with the Department's Use of Force Policy and Guidelines, as well as California law. Both the LAPD Policy and the Penal Code require that force be reasonable; the Policy also requires that force be necessary. An officer may resort to force only where he or she faces a credible threat, and then may use only the minimum amount necessary to control the suspect.

The Commission has found that there is a significant number of LAPD officers who repetitively misuse force and persistently ignore the written policies and guidelines of the Department regarding force. The evidence obtained by the Commission shows that this group has received inadequate supervisory and management attention.

Former Assistant Chief Jesse Brewer testified that this lack of management attention and accountability is the "essence of the excessive force problem. We know who the bad guys are. Reputations become well known, especially to the sergeants and then of course to lieutenants and the captains in the areas"

But I don't see anyone bring these people up" Assistant Chief David Dotson testified that "we have failed miserably" to hold supervisors accountable for excessive force by officers under their command. Interviews with a large number of present and former LAPD officers yield similar conclusions. Senior and rank-and-file officers generally stated that a significant number of officers tended to use force excessively, that these problem officers were well known in their divisions, that the Department's efforts to control or discipline those officers were inadequate, and that their supervisors were not held accountable for excessive use of force by officers in their command.

The Commission's extensive computerized analysis of the data provided by the Department (personnel complaints, use of force reports, and reports of officer-involved shootings) shows that a significant group of problem officers poses a much higher risk of excessive force than other officers:

- Of approximately 1,800 officers against whom an allegation of excessive force or improper tactics was made from 1986 to 1990, more than 1,400 had only one or two allegations.

But 183 officers had four or more allegations, 44 had six or more, 16 had eight or more, and one had 16 such allegations.

- Of nearly 6,000 officers identified as involved in use of force reports from January 1987 to March 1991, more than 4,000 had fewer than five reports each. But 63 officers had 20 or more reports each. The top 5% of the officers (ranked by number of reports) accounted for more than 20% of all reports

Blending the data disclosed even more troubling patterns. For example, in the years covered, one officer had 13 allegations of excessive force and improper tactics, 5 other complaint allegations, 28 use of force reports, and 1 shooting. Another had 6 excessive force/improper tactics allegations, 19 other complaint allegations, 10 use of force reports, and 3 shootings. A third officer had 7 excessive force/improper tactic allegations, 7 other complaint allegations, 27 use of force reports, and 1 shooting.

A review of personnel files of the 44 officers identified from the LAPD database who had six or more allegations of excessive force or improper tactics for the period 1986 through 1990 disclosed that the picture conveyed was often incomplete and at odds with contemporaneous comments appearing in complaint files. As a general matter, the performance evaluation reports for those problem officers were very positive, documenting every complimentary comment received and expressing optimism about the officer's progress in the Department. The performance evaluations generally did not give an accurate picture of the officers' disciplinary history, failing to record "sustained" complaints or to discuss their significance, and failing to assess the officer's judgment and contacts with the public in light of disturbing patterns of complaints.

The existence of a significant number of officers with an unacceptable and improper attitude regarding the use of force is supported by the Commission's extensive review of computer messages sent to and from patrol cars throughout the City over the units' Mobile Digital Terminals ("MDTs"). The Commission's staff examined 182 days of MDT transmissions selected from the period from November 1989 to March 1991. Although the vast majority of messages reviewed consisted of routine police communications, there were hundreds of improper messages, including scores in which officers talked

about beating suspects. "Capture him, beat him and treat him like dirt." Officers also used the communications system to express their eagerness to be involved in shooting incidents. The transmissions also make clear that some officers enjoy the excitement of a pursuit and view it as an opportunity for violence against a fleeing suspect.

The patrol car transmissions can be monitored by a field supervisor and are stored in a database where they could be (but were not) audited. That many officers would feel free to type messages about force under such circumstances suggests a serious problem with respect to excessive force. That supervisors made no effort to monitor or control those messages evidences a significant breakdown in the Department's management responsibility.

The Commission also reviewed the LAPD's investigation and discipline of the officers involved in all 83 civil lawsuits alleging excessive or improper force by LAPD officers for the period 1986 through 1990 that resulted in a settlement or judgment of more than \$15,000. A majority of cases involved clear and often egregious officer misconduct resulting in serious injury or death to the victim. The LAPD's investigation of these 83 cases was deficient in many respects, and discipline against the officers involved was frequently light and often nonexistent.

While the precise size and identity of the problem group of officers cannot be specified without significant further investigation, its existence must be recognized and addressed. The LAPD has a number of tools to promote and enforce its policy that only reasonable and necessary force be used by officers. There are rewards and incentives such as promotions and pay upgrades. The discipline system exists to impose sanctions for misconduct. Officers can be reassigned. Supervisors can monitor and counsel officers under their command. Officers can be trained at the Police Academy and, more importantly, in the field, in the proper use of force.

The Commission believes that the Department has not made sufficient efforts to use those tools effectively to address the significant number of officers who appear to be using force excessively and improperly. The leadership of the LAPD must send a much clearer and more effective message that excessive force will not be tolerated and that officers and their supervisors will be

evaluated to an important extent by how well they abide by and advance the Department's policy regarding use of force.

RACISM AND BIAS

The problem of excessive force is aggravated by racism and bias within the LAPD. That nexus is sharply illustrated by the results of a survey recently taken by the LAPD of the attitudes of its sworn officers. The survey of 960 officers found that approximately one-quarter (24.5%) of 650 officers responding agreed that "racial bias (prejudice) on the part of officers toward minority citizens currently exists and contributes to a negative interaction between police and community." More than one-quarter (27.6%) agreed that "an officer's prejudice towards the suspect's race may lead to the use of excessive force."

The Commission's review of MDT transmissions revealed an appreciable number of disturbing and recurrent racial remarks. Some of the remarks describe minorities through animal analogies ("sounds like monkey slapping time"). Often made in the context of discussing pursuits or beating suspects, the offensive remarks cover the spectrum of racial and ethnic minorities in the City ("I would love to drive down Stauson with a flame thrower . . . we would have a barbecue"; "I almost got me a Mexican last night but he dropped the dam gun to quick, lots of wit"). The officers typing the MDT messages apparently had little concern that they would be disciplined for making such remarks. Supervisors failed to monitor the messages or to impose discipline for improper remarks and were themselves frequently the source of offensive comments when in the field.

These attitudes of prejudice and intolerance are translated into unacceptable behavior in the field. Testimony from a variety of witnesses depict the LAPD as an organization with practices and procedures that are conducive to discriminatory treatment and officer misconduct directed to members of minority groups. Witnesses repeatedly told of LAPD officers verbally harassing minorities, detaining African-American and Latino men who fit certain generalized descriptions of suspects, employing unnecessarily invasive or humiliating tactics in minority neighborhoods and using excessive force. While the Commission does not purport to adjudicate the validity of any

one of these numerous complaints, the intensity and frequency of them reveal a serious problem.

Bias within the LAPD is not confined to officers' treatment of the public, but is also reflected in conduct directed to fellow officers who are members of racial or ethnic minority groups. The MDT messages and other evidence suggest that minority officers are still too frequently subjected to racist slurs and comments and to discriminatory treatment within the Department. While the relative number of officers who openly make racially derogatory comments or treat minority officers in a demeaning manner is small, their attitudes and behavior have a large impact because of the failure of supervisors to enforce vigorously and consistently the Department's policies against racism. That failure conveys to minority and non-minority officers alike the message that such conduct is in practice condoned by the Department.

The LAPD has made substantial progress in hiring minorities and women since the 1981 consent decree settling discrimination lawsuits against the Department. That effort should continue, including efforts to recruit Asians and other minorities who are not covered by the consent decree. The Department's statistics show, however, that the vast majority of minority officers are concentrated in the entry level police officer ranks in the Department. More than 80% of African-American, Latino and Asian officers hold the rank of Police Officer I-III. Many minority officers cite white dominance of managerial positions within the LAPD as one reason for the Department's continued tolerance of racially motivated language and behavior.

Bias within the LAPD is not limited to racist and ethnic prejudices but includes strongly felt bias based on gender and sexual orientation. Current LAPD policy prohibits all discrimination, including that based on sexual orientation. A tension remains, however, between the LAPD's official policy and actual practice. The Commission believes that the LAPD must act to implement fully its formal policy of nondiscrimination in the recruitment and promotion of gay and lesbian officers.

A 1987 LAPD study concluded that female officers were subjected to a double standard and subtle harassment and were not accepted as part of the working culture. As revealed in interviews of many of the officers charged with training new recruits, the problem has not abated in the last four years.

responded to the recent LAPD survey expressed the opinion that "increased interaction with the community would improve the Department's relations with citizens."

A model of community policing has gained increased acceptance in other parts of the country during the past 10 years. The community policing model places service to the public and prevention of crime as the primary role of police in society and emphasizes problem solving, with active citizen involvement in defining those matters that are important to the community rather than arrest statistics. Officers at the patrol level are required to spend less time in their cars communicating with other officers and more time on the street communicating with citizens. Proponents of this style of policing insist that addressing the causes of crime makes police officers more effective crime-fighters, and at the same time enhances the quality of life in the neighborhood.

The LAPD made early efforts to incorporate community policing principles and has continued to experiment with those concepts. For example, the LAPD's nationally recognized DARE program has been viewed by officers and the public alike as a major achievement. The LAPD remains committed, however, to its traditional style of law enforcement with an emphasis on crime control and arrests. LAPD officers are encouraged to command and to confront, not to communicate. Community policing concepts, if successfully implemented, offer the prospect of effective crime prevention and substantially improved community relations. Although community-based policing is not a panacea for the problem of crime in society, the LAPD should carefully implement this model on a City-wide basis. This will require a fundamental change in values. The Department must recognize the merits of community involvement in matters that affect local neighborhoods, develop programs to gain an adequate understanding of what is important to particular communities, and learn to manage departmental affairs in ways that are consistent with the community views expressed. Above all, the Department must understand that it is accountable to all segments of the community.

RECRUITMENT

Although 40% of the candidates for admission to the Police Academy are disqualified as a result of psychological testing and background investigation, the Commission's review indicated that the initial psychological evaluation is an

current deficiencies corrected. Officers with an interest in developing broader language skills should be encouraged to do so.

Upon graduation the new officer works as a "probationary officer" assigned to various field training officers. The FTOs guide new officers' first contacts with citizens and have primary responsibility for introducing the probationers to the culture and traditions of the Department. The Commission's interviews of FTOs in four representative divisions revealed that many FTOs openly perpetuate the siege mentality that alienates patrol officers from the community and pass on to their trainees confrontational attitudes of hostility and disrespect for the public. This problem is in part the result of flaws in the way FTOs are selected and trained. The hiring of a very large number of new officers in 1989, which required the use of less experienced FTOs, greatly exacerbated the problem.

Any officer promoted to Police Officer III by passing a written examination covering Department policies and procedures is eligible to serve as an FTO. At present there are no formal eligibility or disqualification criteria for the FTO position based on an applicants' disciplinary records. Fourteen of the FTOs in the four divisions the Commission studied had been promoted to FTO despite having been disciplined for use of excessive force or use of improper tactics. There also appears to be little emphasis on selecting FTOs who have an interest in training junior officers, and an FTO's training ability is given little weight in his or her evaluation.

The most influential training received by a probationer comes from the example set by his or her FTO. Virtually all of the FTOs interviewed stated that their primary objective in training probationers is to instill good "officer safety skills." While the Commission recognizes the importance of such skills in police work, the probationers' world is quickly divided into "we/they" categories, which is exacerbated by the failure to integrate any cultural awareness or sensitivity training into field training.

The Commission believes that, to become FTOs, officers should be required to pass written and oral tests designed to measure communications skills, teaching aptitude, and knowledge of Departmental policies regarding appropriate use of force, cultural sensitivity, community relations, and nondiscrimination. Officers with an aptitude for and interest in training junior officers should be encouraged by effective incentives to apply for FTO positions. In addition, the training program for FTOs should be modified to

place greater emphasis on communication skills and force. Successful completion of FTO School should begin teaching probationers.

PROMOTION, ASSIGNMENT, AND OTHER PERSON

In the civil service process for promotion of information considered includes performance evaluation training background, and all sustained complaints. The any not sustained complaints, however, are not considered. This recommends that a summary of not sustained complaints be included in promotion decisions, as well as in paygrade advancement recommendations for desirable positions that are discretionary within the LAP service system.

This is not to say that a past complaint history, even a complaint for excessive force, should automatically disqualify an officer from promotion. But there should be a careful consideration of complaint history including a summary of not sustained complaints, particularly multiple complaints with similar fact patterns.

Complaint histories should also be considered in assignments. Officers who may be using force improperly. For example, an officer can be paired with an officer with excellent communication skills to lessen the need for use of force, as opposed to a partner with a complaint history. Another example is the assignment of officers to the jail facilities where potential for abuse by officers with a history of excessive force is high. As several incidents examined by the Commission made clear, transfer of an officer to another geographical area can address a problem of excessive force without other remedial actions such as increased supervising, training and counseling.

Since 1980 the Department has permitted police officers to select the geographic area or division for their patrol assignment to their initial assignment after completion of probation. As a result, many officers and patrol officers tend to remain in one division for extended periods. The Commission believes that assignment procedures should require rotation through various divisions to ensure that officers gain a range of police functions and varied patrol locations during their

a rotation program will increase officers' experience and also will enable the Department to deploy police patrols with greater diversity throughout the City.

Under the current promotion system officers generally must leave patrol to advance within the Department. Notwithstanding the importance of the patrol function, therefore, the better officers are encouraged to abandon patrol. To give patrol increased emphasis and to retain good, experienced officers, the LAPD should increase rewards and incentives for patrol officers.

PERSONNEL COMPLAINTS AND OFFICER DISCIPLINE

No area of police operations received more adverse comment during the Commission's public hearings than the Department's handling of complaints against LAPD officers, particularly allegations involving the use of excessive force. Statistics make the public's frustration understandable. Of the 2,152 citizen allegations of excessive force from 1986 through 1990, only 42 were sustained.

All personnel complaints are reviewed by a captain in the LAPD's Internal Affairs Division ("IAD") to determine whether the complaint will be investigated by IAD or the charged officer's division. Generally IAD investigates only a few cases because of limited resources. Wherever investigated, the matter is initially adjudicated by the charged officer's division commanding officer, with a review by the area and bureau commanders.

The Commission has found that the complaint system is skewed against complainants. People who wish to file complaints face significant hurdles. Some intake officers actively discourage filing by being uncooperative or requiring long waits before completing a complaint form. In many heavily Latino divisions, there is often no Spanish speaking officer available to take complaints.

Division investigations are frequently inadequate. Based on a review of more than 700 complaint investigation files, the Commission found many deficiencies. For example, in a number of complaint files the Commission reviewed, there was no indication that the investigators had attempted to identify or locate independent witnesses or, if identified, to interview them. IAD investigations, on the whole, were of a higher quality than the division investigations. Although the LAPD has a special "officer involved shooting team," the Commission also found serious flaws in the investigation of shooting

cases. Officers are frequently interviewed as a group, and statements are often not recorded until the completion of a "pre-interview."

The process of complaint adjudication is also flawed. First, there is no uniform basis for categorizing witnesses as "independent" or "non-involved" as opposed to "involved," although that distinction can determine whether a complaint is "not sustained" or "sustained." Some commanding officers also evaluate witnesses' credibility in inconsistent and biased ways that improperly favor the officer. Moreover, even when excessive force complaints are sustained, the punishment is more lenient than it should be. As explained by one deputy chief, there is greater punishment for conduct that embarrasses the Department (such as theft or drug use) than for conduct that reflects improper treatment of citizens. Statistical data also support the inference that the Department treats excessive force violations more leniently than it treats other types of officer misconduct.

Perhaps the greatest single barrier to the effective investigation and adjudication of complaints is the officers' unwritten code of silence: an officer does not provide adverse information against a fellow officer. While loyalty and support are necessary qualities, they cannot justify the violation of an officer's public responsibilities to ensure compliance with the law, including LAPD regulations.

A major overhaul of the disciplinary system is necessary to correct these problems. The Commission recommends creation of the Office of the Inspector General within the Police Commission with responsibility to oversee the disciplinary process and to participate in the adjudication and punishment of the most serious cases. The Police Commission should be responsible for overseeing the complaint intake process. Citizens must believe they can lodge complaints that will be investigated and determined fairly. All complaints relating to excessive force (including improper tactics) should be investigated by IAD, rather than at the involved officer's division, and should be subject to periodic audits by the Inspector General. While the Chief of Police should remain the one primarily responsible for imposing discipline in individual cases, the Police Commission should set guidelines as a matter of policy and hold the Chief accountable for following them.

STRUCTURAL ISSUES

— Although the City Charter assigns the Police Commission ultimate control over Department policies, its authority over the Department and the Chief of Police is illusory. Structural and operational constraints greatly weaken the Police Commission's power to hold the Chief accountable and therefore its ability to perform its management responsibilities, including effective oversight. Real power and authority reside in the Chief.

The Chief of Police is the general manager and chief administrative officer of the Police Department. The Police Commission selects the Chief from among top competitors in a civil service examination administered by the Personnel Department. Candidates from outside the Department are disadvantaged by City Charter provisions and seniority rules.

The Chief's civil service status largely protects him or her from disciplinary action or discharge by giving him a "substantial property right" in his job and declaring that he cannot be suspended or removed except for "good and sufficient cause" based upon an act or omission occurring within the prior year. In addition, recently enacted Charter Amendment 5 empowers the City Council to review and override the actions of the City's commissions, including the Police Commission.

The Police Commission's staff is headed by the Commanding Officer, Commission Operations, a sworn LAPD officer chosen by the Police Commissioners, who normally serves in that post for two to three years. Because the Police Commission depends heavily on the Commanding Officer to review information received from the Department and to identify issues, it must also rely on his willingness to criticize his superior officers. However, he lacks the requisite independence because his future transfer and promotion are at the discretion of the Chief of Police, and he is part of the Chief's command structure as well as being answerable to the Police Commission.

The Police Commission receives summaries, prepared by the Department, of disciplinary actions against sworn officers, but cannot itself impose discipline. The summaries are brief and often late, making it impossible for the Police Commission to monitor systematically the discipline imposed by the Chief in use of force and other cases.

The Commission believes that the Department should continue to be under the general oversight and control of a five-member, part-time citizen Police

Commission. Commissioners' compensation should be increased substantially. They should serve a maximum of five years with staggered terms. The Police Commission's independent staff should be increased by adding civilian employees, including management auditors, computer systems data analysts, and investigators with law enforcement experience. It is vital that the Police Commission's staff be placed under the control of an independent civilian Chief of Staff, a general manager level employee.

The Chief of Police must be more responsive to the Police Commission and the City's elected leadership, but also must be protected against improper political influences. To achieve this balance, the Chief should serve a five-year term, renewable at the discretion of the Police Commission for one additional five-year term. The selection, tenure, discipline, and removal of the Chief should be exempted from existing civil service provisions. The Chief should be appointed by the Mayor, with advice from the Police Commission and the consent of the City Council after an open competition. The Police Commission should have the authority to terminate the Chief prior to the expiration of the first or second five-year term, but the final decision to terminate should require the concurrence of the Mayor and be subject to a reversal by vote of two-thirds of the City Council.

IMPLEMENTATION

Full implementation of this Report will require action by the Mayor, the City Council, the Police Commission, the Police Department, and ultimately the voters. To monitor the progress of reform, the City Council should require reports on implementation at six month intervals from the Mayor, the Council's own Human Resources and Labor Relations Committee, the Police Commission, and the Police Department. The Commission should reconvene in six months to assess the implementation of its recommendations and to report to the public.

Chief Gates has served the LAPD and the City 42 years, the past 13 years as Chief of Police. He has achieved a noteworthy record of public service in a stressful and demanding profession. For the reasons set forth in support of the recommendation that the Chief of Police be limited to two five-year terms, the Commission believes that commencement of a transition in that office is now appropriate. The Commission also believes that the interests of harmony and

healing would be served if the Police Commission is now reconstituted with members not identified with the recent controversy involving the Chief.

More than any other factor, the attitude and actions of the leaders of the Police Department and other City agencies will determine whether the recommendations of this Report are adopted. To make genuine progress on issues relating to excessive force, racism and bias, leadership must avoid sending mixed signals. We urge those leaders to give priority to stopping the use of excessive force and curbing racism and bias and thereby to bring the LAPD to a new level of excellence and esteem throughout Los Angeles.

Chapter One:

The Rodney King Beating and
The Questions It Has Raised

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"[They] should know better than run, they are going to pay a price when they do that."

LAPD dispatcher requesting
an ambulance for Rodney King,
March 3, 1991

Chapter One: The Rodney King Beating and the Questions It Has Raised

RODNEY G. KING – MARCH 3, 1991

Rarely has the work of an amateur photographer so captured the nation's attention as did the dramatic and disturbing scene recorded by George Holliday's video camera in the early morning of March 3, 1991 -- the morning Rodney G. King, a 25-year-old African-American, was beaten by three uniformed officers of the Los Angeles Police Department while a sergeant and a large group of LAPD, California Highway Patrol, and Los Angeles Unified School District officers stood by. The Holliday tape showed the officers clubbing King with 56 baton strokes and kicking him in the head and body. Within days, television stations across the country broadcast and rebroadcast the tape, provoking a public outcry against police abuse.

This Commission is not responsible for determining the culpability of the officers involved in the King incident: that is properly in the hands of the courts. Nevertheless, the King incident is described here in some detail because it was that event that led to the creation of this Commission, and

because in many respects the King beating raises most of the issues we consider.

The Pursuit

California Highway Patrol Officers Melanie Singer and Timothy Singer first observed King's white Hyundai at approximately 12:40 a.m. on Sunday morning, March 3, 1991, in the Pacoima area of the northeastern San Fernando Valley in Los Angeles. King's vehicle was approaching from the rear of the CHP vehicle at a high speed as the Singers drove westbound on the Interstate 210 freeway. King was driving, accompanied by two passengers, both of whom were also African-Americans. King passed the patrol car and then slowed. The CHP unit left the freeway and immediately reentered to pace King's vehicle, which had resumed traveling at a high speed.

The CHP officers reported that King's vehicle "was traveling at 110 to 115 m.p.h. (using the #1, 2 and 3 lanes)." (Some have questioned whether a Hyundai is capable of being driven in excess of 100 m.p.h.) The CHP unit activated its emergency lights and siren. King slowed somewhat, but failed to stop. Instead, he left the freeway and continued through a stop sign at the bottom of the ramp at approximately 50 m.p.h. King drove westbound at a high speed (estimated at 80 m.p.h.), reportedly running a red light. One passenger in King's car, Bryant Allen, reportedly urged King to slow down and pull over. The other passenger, Freddie Helms, said he was asleep during the entire chase. (Helms subsequently died in an unrelated traffic accident.)

LAPD patrol car unit 16A23, assigned to Officers Laurence M. Powell and Timothy Wind, joined the pursuit as the LAPD's primary pursuit car. A Los Angeles Unified School District Police squad car which was in the area also joined the pursuit.

King apparently stopped at a red light at the corner of Osborne Street and Foothill Boulevard in Lakeview Terrace. When the light turned green, King pulled through the intersection and came to a stop. The time was 12:50 a.m. An LAPD unit, probably 16A23, radioed a "Code 6" -- indicating that the chase had concluded.

Arrival of Additional LAPD Units

Following the Code 6 broadcast from the field, the LAPD Radio Transmission Operator (RTO) reported the Code 6 and "cleared" the broadcast frequencies so that units in other divisions monitoring the pursuit could return to normal transmissions. Approximately 60 seconds later, an unknown voice reported to the RTO, "Foothill and Osborne, there appears to be sufficient units here." At 12:50:50 a.m., the RTO broadcast a "Code 4." According to the LAPD manual, a Code 4 notifies all units that "additional assistance is not needed at the scene" and indicates that all units not at the scene "shall return to their assigned patrol area."

In all, 11 additional LAPD units (including one helicopter) with 21 officers arrived at the end-of-pursuit scene. At least 12 of the officers arrived following the Code 4 broadcast. A number of these officers had no convincing explanation for why they went to the scene after the Code 4 broadcast. For example, five of the officers were at Foothill Station doing paperwork at the end of their shift when they heard the pursuit broadcast on the radio. The five took two separate cars, joined the pursuit, and continued to its termination after the Code 4. One of these officers told District Attorney investigators that he proceeded to the scene after the Code 4 "to see what was happening."

Officers Theodore J. Briseno and Rolando Solano heard a radio call of the CHP pursuit and were heading toward the pursuit when they were designated the LAPD's secondary pursuit car. They then heard that the pursuing units were Code 6, saw flashing police lights off in the distance, and proceeded to the scene. As they parked, King was beginning to get out of his car in response to directions from officers at the site. Sergeant Stacey Koon also arrived at the scene as the pursuit ended. Sergeant Koon was an assigned field supervisor responsible for monitoring the activities of Foothill officers.

Beating and Arrest

Disputed Events Before the Holliday Video

At the termination of the pursuit, CHP Officer Timothy Singer, following "felony stop" procedures, used a loudspeaker to order all occupants out of King's car. Passengers Allen and Helms exited the car on the right-hand side. According to Koon and Powell, King initially refused to comply with the

order to leave his car. Both stated that when he finally did leave the car, he did not follow directions, reentered the car, and then came back out.

In a statement to the press on March 6, 1991, King insisted he had followed orders to exit the car. Passenger Allen told investigators that King responded to the initial command, but neglected to unbuckle his seat belt, thus requiring him to sit down again to undo it before actually leaving the car.

CHP Officer Melanie Singer told District Attorney investigators that she began to approach King intending to perform a "felony kneeling" procedure to take him into custody. However, the LAPD sergeant told her to stay back, "that they [the LAPD] would handle it."

When King first stepped out of the car, Koon said he "felt threatened, but felt enough confidence in his officers to take care of the situation."² Koon described King as big and muscular. (The arrest report lists King as 6'3" weighing 225 pounds.) He said he believed King was "disoriented and unbalanced" and under the influence of PCP.

After he left the car, King was ordered to lie flat on the ground. According to Koon and Powell, King responded³ by getting down on all fours, slapping the ground, and refusing to lie down.⁴ Powell said he tried to force King to the ground, but King rose up and almost knocked him off his feet.

Use of the Taser

Koon ordered the officers to "stand clear." King was still on the ground. Koon fired the Taser electric stun gun once, and then again. Koon subsequently reported that King did not respond to either firing. Powell's arrest report states that the Taser "temporarily halt[ed] deft's [King's] attack," and Solano stated that the Taser appeared to affect King at first because the suspect shook and yelled for almost five seconds.

Beating with Batons: Events on the Holliday Video

As George Holliday's videotape begins, King is on the ground. He rose and moved toward Powell. Solano termed it a "lunge," and said it was in the direction of Koon. It is not possible to tell from the videotape if King's movement is intended as an attack or simply an effort to get away. Taser wires can be seen coming from King's body.

As King moved forward, Powell struck King with his baton. The blow hit King's head, and he went down immediately. Powell hit King several additional times with his baton. The videotape shows Briseno moving in to try to stop Powell from swinging, and Powell then backing up. Koon reportedly yelled "that's enough."⁵ King then rose to his knees, Powell and Wind continued to hit King with their batons while he was on the ground. King was struck again and again.

Koon acknowledged that he ordered the baton blows, directing Powell and Wind to hit King with "power strokes."⁶ According to Koon, Powell and Wind used "bursts of power strokes, then backed off."

Notwithstanding the repeated "power strokes" with the batons, the tape shows that King apparently continued to try to get up. Koon ordered the officers to "hit his joints, hit his wrists, hit his elbows, hit his knees, hit his ankles." Powell said he tried to strike King only in the arms and legs.

Finally, after 56 baton blows and six kicks, five or six officers swarmed in and placed King in both handcuffs and cordcuffs restraining his arms and legs. King was dragged on his stomach to the side of the road to await arrival of a rescue ambulance.

King's Passengers

Bryant Allen and Freddie Helms both complied with officers commands at the end of the pursuit to exit the Hyundai and to lie flat on the ground, in the so-called "prone-out" position. They were immediately handcuffed. A School District police officer had his gun drawn on the two of them as they lay on the ground on the passenger side of the car.

Passengers Allen and Helms both heard screams from King, but could not see any of the beating because of their positions on the right side of the car. They were ordered not to look and to keep their heads on the ground. According to Helms, when he raised his head to get it out of the dirt, he was kicked in the side and hit in the head with a baton, drawing blood. Helms was treated at Huntington Memorial Hospital the next morning. Allen alleged he was kicked several times. After King had been handcuffed, Allen and Helms were pulled to their feet, taken to CHP squad cars, asked for identification, checked by computer, and released at the scene.

Racial References During the Incident

The officers involved in the use of force, as well as those who witnessed the incident, denied that any racial epithets or slurs were used. King told reporters in March 1991 that he heard "a little bit of yelling," but that "they beat me so bad I would not pay attention to what they were saying." By early May 1991, however, King, through his attorney Steven Lerman, maintained that officers repeatedly screamed racial slurs during the incident.

On May 7, 1991, Los Angeles public television station KCET broadcast an "enhanced audio" version of George Holliday's videotape. According to KCET, the enhanced video indicates that as King is being beaten, an officer is yelling "nigger, hands behind your back--your back." An audio enhancement done for the Los Angeles County District Attorney's Office, on the other hand, was described as "inconclusive."

Post-Arrest Events

King was taken by rescue ambulance to Pacifica Hospital of the Valley for emergency treatment. Wind and Officer Susan Clemmer rode with King in the ambulance. King received 20 stitches, including five on the inside of his mouth, and was then transferred to the jail ward at County-USC Medical Center. Medical records indicate that King had a broken cheekbone and a broken right ankle. In his negligence claim filed with the City, King alleged he had suffered "11 skull fractures, permanent brain damage, broken [bones and teeth], kidney damage [and] emotional and physical trauma."

Blood and urine samples taken from King five hours after his arrest showed that his blood-alcohol level was 0.075%, indicating that at the time of his arrest, he was over the level (0.08%) at which one can be presumed intoxicated under California law. The tests also showed "traces" of marijuana (26 ng/ml), but no indication of PCP or any other illegal drug.

King was booked for evading arrest and held for four days. He was released on Wednesday, March 6, after prosecutors determined there was insufficient evidence to prosecute him.

Inaccurate Reports After the King Beating

Following the King beating, Powell prepared the Department's standard form arrest report. Powell described his use of the baton and King's alleged resistance:

Deft recovered almost immediately [from the effects of the Taser] and resumed his hostile charge in our direction. Ofcr Wind and I drew our batons to defend against deft's attack and struck him several times in the arm and leg areas to incapacitate him. Deft. continued resisting kicking and swinging his arms at us. We finally kicked deft down and he was subdued by several ofcrs using the swarm technique.

Powell's report of the incident is inconsistent with the scenes captured on the Holliday videotape in terms of the number and location of baton blows, as well as in the description of King's "resistance."

King's injuries and medical treatment ("MT") were also described in the arrest report: "Deft was MT'd for abrasions and contusions on his face, arms, legs and torso areas." In his daily sergeant's log report, Koon included a similar description of King's injuries: "Several facial cuts due to contact with asphalt. Of a minor nature. A split inner lip. Suspect oblivious to pain."

THE DEPARTMENT'S REACTION TO ATTEMPTS TO REPORT THE KING INCIDENT

Both video cameraman George Holliday and Paul King, Rodney's brother, attempted to report the apparent police abuse of Rodney King.

Paul King

Paul King was awakened by Rodney King's passenger, Bryant Allen, on Sunday, March 3, at approximately 4:00 a.m., and told that his brother Rodney had been beaten and arrested by the police. Allen also said someone might have videotaped the incident. On Monday morning, Paul King went to the Foothill Station to complain about the treatment of his brother.

The officer at the front desk told Paul King he would have to wait. After waiting and then growing impatient, Paul King returned to the front desk as a sergeant came out from the back of the station. Paul King said he wanted to

make a complaint about his brother; the sergeant took Paul King back to a detective's interview room.

According to Paul King, the sergeant went in and out of the interview room several times during the 40 minutes Paul King was there, spending approximately half of that time out of the room. The sergeant states that he left the room once for about 30 minutes to find the arrest report and to attempt to locate a use of force report, which is required after any LAPD officer uses force more severe than a "firm grip." Paul King specifically asked about the procedures for making a complaint and advised the sergeant that a videotape of the incident existed.

According to Paul King, the sergeant began by asking whether he had ever been in trouble. Paul King responded that he was there to talk about Rodney King, not himself. The sergeant recalls discussing the public perception of and reaction to police officers in general in an effort to make Paul King feel more comfortable.

The sergeant told Paul King that he would check the logs and said something to the effect that an investigation was going on. In response to Paul King's inquiry as to what was being investigated, the sergeant told him that Rodney King was in "big trouble," that he had been caught in a high-speed chase going 100 m.p.h. or so and that, according to the reported ground for the arrest, Rodney King had put someone's life in danger, possibly a police officer.

The sergeant told Paul King that he should try to find the video, and that the video could be of help. The sergeant did not at any time fill out a personnel complaint form. According to Paul King, when he left Foothill Station "I knew I hadn't made a complaint."

The sergeant told the Commission staff he followed usual procedures when conducting the Paul King interview. The sergeant explained that when an individual makes a general complaint of police misconduct without specific details, he conducts a preliminary investigation. If that investigation reveals facts that, if true, would warrant discipline, a personnel complaint is prepared. If no complaint is prepared, the information he gathers is written down and passed along to his superior officers. Based on the general information he received from Paul King, the sergeant reported in his daily log that no further action was necessary, pending completion and evaluation of the use of force report or receipt of additional evidence such as the videotape.

George Holliday

George Holliday reported that he called the Foothill Station on Monday, March 4, intending to offer his videotape to the police. Holliday informed the desk officer who answered the call that he had witnessed an incident involving a motorist who had been beaten by LAPD officers. Holliday said he inquired as to the condition of the motorist and was told that "we [the LAPD] do not release information like that."

According to Holliday, the desk officer made no attempt to learn any details of the event Holliday witnessed. No personnel complaint was generated as a result of his call. Holliday said he did not inform the Foothill officer that he had videotaped the beating.

Confronted with what he viewed as disinterest on the part of the LAPD, Holliday made arrangements with Los Angeles television station KTLA to broadcast the videotape on Monday evening. The following day the tape received national exposure on the Cable News Network, and thereafter was reported widely in the media.

THE LAPD OFFICERS AT THE SCENE

Twenty-three LAPD officers responded to the scene of the Rodney King incident. Four LAPD officers -- Sergeant Koon and Officers Powell, Briseno, and Wind -- were directly involved in the use of force and have been indicted on felony charges, including assault with a deadly weapon. Koon and Powell are also charged with submission of a false police report. Two of the LAPD officers were in a helicopter overhead. Ten other LAPD officers were actually present on the ground during some portion of the beating. Seven other LAPD officers merely drove by the scene or otherwise did not directly witness the use of force. Four uniformed officers from two other law enforcement agencies -- the California Highway Patrol and the Los Angeles Unified School District -- were also at the scene.

The ages of these 23 LAPD officers ranged from 23 to 48 years. Their experience varied from 10 days to 29 years since graduation from the Police Academy. In the group were one African-American male, one African-American female, four Latino males, two white females, and 15 white males. Four of the 10 LAPD bystanders were field training officers responsible for supervising

"probationary" officers in their first year after graduation from the Police Academy.

Earlier that evening during roll call, a training session on use of the baton had been conducted in the parking lot of the Foothill Station. Both Powell and Wind participated in that session.

Because of the pending criminal trial of the four indicted officers, the Commission's access to their personnel files was restricted by court order. Based on published reports and public documents, however, it appears that three of the four indicted officers had been named in prior complaints for excessive force. Public records confirm that one officer had been suspended for 66 days in 1987 for kicking and hitting a Latino suspect with a baton. This officer was also the subject of a 1985 excessive force complaint, corroborated by a witness who came forward with information to the Commission, that had been rejected by the LAPD as "not sustained." According to press reports, another officer had been suspended for five days in 1986 for failing to report his use of force against a suspect following a vehicle pursuit and foot chase (The suspect's excessive force complaint against the officer was held "not sustained" by the LAPD.) A third indicted officer was the subject of a 1986 "not sustained" complaint for excessive force against a handcuffed suspect. Since the King incident, that officer has been sued by a citizen who alleges that the officer broke his arm by hitting him with a baton in 1989.

THE OFFICIAL RESPONSE TO THE RODNEY KING INCIDENT

The Rodney King beating was televised on March 4 on local Los Angeles station KTLA. The public reaction was immediate and overwhelming. Telephone calls expressing outrage at Rodney King's treatment flooded the Mayor's Office, the Police Department, and the media. The strong negative reaction included expressions of shock by some that such an incident could occur in Los Angeles, given the LAPD's national reputation for professional policing.

Immediately after the Holliday video was televised, Police Chief Daryl Gates stated that the tape was "shocking," but that he would withhold judgment on the behavior of the officers until the incident could be investigated. Chief Gates also described the incident as an aberration and expressed his hope that the public would not judge the entire Department on this one case. Mayor Tom

Bradley said he was "shocked and outraged" by the incident and emphasized that "this is something we cannot, and will not tolerate."

—By March 6, the Federal Bureau of Investigation, the Los Angeles District Attorney's Office, and the Los Angeles Police Department's Internal Affairs Division had begun investigations. The Police Commission, the civilian panel that oversees the Police Department, also began an inquiry.

On March 27, Chief Gates announced a "10-Point Plan" (included in Appendix I) in response to the Rodney King beating, stating that "there must be a thorough and diligent search for any underlying reasons why those officers engaged in such lawlessness." In addition, Chief Gates made several personnel changes in the command structure at the Valley Bureau and Foothill Division, the area where the King beating occurred. The Valley Bureau commander was reassigned to LAPD headquarters and an African-American officer was made commander of patrol officers at the Foothill Division. The Foothill Division Commanding Officer, Captain Tim McBride, remained in his position.

Four officers were indicted by the District Attorney's office on criminal charges: Sergeant Stacey Koon and Officers Laurence Powell, Timothy Wind, and Theodore Briseno. Wind, a first-year officer still on probation, has been fired; the other three officers face administrative hearings in which the Department is seeking their dismissal. The District Attorney's office did not seek indictments against the 17 LAPD officers who were at the scene and did not attempt to prevent the beating or report it to their superiors. The District Attorney, however, referred the matter of the bystanders to the United States Attorney for an assessment of whether federal civil rights laws were violated. To date, the United States Attorney has taken no action against the bystanders. The Department has transferred most of the bystander officers to other divisions within the City, and disciplinary action is pending against some of the bystanders. The watch commander (a lieutenant) was also transferred from Foothill Division.

The CHP has disciplined its officers present at the King beating, as well as their superiors in the chain of command. CHP Officers Timothy and Melanie Singer received written reprimands for failing to report the excessive use of force in sufficient detail. The sergeant who was their immediate supervisor was suspended for 10 days for his delay in informing his supervising lieutenant of

the King beating. The CHP lieutenant was demoted to sergeant for failing to initiate an investigation of the incident. The Los Angeles School District terminated its officers who were at the scene.

COMPUTER AND RADIO TRANSMISSIONS

Computer and radio messages transmitted among officers immediately after the beating raised additional concerns that the King beating was part of a larger pattern of police abuse. Shortly before the King beating, Powell's and Wind's patrol unit transmitted the computer message that an earlier domestic dispute between an African-American couple was "right out of 'Gorillas in the Mist,'" a reference to a motion picture about the study of gorillas in Africa.

The initial report of the beating came at 12:56 a.m., when Koon's unit reported to the Watch Commander's desk at Foothill Station. "You just had a big time use of force . . . tased and beat the suspect of CHP pursuit. Big Time." The station responded at 12:57 a.m., "Oh well . . . I'm sure the lizard didn't deserve it . . . HAHA I'll let them know OK."

Whoever was operating the Watch Commander's MDT did "let them know." At 12:57 a.m., the message went out from the station: "They just tased and beat the susp up big time in the pursuit." At 1:07 a.m., a further message said: "CHP chasing . . . failing to yield . . . passed A23 [Powell's and Wind's car] they became primary then went C6 [Code 6] . . . got 415 [disturbance call] then tased, then beat . . . basic stuff really."

In response to a request from the scene for assistance for a "victim of a beating," the LAPD dispatcher called the Los Angeles Fire Department for a rescue ambulance:

P.D.: . . . Foothill & Osborne. In the valley dude
(*Fire Department dispatcher laughs*) and
like he got beat up.

F.D.: (*laugh*) wait (*laugh*).

P.D.: We are on scene.

F.D.: Hold, hold on, give me the address again.

P.D.: Foothill & Osborne. he pissed us off, so I
guess he needs an ambulance now.

F.D.: Oh, Osborne. Little attitude adjustment?

P.D.: Yeah. we had to chase him.

F.D.: OH!

P.D.: CHP and us, I think that kind of irritated us a little.

F.D.: Why would you want to do that for?

P.D.: *(laughter)* should know better than run, they are going to pay a price when they do that.

F.D.: What type of incident would you say this is.

P.D.: It's a . . . it's a . . . battery, he got beat up.

Powell's and Wind's unit transmitted the word "oops" at 1:12 a.m. to foot patrol officers working the Sunland Tujunga area of Foothill Division, who were not at the scene of the beating. The following exchange then occurred during the next five minutes:

"Oops, what?"

[From Powell/Wind] "I haven't beaten anyone this bad in a long time."

"Oh not again . . . why for you do that . . . I thought you agreed to chill out for a while. what did he do.?"

[From Powell/Wind] "I think he was dusted . . . many broken bones later after the pursuit."

At Pacifica Hospital, where King was taken for initial treatment, nurses reported that the officers who accompanied King (who included Wind) openly joked and bragged about the number of times King had been hit.

THE PUBLIC RESPONSE

As noted above, public reaction to the King beating, and in particular to the degree and duration of the force used, was clear: the officers' conduct as depicted in the videotape was denounced as intolerable. Public outrage focused not simply on the fact that the officers involved used more than 50 "power strokes" with their batons and kicks to Rodney King's head and body in an open, public location, but also on the presence at the scene of a

sergeant, who failed to control the situation, and a large number of other officers, none of whom attempted to intervene.

Moreover, the videotape and subsequently reported computer communications provoked concern that the beating was an example of widespread, racially motivated "street justice" administered by some in the LAPD, and reinforced the belief, particularly held by some members of Los Angeles' minority communities, that excessive use of force by the LAPD is common.

That view is shared by many outside Los Angeles' minority communities. A *Los Angeles Times* poll conducted on March 7-8, 1991, found that nearly two-thirds (63%) of the respondents in the City of Los Angeles, including a majority of whites, said that they believed incidents of police brutality involving the LAPD are "common." The same question asked two weeks later produced comparable results, with 68% of all respondents (59% of whites, 87% of African-Americans, and 80% of Latinos) stating that incidents of LAPD brutality were either "very common" or "fairly common." A similar, although somewhat less dramatic, perception concerning the LAPD's excessive use of force was found a year before the King beating. More than half (53%) of those from the City of Los Angeles who responded to a February 1990 *Times* poll stated that there was at least some police brutality within the City. In contrast, only 37% of the Orange County respondents believed there was some police brutality in their area.

THE AFTERMATH OF THE BEATING: QUESTIONS THAT DEMAND ANSWERS

The Rodney King beating gave immediate rise to myriad questions about the Los Angeles Police Department. Concerns were voiced about the openness of the officers' conduct; the presence of a sergeant who failed to control and indeed directed the violence; the puzzling convergence of so many officers at the end-of-pursuit location after the Code 4 broadcast that no assistance was needed; the number of officers who stood by during the beating and failed to report it afterwards; and the radio comments and computer transmissions before and after the incident that suggested a possible racial motivation and a ready acceptance of excessive force as "basic stuff" by LAPD officers.

More fundamental questions quickly arose as well:

- concerns about the LAPD's "culture" and officers' attitudes toward racial and other minorities
- the apparent failure to control or discipline officers with repeated complaints of excessive force
- the accuracy with which arrest and use of force reports are completed
- the inability to screen out applicants to the LAPD with psychological profiles indicating a propensity to violence
- the possibility that "street justice" is regularly meted out by LAPD officers after a pursuit or chase
- the disparity between the training received at the Police Academy and the way the LAPD operates in the field
- the difficulties the public encounters in attempting to make complaints against LAPD officers
- the role of the LAPD leadership and civilian oversight authorities in addressing or contributing to these problems

These and related questions and concerns form the basis for the Commission's work.

NOTES TO CHAPTER ONE

- 1 LAPD Manual, Vol. 4, p.289.
- 2 Excerpt from LAPD Internal Affairs Report, quoted in the May 21, 1991 edition of the Los Angeles Times, hereinafter referred to as "IAD/Times."
- 3 IAD/Times
- 4 Id.
- 5 Id.
- 6 Id.
- 7 Id.

Chapter Two:
Los Angeles and Its Police Department

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In 1986, LAPD officers had the highest average number of violent and property crime arrests among officers in the six largest cities in the United States

Data from the Police Foundation. *The Big Six: Policing America's Largest Cities* (1991)

Chapter Two: Los Angeles and its Police Department

LOS ANGELES

Los Angeles is the second largest city in the nation, with over 3.4 million people living within its 465 square mile area. The City sits within Los Angeles County, composed of 87 smaller cities and a number of unincorporated areas, with a total additional population of almost 5.5 million. The area is bounded by large neighboring populations in Orange, Riverside, San Bernardino, and Ventura Counties.

Recent census data reflect the enormous diversity and dramatic changes in Los Angeles' population mix. According to the 1990 Preliminary Census, the City's white population constitutes 37% of the total; African-Americans, 13%; Latinos, 40%; and Asian/Pacific Islanders and others, 10%. These numbers reflect the large Latino and Asian immigration into Southern California and the steady rise in the Latino population generally within the area. In many respects, Los Angeles is a city subdivided into a patchwork of communities, neighborhoods, cities-within-the-City, barrios, ghettos, and enclaves marked by residential segregation and a large percentage of recent immigrants only beginning their acculturation. Over 80 languages are spoken by students in the

Los Angeles City schools, and 39% of these students come from homes where English is not the primary language. The automobile strongly influences life in Los Angeles, with the City's freeways symbolizing the far-ranging mobility of the area's populace.

Los Angeles is rightly viewed as a fast-paced, upwardly mobile, ethnically diverse, and modern city. Unhappily, violent crime has become another distressing aspect of Los Angeles life, aggravated by the influx of drug trafficking and the presence of numerous violent neighborhood gangs.

This, then, is the working environment of the Los Angeles Police Department.

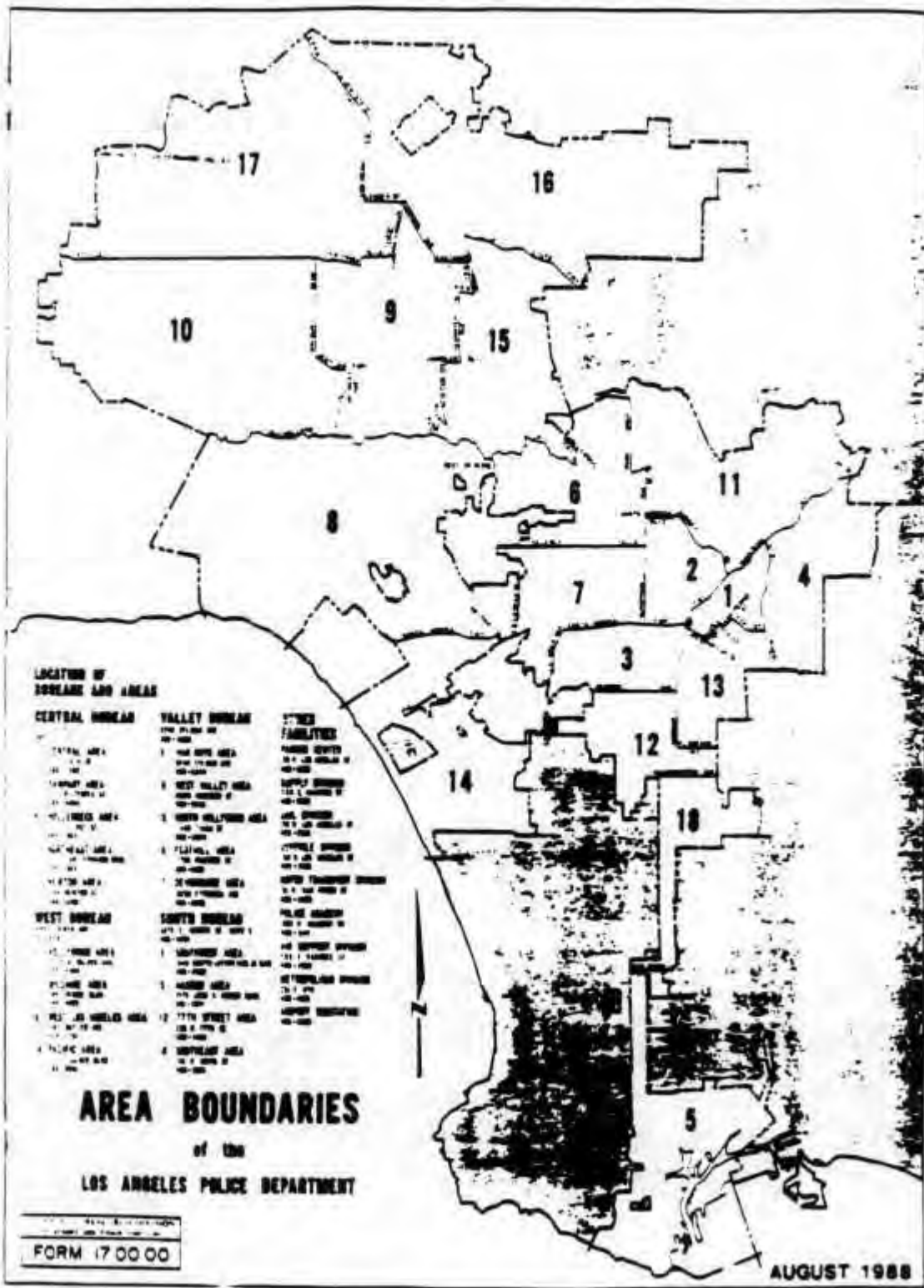
THE STRUCTURE AND STAFFING OF THE LAPD

The Police Department is headed by Chief of Police Daryl Gates, with an executive staff currently consisting of two assistant chiefs, five deputy chiefs, and 17 commanders. The following organizational chart (Table 2-1) shows the Department's overall structure. As discussed more fully in Chapter 10 of this Report, the City Charter provides that the Department is ultimately under the control and oversight of the five-member civilian Board of Police Commissioners (referred to throughout this Report as the "Police Commission").

The Department is divided into three administrative offices: Administrative Services, Operations, and Special Services. The Office of Operations, headed by Assistant Chief Robert Vernon, accounts for about 84% of the Department's personnel, including the patrol officers and detectives whose activities are most familiar to the public. There are 18 separate geographic areas under the Office of Operations, divided among four bureaus (Central, South, West, Valley) as illustrated on the following bureau map (Table 2-2). In addition, some 42 other police departments coexist in the City and County of Los Angeles, including the Los Angeles County Sheriff's Department and the California Highway Patrol.

The LAPD currently numbers approximately 8,450 sworn police officers, augmented by over 2,000 civilian personnel. According to 1986 data recently published by the Police Foundation concerning the police departments in the country's six largest cities, *The Big Six: Policing America's Largest Cities* (1991), Los Angeles has the lowest ratio of sworn officers per resident (2:1,000) and the second lowest ratio of officers per square mile (15:1). As of 1986,

TABLE 2-2



Houston, New York, Chicago, Philadelphia, and Detroit all had more officers per resident than Los Angeles.

As in all of the police departments in the six largest cities, white officers (68.7% of the Department in 1986) are overrepresented in the LAPD in comparison with the percentage of whites in the City's total population. As of 1986, African-American officers made up 12.4% of the LAPD and Latinos made up 16.5% of the force, reflecting aggressive recruiting among both groups spurred by a consent decree governing the recruitment, hiring, and promotion of African-Americans and Latinos. The percentage of African-Americans in the LAPD has now grown to 13.6%. In addition, the Department has about 2% Asian officers and aims to increase this percentage to 7% by the year 2000.

The LAPD has a reputation as a hard working, car-based mobile strike force that is tough on criminals. The Police Foundation data bear this out. To deal with the criminal challenge, the LAPD pioneered the use of SWAT teams, helicopters, and a motorized battering ram.

VIOLENT CRIME TRENDS

The Commission received extensive information regarding the relationship between national violent crime trends and those evident in Los Angeles, summarized in the following table (Table 2-3). While the overall rate of violent crime in the United States increased from 200 incidents per 100,000 residents in 1960 to 700 incidents per 100,000 residents in 1989, the crimes reported per person in Los Angeles during the same time period were more than twice the national average. According to the Police Foundation, in 1986 Los Angeles police were the busiest among the officers in the six largest cities in the United States. For each sworn officer that year, Los Angeles had the highest number of recorded violent crimes (9.2 compared with 5.2 in New York, the second highest), and the highest number of recorded property crimes (35.2 compared with 32.1 in Houston). LAPD officers had the highest average number of violent crime arrests (3.1 per officer compared with 1.9 in Detroit, the second highest), and the highest average number of property crime arrests (4.4 per officer compared with 3.8 in both Chicago and Houston).

In 1986, compared with officers in the other five of the six largest cities in the United States, members of the LAPD killed or wounded the greatest number of civilians, adjusted to the size of the police force. LAPD officers killed

TABLE 2-1
**RATE OF VIOLENT CRIME SINCE 1960
 NATIONALLY AND IN 6 MAJOR CITIES**

	<u>1960</u>	<u>1970</u>	<u>1980</u>	<u>1989</u>
UNITED STATES	160.9	363.5	580.7	663.2
LOS ANGELES	376.3	737.5	1339.6	1601.1
NEW YORK	183.5	980.7	1710.6	2021.2
CHICAGO	396.1	633.6	585.0	*
PHILADELPHIA	203.1	321.1	637.9	608.5
HOUSTON	230.5	562.4	718.8	801.1
DETROIT	309.8	916.8	859.6	891.2

*Data Not Available

Chicago did not report rape in accordance with national guidelines

Source: FBI Uniform Crime Reports

3.0 persons per 1,000 sworn officers and wounded 8.1 persons per 1,000 sworn officers. In Detroit, with the second highest violent and property crime arrest rate, the comparable numbers were 1.2 and 5.0, respectively.

In terms of officers killed in 1986, Los Angeles' rate per 5,000 officers was 1.4, compared with Philadelphia at 1.5, Houston at 2.2, Detroit at 3.0, and -- on the lower side -- New York and Chicago each at 0.4. An April 25, 1991, *New York Times* article reported that, contrary to public perception, statistics show that the streets of America are considerably less deadly for police officers today than they were 20 years ago. Last year 65 officers nationally were killed in the line of duty, the lowest number since 1968 and about half the peak rate of 120 officers a year in the early 1970's. Police work remains dangerous, however, as the tragic death of Officer Tina Kerbat last February and the recent crash of a police helicopter killing Officers Gary Howe and Charles Champe make painfully clear.

Social scientists, psychologists, and psychiatrists who have studied the problem of violence report that the United States is one of the most violent societies in the world. One expert consultant to the Commission, Louis J. West, M.D., Professor of Psychiatry at UCLA, has observed that the United States has been experiencing an epidemic of interpersonal violence for more than 30 years. Since 1960, the annual incidence of all violent crimes combined (homicide, forcible rape, aggravated assault, and armed robbery) has quadrupled. In Los Angeles, like most of the biggest cities, crime rates are much higher, with Los Angeles consistently 2.5 times higher than the national average.

As crime rates soar, police officers must contend with more and more actual and potential violence each day. LAPD officers frequently face injury-producing and life-threatening situations. They are dispatched to scenes of shootings, murders, robberies, and burglaries; called to investigate incidents of rape and physical or sexual child abuse, and required to respond to domestic disputes, in which officers are mediators, referees, and often victims of violence themselves. One moment officers must confront armed felons; the next they must deal with predicaments requiring kindness, caring, and supportiveness. As Dr. West emphasizes:

[I]t is important to realize that police officers are now required to be diagnosticians and, indeed, gatekeepers with respect to the intoxicated, the

mentally ill, the traumatized, the emotionally distraught, the bereaved, and even those in the grip of existential despair. It may well be that the police have more total contact with disturbed individuals in our society than does any other category of health professionals.²

Although the Commission focused its inquiry on Los Angeles and its Police Department, violence, stress, and the use of force are not simply a Los Angeles concern, as the comments of Dr. West and the *Big Six* data compiled by the Police Foundation bear witness. Indeed, shortly after the formation of this Commission, the heads of 11 police departments from 10 cities around the country (Baltimore, Boston, Bridgeport, Chicago, Dallas, New York, Portland, St. Petersburg, San Diego, and Tulsa) called for a national commission on crime and violence to track instances of police brutality, stating that the problem of excessive force is real and is linked to drugs, strife, and urban decay.³

PRIOR INCIDENTS

The Rodney King incident was not the first instance of a highly charged, notorious event spurring calls for inquiry and reform in Los Angeles. In the glare of such scrutiny, some constructive changes in Police Department policies and procedures have occurred at various times. For example, the "Sleepy Lagoon" incident in the 1940's triggered concerns about discrimination against Latinos; the discovery in the 1970's of secret intelligence files in the Police Department led to a policy against the Department spying on Los Angeles citizens' lawful activities; and the 1979 fatal shooting of Eulia Love led to reforms in the Department's use of force policy. Perhaps the most well-known event was the six-day riot in South-Central Los Angeles during the summer of 1965, leading to the creation of the Governor's Commission on the Los Angeles Riots (the McCone Commission).

THE LAPD'S POLICY ON USE OF FORCE

Because this Report is largely concerned with excessive use of force, it is appropriate to set forth the Police Department's stated policy and its guidelines regarding the proper uses of force.

LAPD officers exercising physical force must comply with the LAPD's use of force policy and guidelines, adopted by the Police Commission in 1979, as well as California law. The LAPD policy states:

In a complex urban society, officers are daily confronted with situations where control must be exercised to effect arrests and to protect the public safety. Control may be achieved through advice, warnings, and persuasion, or by the use of physical force. While the use of reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances. Officers are permitted to use whatever force that is reasonable and necessary to protect others or themselves from bodily harm.

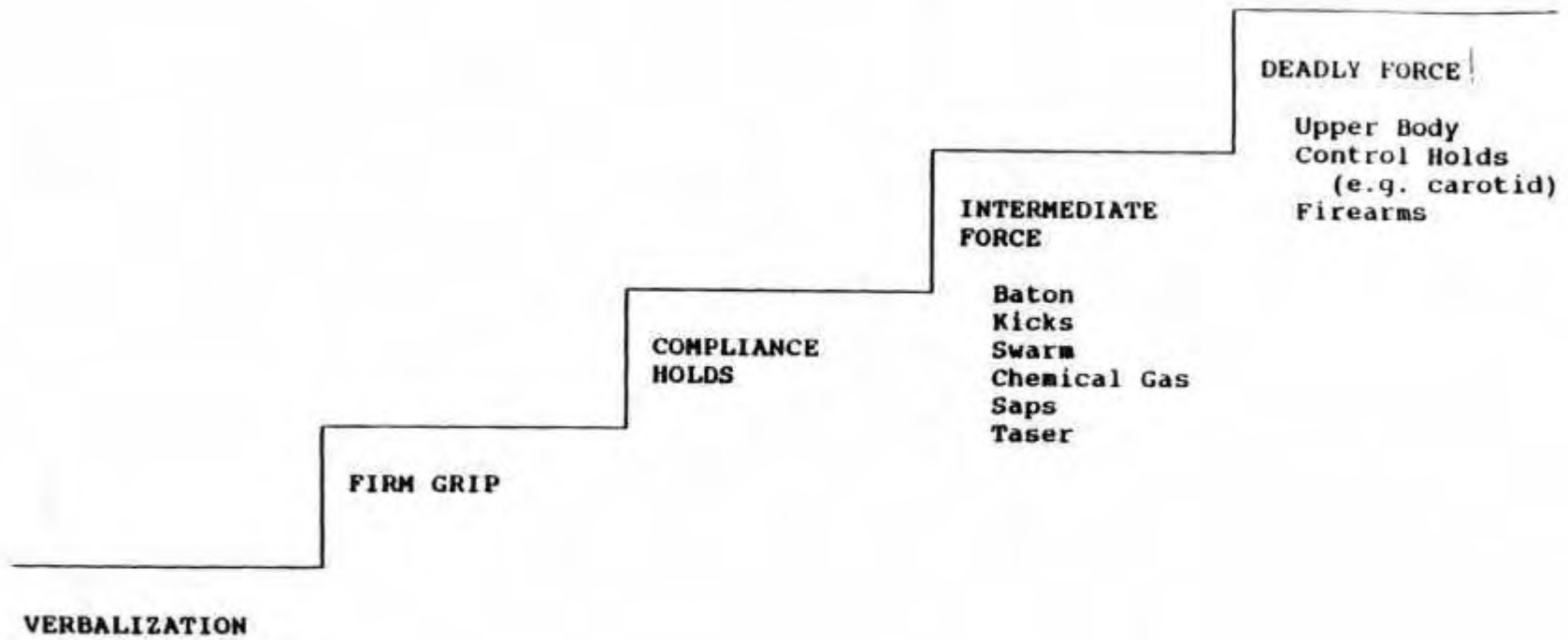
California Penal Code Section 835a states in part: "Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance."

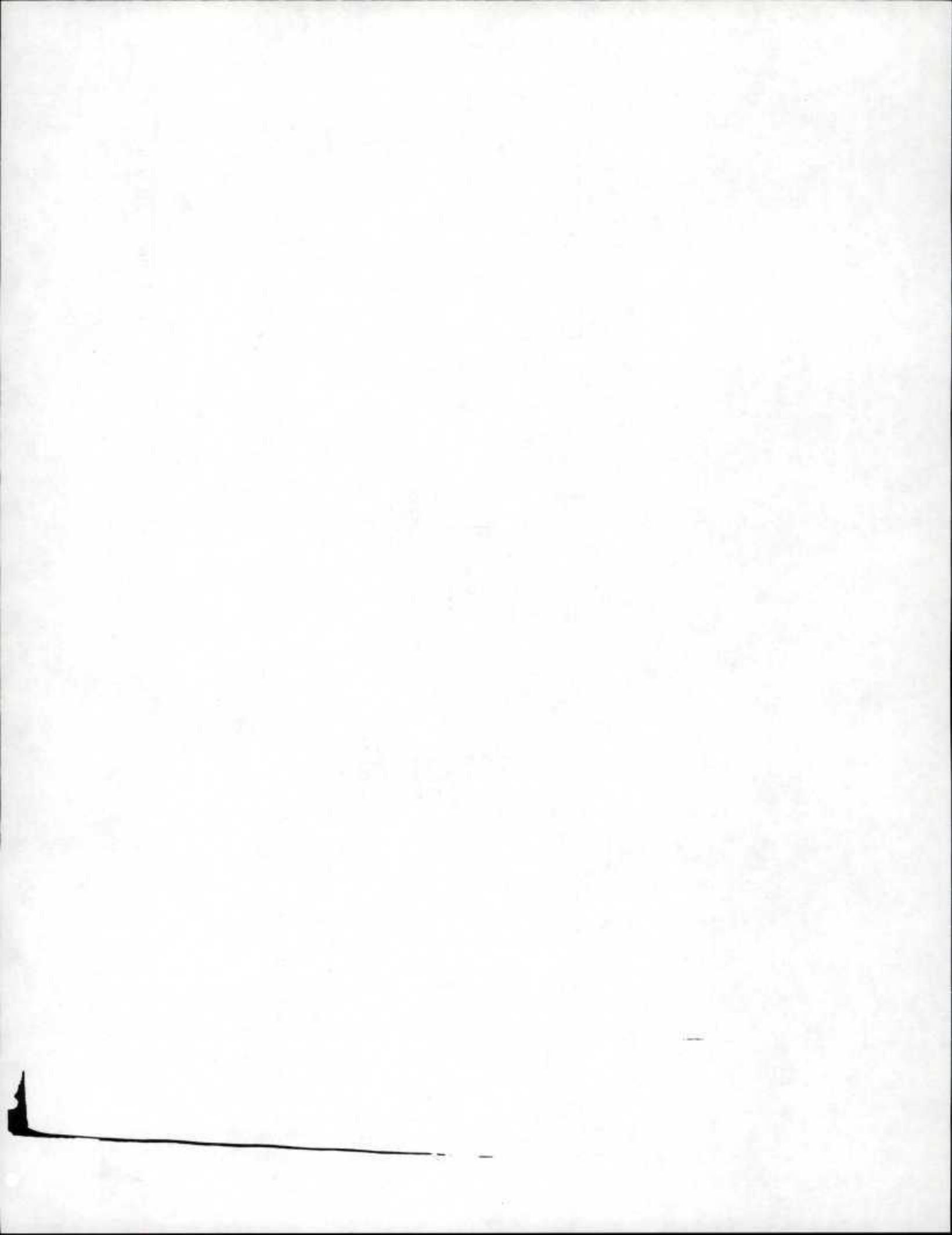
The use of force policy and the Penal Code both require that the force used be reasonable; the use of force policy also requires that the force used be necessary. The LAPD's use of force guidelines explain that an officer may resort to force only where he or she faces a credible threat. A suspect's verbal threats of violence by themselves do not justify use of physical force.

In addition, under the use of force guidelines, an officer is required to react to a suspect's behavior with the minimum amount of force necessary to control the suspect. As the suspect escalates or de-escalates his or her level of resistance or aggressiveness, the officer must react accordingly. The guidelines identify five levels of force and the permissible use of force techniques within each level, as illustrated in the following use of force scale (Table 2-4). The five levels are (1) verbalization; (2) firm grip; (3) compliance holds; (4) intermediate force, including the use of the baton, kicks, swarm,

USE OF FORCE SCALE

TABLE 2-4





chemical spray, saps, and taser; and (5) deadly force, including the modified carotid hold (sometimes called a "chokehold") and firearms.

The central task of the Commission was to determine whether and how the LAPD's use of force policy and guidelines are followed in practice.

Chapter Three: The Problem of Excessive Force In the LAPD

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"We know who the bad guys are. . . . We know the [officers] who are getting into trouble more than anyone else."

Former LAPD Assistant Chief
Jesse Brewer

"R U going to beat em up like U did the last time."

Computer message sent
between LAPD patrol cars

Chapter Three: The Problem of Excessive Force In the LAPD

The LAPD can be justifiably proud of its many strengths. It is widely recognized throughout the United States for efficiency, absence of corruption, quality of personnel, sophistication of technology, and accomplishments in crime-fighting.

The Commission has found, however, that there is a significant number of officers who repetitively misuse force and persistently ignore the written policies and guidelines of the Department regarding force. By their misconduct, this group of officers tarnishes the reputations of the vast majority of LAPD officers who do their increasingly difficult job of policing the City with courage, skill, and judgment. While there are broader issues of LAPD "culture" and community relations that bear on the problem of excessive force in ways that we discuss in subsequent chapters, we concentrate here on the failure to control these problem officers. This is a management issue that we see as the heart of the problem of excessive force.

EXCESSIVE FORCE AS A MANAGEMENT PROBLEM IN THE LAPD

The problem of excessive force in the LAPD is fundamentally a problem of supervision, management, and leadership. What leaps out from the Department's own statistics -- and is confirmed by LAPD officers at the command level and in the rank-and-file -- is that a "problem group" of officers use force, and are the subject of complaints alleging excessive or improper force, far more frequently than most other officers. Yet, the evidence obtained by the Commission shows that this group has received inadequate supervisory and management attention.

Jesse Brewer, a retired 38-year LAPD veteran who served as Assistant Chief from 1987 until February 1991, testified before the Commission that this lack of management attention and accountability is the "essence of the excessive force problem" in the LAPD:

We know who the bad guys are. Reputations become well known, especially to the sergeants and then of course to lieutenants and the captains in the areas. We know the ones who are getting into trouble more than anyone else. But, I don't see anyone bringing these people up and saying, "Look, you are not conforming, you are not measuring up. You need to take a look at yourself and your conduct and the way you're treating people" and so forth. I don't see that occurring.

* * *

The sergeants don't, they're not held accountable so why should they be that much concerned. They know that some of these officers who do generate the most complaints are also the ones who make a lot of arrests and write a lot of tickets and so forth and the sergeants, I have a feeling that they don't think that much is going to happen to them anyway if they tried to take action and perhaps not even be supported by the lieutenant or the captain all the way up the line when they do take action against some individual.

* * *

I think more attention needs to be paid to these people that we know are ones who constantly get into trouble. It appears we have a large number, large -- I don't know how large the number is -- we

have a number of people who have established a reputation for generating complaints. And we know that when you get one complaint, there are probably three or four instances where the same thing has occurred, but no complaint has been lodged because people don't necessarily, all people don't necessarily make complaints. And so we would say that if a person is generating an inordinate number of complaints, that someone in the chain of command and probably the captain, should be looking at these individuals and at least informing them that they are going to be closely scrutinized and their conduct is going to be monitored. So that I think, perhaps, that would . . . we would work with these individuals that we know are creating problems for us in the field.

Chief of Police Daryl Gates recognized, in his testimony before the Commission, that the system for monitoring and counseling officers with a disturbing pattern of use of force or personnel complaints "has fallen by the wayside by some but not all" in the past four or five years and that the job "has been done too haphazardly" in recent years. Assistant Chief David Dotson, who heads the Department's Office of Special Services, testified that "we have failed miserably" in the LAPD to hold supervisors accountable for excessive force by officers under their command:

There's one thing about discipline that I don't want to get away from, or don't want to get away from the subject without mentioning it. In my judgment, we do a very poor job of management and supervisory accountability.

* * *

. . . higher command officers when learning of [incidents of excessive force] having occurred took no action or very indecisive action, very weak and slow approach to doing something. Let me tell you that none of those people [the higher command officers], with rare exceptions, have been disciplined. And, in fact, I'm not even sure they've been counseled in many of these incidents.

* * *

And so, that's an area that I believe we have failed miserably in, is holding people accountable for the actions of their people.

Interviews of many present and former LAPD officers by the Commission staff yielded conclusions similar to those of Assistant Chiefs Brewer and Dotson. Senior and rank-and-file officers generally stated that a significant number of officers tended to use force excessively, that these problem officers were well known in their divisions, and that the Department did not do enough to control or discipline these officers. The officers interviewed felt that supervisors were not held accountable by their superiors for excessive use of force by their subordinates, and consequently supervisors paid little attention to the problem.

This information from Commission interviews is supported by the results of a written survey of 960 randomly selected officers conducted by the LAPD in May 1991. Thirty percent of the 650 officers responding agreed -- as does this Commission -- that "the use of excessive force is a serious problem facing the Department." (Of the remainder, 53% disagreed and 17% had no opinion.)

A significant percentage of officers in this survey agreed with the statement that "an officer is justified in administering physical punishment to a suspect who has committed a heinous crime" (4.9%) or "to a suspect with a bad or uncooperative attitude" (4.6%). (Another 11% of the officers had no opinion on the statements regarding physical punishment of suspects, while 84% disagreed.) That nearly 5% of LAPD officers would acknowledge in a written survey sponsored by the Department that an officer would be entitled to use "street justice" against suspects with a "bad or uncooperative attitude," and that 11% would have "no opinion," are evidence of a serious problem in attitude toward use of force among a significant group of LAPD officers.

The LAPD has a number of tools, which are discussed in subsequent chapters of this Report, to promote and enforce its policy that only reasonable and necessary force be used by officers. There are rewards and incentives such as promotion, pay upgrades, and transfers to desirable assignments. Sanctions for misconduct (including termination) can be imposed through the discipline system. Officers can be reassigned or transferred by administrative order. Supervisors can monitor and counsel officers under their command. Officers can be trained in the proper use of force at the Police Academy and, perhaps more importantly, in the field.

The Commission believes that the Department has not made sufficient efforts to use these tools effectively to address the significant number of officers

who appear to be using force excessively and improperly. The leadership of the LAPD must send a much clearer and more effective message that excessive force will not be tolerated. That message must also make plain that officers and their supervisors will be evaluated to an important extent by how well they abide by and advance the Department's policy regarding the use of force.

THE "PROBLEM GROUP" OF OFFICERS WITH HIGH CONCENTRATIONS OF COMPLAINTS, USES OF FORCE, AND SHOOTINGS

A group of officers who appear to pose a much higher risk of using excessive force than other officers is readily identifiable in the computer data provided to the Commission by the Department. These data include: all personnel complaints filed against LAPD officers from January 1986 through December 1990; all use of force reports for the period January 1987 through March 1991; and all reports of officer involved shootings for the period January 1986 through April 1991.

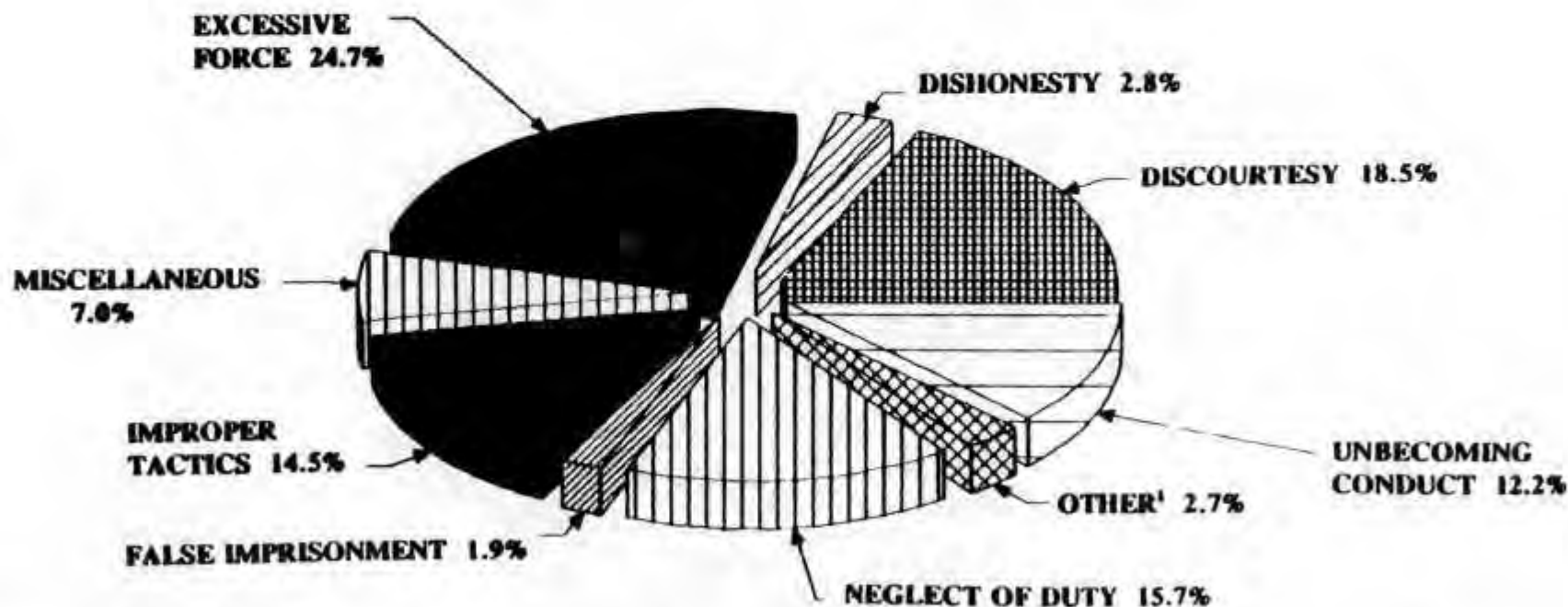
The data may be described briefly as follows. Personnel complaints against officers, which are discussed in Chapter 9 in connection with the LAPD discipline system, are ruled by the Department to be "sustained" (meaning the officer is guilty of the misconduct alleged), "not sustained" (meaning that because the evidence is conflicting it cannot be determined whether the alleged misconduct occurred), "unfounded" (meaning that the alleged misconduct did not occur), or "exonerated" (meaning that the conduct did occur, but was justified under LAPD policy).

The LAPD classifies complaints into categories such as "excessive force," "improper tactics," "conduct unbecoming an officer," "neglect of duty," "dishonesty," and others. (See Table 3-1.) Each complaint can, and often does, have multiple allegations in different categories. Complaints classified by the LAPD as "excessive force" or "improper tactics" typically involve allegations of improper or unnecessary force, and the Commission's analysis focused on complaints in these categories. Analysis of other categories of complaints, however, has shown that complaints in categories such as "neglect of duty," "conduct unbecoming an officer," and "dishonesty" may also be related to improper use of force. As discussed in Chapter 9, very few citizen allegations of excessive force (2.0%) were ruled sustained by the LAPD in the five years

TABLE 3-1

TYPES OF ALLEGATIONS IN COMPLAINTS BY PUBLIC AGAINST LAPD OFFICERS AS CLASSIFIED BY LAPD

8,274 TOTAL ALLEGATIONS FROM JANUARY 1986 THROUGH DECEMBER 1990



¹ Unlawful Search (1.43%), Sexual (0.34%), Narcotics (0.31%), Discrimination (0.24%), Improper Relations (0.15%), Insubordination (0.11%), Alcohol (0.07%), Firearm Discharge (0.01%).

Source: LAPD Complaint Database. (Complaints made by members of the public against LAPD officers. Does not include complaints initiated by LAPD.)

from 1986 through 1990. Only 4.8% of the public's improper tactics allegations were ruled sustained during this period.

A use of force report must be completed whenever an LAPD officer uses force greater than "firm grip" compliance. The report identifies all officers involved in the use of force and usually is written by a sergeant based on the account of the officers involved in the use of force. The report includes information regarding the nature of the force used (for example, baton, firearm), any injury received by the individual, and other data. LAPD data indicate that use of force reports are filed in approximately 1% of arrests. The evidence available to the Commission indicates that officers using force do not always report it, but the extent of such underreporting is difficult to determine. Approximately 6,000 officers are identified as involved in a use of force in one or more use of force reports in the LAPD computer database of all reports made between January 1987 and March 1991.

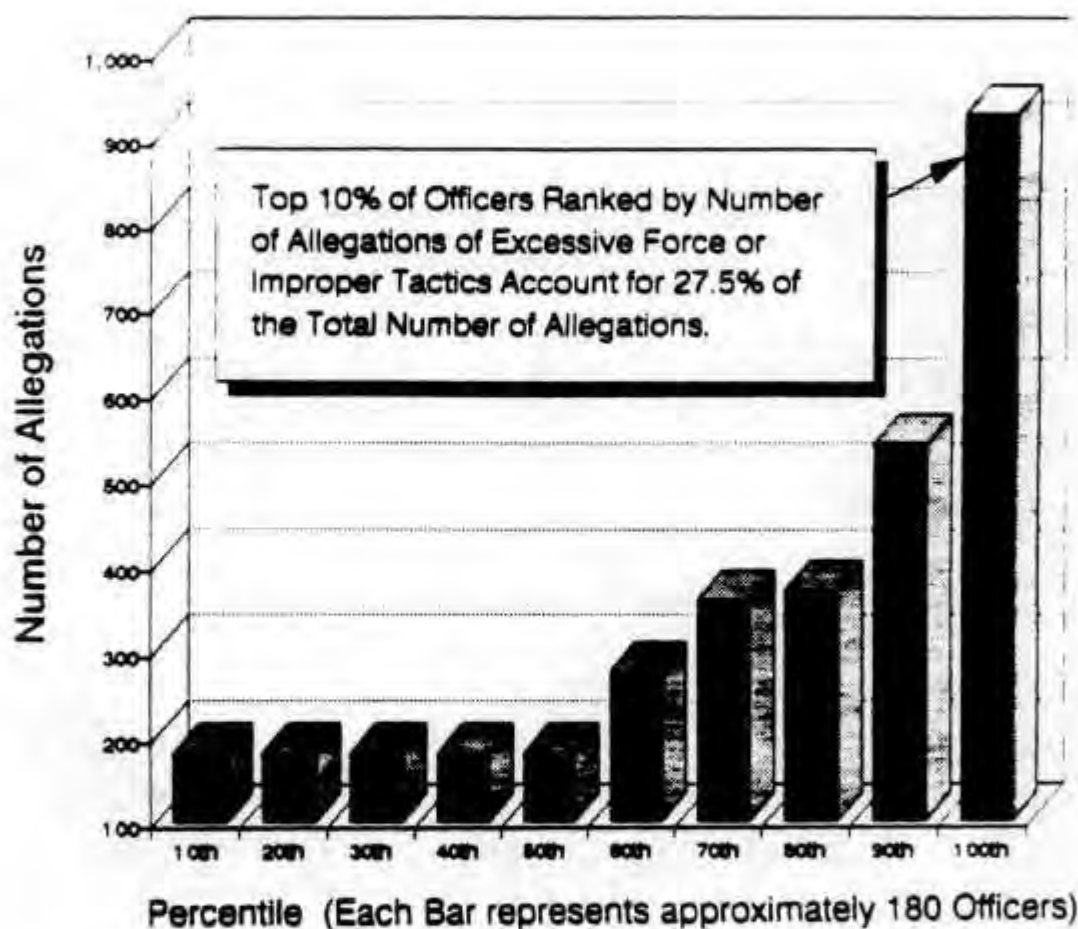
An officer involved shooting report is required to be filed every time an officer discharges a firearm, whether accidentally or intentionally, and whether or not anyone is hit or injured by the shot.

When these data are sorted by officer serial number, the responses are remarkable and disturbing:

- **Complaints.** Of approximately 1,800 officers against whom an allegation of excessive force or improper tactics was made from 1986 through 1990, over 1,400 officers had only one or two allegations. But 183 officers had four or more allegations, 44 had six or more, 16 had eight or more, and one had 16 allegations. The top 10% of officers ranked by number of excessive force or improper tactics allegations accounted for 27.5% of all such allegations. (See Table 3-2.)
- **Use of Force Reports.** Of nearly 6,000 officers identified as involved in a use of force in use of force reports from January 1987 through March 1991, more than 4,000 had less than five reports each. But 63 officers had 2 or more reports each. The top 5% of officers ranked by number of reports accounted for more than 20% of all reports, and the top 10% accounted for 33%. (See Tables 3-3 and 3-4.)

TABLE 3-2

**CONCENTRATION OF COMPLAINTS AGAINST
LAPD OFFICERS FOR EXCESSIVE FORCE
OR IMPROPER TACTICS**
JANUARY 1986 THROUGH DECEMBER 1990



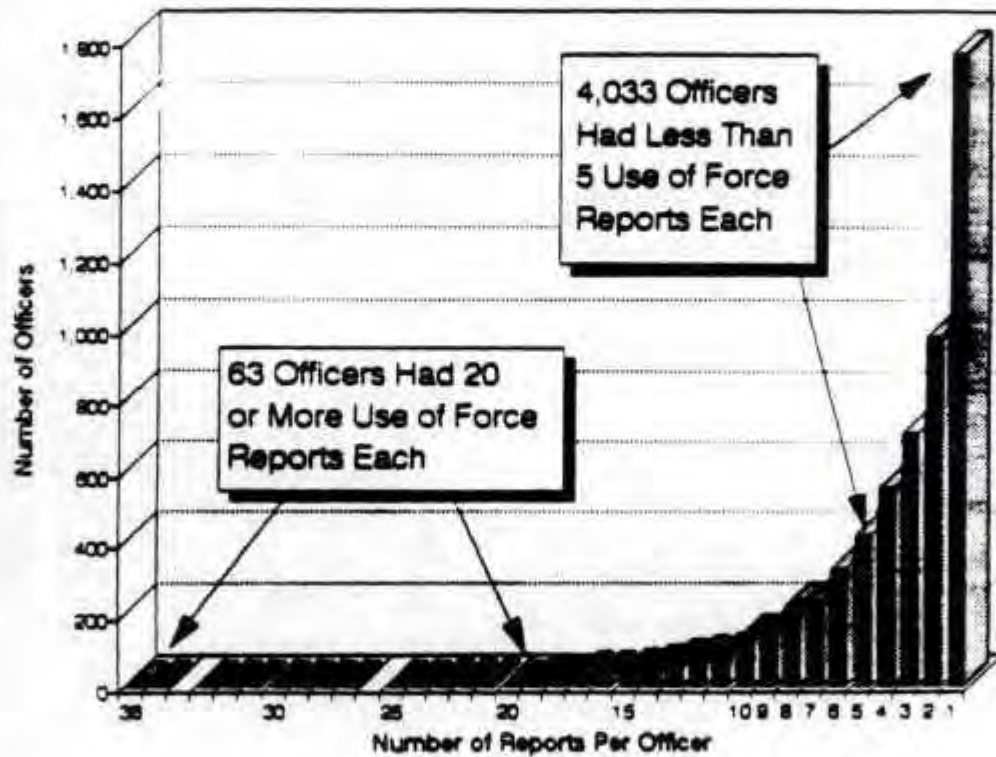
- 1,802 officers received at least one allegation of excessive force or improper tactics during the period January 1986 through December 1990.
- Officers were ranked according to number of allegations per officer.
- Allegations were concentrated in relatively few officers.

Source: LAPD Complaint Database.

TABLE 3-3

USE OF FORCE REPORTS

**OFFICERS RANKED BY NUMBER OF USE OF FORCE REPORTS
FROM JANUARY 1987 THROUGH MARCH 1991**



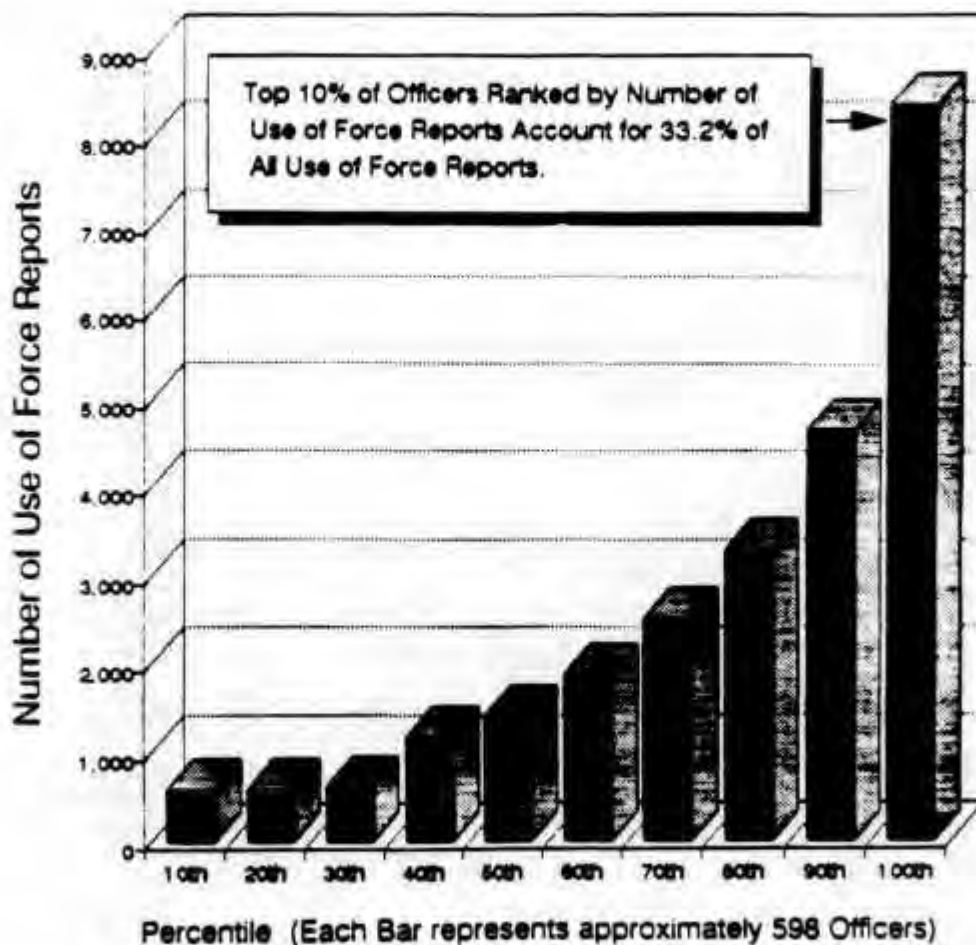
Note: A use of force report generally lists more than one officer involved in the use of force reported. In this analysis, each listing of an officer in a use of force report was treated as a separate report.

Source: LAPD Use of Force Database.

TABLE 3-4

CONCENTRATION OF LAPD OFFICERS LISTED IN USE OF FORCE REPORTS

5,976 OFFICERS LISTED IN AT LEAST ONE USE OF FORCE REPORT FILED FROM JANUARY 1987 THROUGH MARCH 1991



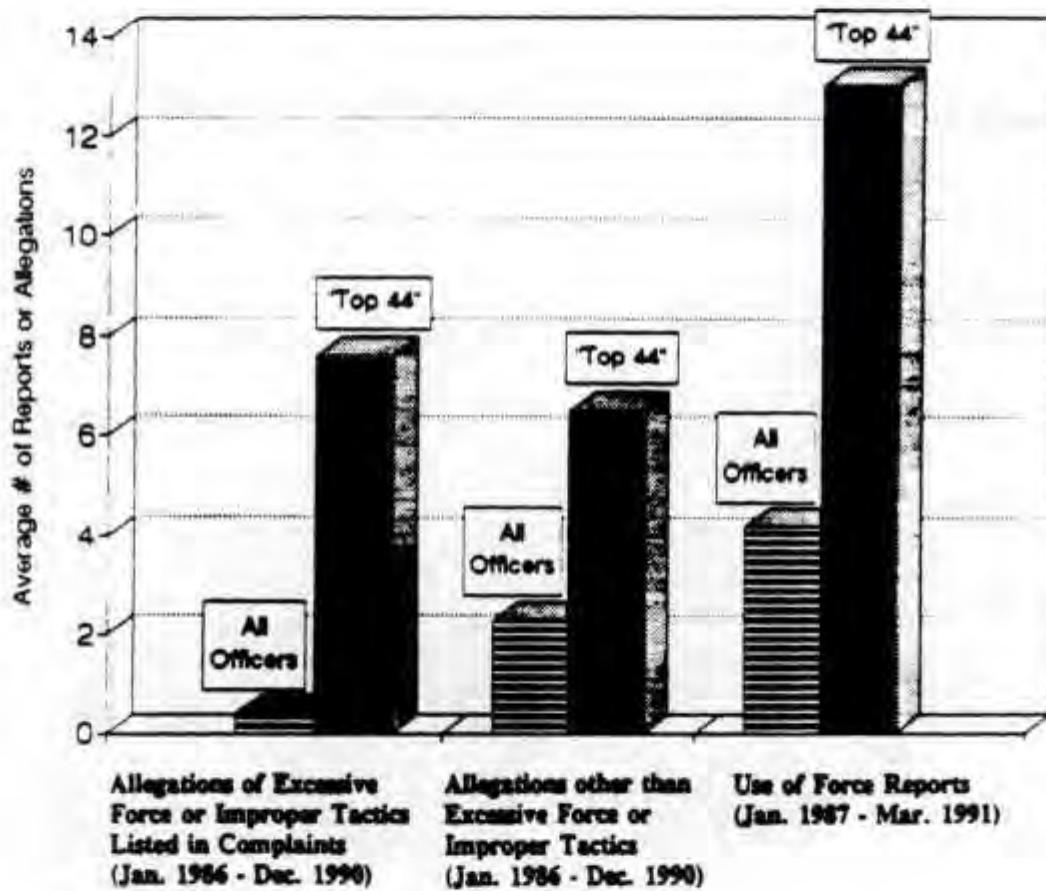
Note: A use of force report generally lists more than one officer as involved in the use of force reported. In this analysis, each listing of an officer in a use of force report was treated as a separate report.

Source: LAPD Use of Force Database.

TABLE 3-5

**COMPARISON OF "TOP 44" OFFICERS
RECEIVING FORCE COMPLAINTS
WITH ALL OFFICERS LISTED
IN USE OF FORCE REPORTS**

AVERAGE PER OFFICER OF FORCE-RELATED COMPLAINT ALLEGATIONS,
OTHER COMPLAINT ALLEGATIONS, AND USE OF FORCE REPORTS



- "Top 44" officers are all officers with six or more allegations of excessive force or improper tactics in personnel complaints for the period January 1986 through December 1990.
- The "Top 44" officers are compared with all officers identified in a use of force report as involved in a use of force for the period January 1987 through March 1991.

Source: LAPD Complaint and Use of Force Databases.

- *Shootings by Officers.* Of 662 officers involved in any shooting from 1986 through April 1991, 19 officers were involved in three or more.

Blending these data identifies even more troubling patterns. For the years covered by the database.

- one officer had 13 allegations of excessive force and improper tactics, five other complaint allegations, 28 use of force reports, and one shooting;
- another had six excessive force and improper tactics allegations, 19 other complaint allegations, 10 use of force reports, and three shootings;
- another had seven excessive force and improper tactics allegations, seven other complaint allegations, 27 use of force reports, and one shooting; and
- another had eight excessive force and improper tactics allegations, nine other complaint allegations, and 35 use of force reports.

Extending the search beyond the LAPD computer data to LAPD personnel files and complaint investigations reveals that many of the officers with patterns of repetitive use of force from 1986 forward had similar patterns in earlier years. In one case, an officer (whose initial background investigation indicated he had a problem controlling his temper) was the subject of 19 personnel complaints, including at least three shootings and 11 complaints of excessive force, in his first 2-1/2 years with the LAPD. A City psychiatrist reported at that time that the officer's aggressive and violent tendencies were likely to continue or even increase. This prediction was borne out in the officer's remaining 17-1/2 years on the force, during which he accumulated an additional 43 complaint allegations, including 16 for excessive force or improper tactics. Another 20-year veteran retired after accumulating 19 personnel complaints, of which at least 13 were related to improper use of force.

The data obtained by the Commission from the LAPD are generally consistent with those reported in a June 1991 *Daily News* study drawn from data for an earlier 5-1/2 year period. The *Daily News* reported that there were

1,931 officers named in complaints of "excessive or unnecessary" force; 254 officers were named in three or more such complaints and accounted for 30% of the complaints, and 47 officers had five or more complaints.

To be sure, misconduct is not established merely by the fact that an officer has many use of force reports, repeated personnel complaints, or even several shootings. It may be argued that active officers assigned to high-crime areas or specialized duties will appropriately use force more often, and may generate more complaints against them, than the "average" officer. Yet, there are many "productive" officers in high-crime areas who do not accumulate complaints, shootings, and use of force reports in relatively large numbers. The extreme concentration of these data cannot be explained solely by officer assignments or arrest rates.

While the precise size and identity of this problem group cannot be specified (at least without significant further investigation), its existence must be recognized and addressed. As Chief Gates and former Assistant Chief Brewer testified, the group must receive monitoring, counseling, and management attention by supervisors and command officers. For example, when asked what analysis the Department had done regarding the 5% of officers filing use of force reports who accounted for over 20% of reports filed, Chief Gates replied:

If you had a build-up of that kind and not a proper audit and a careful review of it and follow-up, we would have been negligent. No question about it.

Despite repeated requests by the Commission and a diligent search by the LAPD for any such audit or review of the concentration of use of force reports among officers, none was found and provided to the Commission. Nor did the Department have any overall analysis of the officers with multiple complaint histories involving excessive force (except for a not-yet-completed study begun after the Rodney King incident at the time the Commission was reviewing the officer complaint data). Many command officers and supervisors interviewed by the Commission staff were not even aware of the LAPD computer database from which they could obtain a list of the personnel complaints, use of force reports, and shooting data for any officer under their supervision.

A prime example of inadequate management and supervision of officers with respect to the use of force is the highly publicized 39th and Dalton drug

raid in August 1988. Eighty-eight officers conducting a search for drugs in four apartments in an African-American and Latino neighborhood were commanded only by a sergeant. The officers inflicted massive property damage on the apartments: walls and ceilings were demolished by battering rams; virtually all windows were smashed; sinks and toilets were torn away from pipes. LAPD investigators catalogued 127 separate acts of "vandalism." The City has paid over \$3.4 million to settle property damage claims stemming from the raid, and further claims are pending. Three LAPD officers, including the senior officer (a captain) involved in the preparation for the raid, were charged with but acquitted of criminal vandalism; a fourth officer pleaded no contest to the vandalism charge. Internal LAPD reports found serious management failures in the planning and execution of the raid. One such report concluded that the officers involved "were led astray by poor supervision and management" and "generally understood" from the instructions they received that the homes were to be made "uninhabitable." The report noted that the highest ranking officer present during the raid "failed to take charge when there were obvious signs of misconduct occurring in his presence . . . [and] opted instead to leave the scene."

Yet, as Assistant Chief Dotson testified, few of the officers in the chain of command have been held accountable for the 39th and Dalton raid. Moreover, many of the officers involved in the raid have subsequently been promoted. 20 of the 42 officers at the police officer II (PII) level were promoted to police officer III (PIII), and many of them are now serving as field training officers. Four of the PIIs have been promoted to detective or sergeant, including the officer who was disciplined for making false statements in a search warrant affidavit. Four of the officers have been promoted twice since the raid.

COMMISSION STUDY OF ONE GROUP OF OFFICERS WITH FREQUENT EXCESSIVE OR IMPROPER FORCE COMPLAINTS

To look more closely at the LAPD's management of one possible group of problem officers, the Commission staff identified from the LAPD database the 44 officers with six or more allegations of excessive force or improper tactics for the period 1986 through 1990. The staff then reviewed these officers' personnel files and the files of over 200 investigations by the LAPD of complaints against these officers alleging excessive force or improper tactics.

The selection of this group of officers for the Commission's study is not meant to suggest that the potential "problem officers" are limited to this group. Indeed, scrutiny would be appropriate for the 5% (or approximately 300) officers in the 1987-1991 use of force report database who account for 20% of those use of force reports (see Table 3-4 above). An even larger group of officers would be identified by combining the databases containing personnel complaints, use of force reports, and officer involved shooting reports for recent years. Supervisors in the field, of course, have the benefit of first-hand experience with officers who may be causing problems in the use of force. There is no bright line defining this group, in the Commission's view. The discussion of the 44 officers selected here on the basis of six force-related complaints in five years is for purposes of illustration, not definition.

Statistical Profile of the 44 Officers

The LAPD computer database indicates that the use of force by officers in this group should have received careful management scrutiny. Nineteen of the 44 are in the highest 1% of all officers ranked by a cumulative total of use of force reports, officer involved shooting reports, and personnel complaint allegations. Forty of the officers are in the top 5% of this group, and all 44 are in the top 10% of this group.

The 44 officers were compared against all officers identified in the database as having been involved in a use of force for the period January 1987 through March 1991. The results are shown in accompanying Table 3-5. The top 44 received an average of 7.6 allegations of excessive force or improper tactics compared to 0.6 for all officers reported to be using force; the top 44 received an average of 6.5 personnel complaint allegations of all other types, compared to an average of 1.9 for all officers reported to be using force; and the top 44 were involved in an average of 13 uses of force compared to 4.2 for all officers reported to be using force.

Review of Personnel Files and Performance Evaluations of the 44 Officers

The evaluation of LAPD officers' performance is recorded in "Performance Evaluation Reports." After completing a probationary period, each officer is evaluated every six months on this form, which presents multiple categories for rating and comment. The rating categories, as to which each officer is judged

as "Strong," "Competent," or "Needs Improvement," include, among others, "quality of public contacts," "performance under stress," "communication skills," and "judgment and common sense." The form also contains sections that invite narrative comments on the officer's performance and that require insertion of the number of disciplinary actions involving the officer during the six month period under review. This form is used, for example, in making promotion decisions and considering officers' requests for desirable assignments in particular geographic areas or specialized units.

As a general matter, the performance evaluation reports on these 44 officers were very positive. The reports tended to document every complimentary comment, including every formal commendation, received by the officer. They were also uniformly optimistic about the officer's progress and prospects on the force. However, also as a general proposition, the performance evaluations failed to give an accurate picture of the disciplinary histories of these officers. They commonly did not record sustained complaints and failed to comment on the substance and significance of such complaints. The reports did not mention that an officer was the subject of one or more not sustained or unfounded complaints during the period under review. As a result, the picture conveyed in an officer's personnel evaluation file was often incomplete and commonly at odds with contemporaneous comments appearing in the officer's sustained and not sustained complaint files.

Supervisors preparing these reports are responsible for informing themselves about the "quality of public contacts" of officers under their command, the pattern of force-related complaints against these officers, and similar matters. Personnel complaint information is available to the supervisor preparing the evaluation report. A summary card listing all complaints against the officer, whether or not sustained, is maintained in the division files, and the officer's personnel file maintained in LAPD headquarters contains detailed information regarding sustained complaints. A list of complaints, their dispositions, and other information is available from the LAPD computer database (although the existence of the database apparently is not widely known within the LAPD). Investigation files on not sustained complaints (as opposed to a listing of not sustained complaints), however, are generally not available to the supervisor.

Many performance evaluations mentioned the absence of personnel complaints as a ground for concluding that a particular officer was doing well. In some instances, the statement was simply wrong. The converse generally was not mentioned in performance evaluations: that is, the presence of personnel complaints, and in particular a pattern of not sustained complaints, was not used as a ground for concluding that further inquiry concerning a particular officer's progress was warranted.

With a few exceptions, supervisors, in making assignments, did not appear to take account of multiple sustained and not sustained complaints involving excessive force or improper tactics. In that minority of cases in which such facts seemed to be taken into account, the decision to reassign the officer often came too late to prevent a serious incident of misconduct, or the officer was reassigned to a job in which his apparent problems created further risk. In addition, there was no evidence to suggest that supervisors considered an officer's multiple complaint history in deciding with whom the officer should be paired on assignment and, more importantly, whether the officer was a suitable candidate for training probationers.

Several examples will illustrate these general observations.

Officer A joined the LAPD in 1982. In late 1986 and 1987, he received six complaints for excessive force or improper tactics. Two of the complaints had charges sustained, including one allegation of dragging a handcuffed arrestee down the hallway of the police station by his feet. Four additional complaints concerning excessive force on arrestees were not sustained. One of the investigation reports on one of the later not sustained complaints nonetheless notes that the complaint was the officer's

fifth complaint during the last 18 months involving excessive force and/or improper tactics . . . [H]e is either very unfortunate in his propensity to be the object of personnel complaints, or he possesses an abrasive demeanor with the public.

In contrast, Officer A's performance reviews for the same period make no mention of the sustained or unsustained reports; the performance evaluation prepared in the Spring 1987 report speaks of the officer's consistent high quality and notes in particular that "his citizen contacts reflect a high professional quality, mixed with a truly caring attitude." The Fall 1987 report is similarly glowing, noting, among other things, that Officer A "projects an image

of impartiality, fairness and professionalism in his contacts with the public. In the Spring 1988 evaluation report, it is recommended that Officer A be promoted to a training officer position.

In 1989, Officer A received two more complaints for excessive force, which the Department ruled not sustained. One of the investigation reports notes that the "allegations in this complaint are serious" and, if true, the officer involved needs "to promptly redirect [his] behavior." The complaint is seen as "a disturbing sign." The report concludes that Officer A should be confronted in his interview with the possibility that excessive force was used and should be "encouraged to call a supervisor immediately when presented with an aggravated incident. He can also expect to be supervised more closely than in the past."

His performance review for the same period, however, makes no reference to the counseling, the complaints, or the possibility that Officer A used excessive force. The report simply states that Officer A "continues to perform in an outstanding manner."

Officer B has been with the LAPD for many years. In 1982, he was accused of striking an arrestee on the back of the neck with the butt of a shotgun for no apparent reason while the arrestee was kneeling and handcuffed. A charge of improper tactics was sustained. His performance evaluation for the same period does not discuss the sustained complaint. Rather, the evaluation states that Officer B's

most outstanding asset is his outstanding personality and easy going manner which he uses to his best advantage in the field. His calm and collective [sic] approach while dealing with the general public is indicative of his lack of personnel complaints during this rating period.

His subsequent performance review similarly does not take account of the sustained charge of hitting a handcuffed arrestee on the back of the head with a shotgun. That review concludes that

Officer [B] has been time tested in a myriad of field situations requiring quick thinking, self confidence and a high tolerance to stress. He always comes through with flying colors. There is nothing in patrol work that Officer [B] cannot handle with the utmost competence and expertise . . . His stable personality and mature perspective toward police

work help develop his probationers with ... a conscious avoidance of overreaction.

In April 1988, Officer B was accused of several counts of excessive force against a 13 year old juvenile. The charges were held not sustained, although it was noted in the investigation report that Officer B had seven sustained complaints during his tenure with the LAPD. His performance evaluation for the period makes no mention of the seven sustained complaints or the unsustained complaint of April 1988, noting that Officer B "has a low-key personality and can make decisions based upon the facts at hand without becoming personally involved."

In 1989, Officer B was the subject of another complaint of excessive force and improper tactics alleging that an arrestee was thrown from a chair and kicked in the back and on the side of his head while handcuffed and lying on his stomach. The charges were held not sustained despite corroborative medical evidence and testimony. One count of failure to notify a supervisor and file a use of force report was sustained, however, and the officer was admonished.

The officer's last performance review was in Spring 1991. Despite seven sustained complaints over the course of his career and a string of unsustained complaints for excessive force, including three such complaints between 1987 and 1989, the officer continued to be praised highly: "[h]is contacts with the public are always professional and positive and his attitude with the citizens is one of concern." The report concludes that the officer is "currently preparing himself for the upcoming sergeant's exam. He would be an asset to the ranks of sergeant."

The file on Officer C presented a number of problems. The first is that crucial performance evaluations were missing -- a difficulty encountered in many of the personnel files reviewed. In 1987, a departmental complaint was initiated alleging that Officer C detained four African-American males for questioning and unnecessarily struck two of the suspects several times on their backs and sides while they were kneeling with their hands behind their heads. There were numerous witnesses to the incident, including local businessmen, neighbors, and a passing television crew. LAPD officers reviewing this conduct described it as "immature, unprofessional, and unethical," "unexcusable," "border[ing] on being criminal in nature," and indicated that "[s]everal persons

who testified [at Officer C's disciplinary hearing] obviously now believe that the Los Angeles Department and its officers resort to acts of brutality." A 10-day suspension was imposed. There were no performance reviews contained in the personnel file covering the periods during which this incident occurred or was investigated.

Thereafter, in 1989, Officer C had charges sustained of kicking an arrestee in his midsection after Officer C told the arrestee to exit his car, get on his knees, and place his hands on his head. The investigation file regarding this complaint reflects that the officer had been the subject of two prior allegations of excessive force that were not sustained and one charge that was sustained (described above). The report concludes that the officer appears not to have been deterred from "his pattern of gratuitous violence." "The instant complaint, coming as it does on the heels of another serious use of excessive force calls to question [the officer's] abilities to continue to perform his duties as a police officer in a manner consistent with this Department's requirements."

Officer C's performance review for this period makes no mention of this incident or the 1987 incident, even though the officer was suspended during this review period because of the 1987 incident. Rather, the evaluation concludes that Officer C "usually conducts himself in a manner that inspires respect for the law and instills public confidence," "has a positive effect on morale and works well with his peers," and "is able to communicate clearly with other officers, supervisors and citizens in need of police service." The subsequent evaluation form for the period March - August 1989 is also missing from the file.

Approximately six months after the last incident, another excessive force complaint was sustained against this officer for kicking a suspect after removing him from a police car. The commanding officer who reviewed the investigation of this complaint discussed Officer C's prior history of complaints and concluded that

in each case, the alleged misconduct occurred in a controlled situation where the complainant was restrained and presented no immediate threat. The use of excessive force is a symptom displayed by officers which is indicative, among other things, of extremely poor judgment. [Officer C] has displayed this significant deficiency on prior occasions and displayed it in abundance on the evening of this incident.

Officer C's commanding officer concluded that his employment should be terminated, and it was noted that he had been advised by his commanding officer following his last suspension that any recurrent misconduct would likely result in his termination. It did not, however: the officer instead received a 10-day suspension. His performance evaluation for the period makes only passing mention of the incident, and his most recent evaluation indicates that the officer remains on the force and is generally complimented for his continuing good work.

Officer D, who was removed from the force in 1988, had a particularly troubling seven-year career with the LAPD. His file contains references to at least nine sustained complaints and eight unsustained complaints for excessive force or improper tactics between December 1986 and September 1987. There are evaluation forms missing from this file. Indeed, there is only one semi-annual performance evaluation report in the personnel file of this officer for the period September 1986 through December 1988. That report describes Officer D as "strong" in the categories of "judgement and common sense" and "reliability." The report concludes that the officer has been observed to be

eager, enthusiastic and motivated in the performance of his duties. In fact, this supervisor normally utilizes [Officer D] in assignments where it is critical for something to be done right the first time.

During the period covered by this performance evaluation, the officer was admonished for neglect of duty and had a complaint filed against him that resulted in a 22-day suspension for neglect of duty/unbecoming conduct. There were also three unsustained complaints during the evaluation period. None of these is mentioned in the performance evaluation.

The commanding officer who signed this glowing performance review on October 27, 1987, also signed on the same day a notice identifying the 22 days for which the officer would be suspended for neglect of duty and unbecoming conduct.

During the same period of time, it was noted in a personnel complaint that this officer was paired with another officer who had a lengthy history of abusive behavior:

Both [officers] have a lengthy record of similar complaints. Primarily they all involve aggravated

circumstances such as a chase resulting in a field detention wherein the arrestee alleges he was struck or kicked.

Officer D was permitted to serve in a training capacity from 1985 through the end of his career, notwithstanding the string of sustained and unsustained complaints. Officer D was finally removed from the force after he, while on duty, removed a prisoner in custody from the holding tank, took him to a secluded location on three occasions, and beat him. He was also found to have engaged in a cover-up of the incident and to have advised a probationary officer working with him "not to worry about it."

In several instances, comments on probation reports disclosed tendencies that later became severe problems but appear not to have been systematically tracked after the probationary period. For example, it was noted in investigations for excessive use of force that Officer E had a "propensity for attracting personnel complaints" and had not yet "learned the techniques of appeasing the public." It was further noted in another investigation that his demeanor was such as seemingly to "encourage his field contact to complain." None of these observations was noted in Officer E's positive performance evaluations.

If the probationary reports had been checked, however, his supervisors might have noted that Officer E had been criticized for "a tendency to be rude to victims" and "a tendency to become rude to the public" and to exhibit "an unprofessional manner at times." He was also observed to become "very defensive" when told he made a mistake, to be "quick to fabricate excuses for his actions," and "to get angry with the training officers during counseling."

Although under the present discipline system (see Chapter 9) a not sustained complaint may not properly be used as a basis for disciplining an officer, information developed in investigations of such complaints can and should be used to educate superior officers as to the strengths and weaknesses of officers under their command and to promote, assign, supervise, and counsel them accordingly. The performance evaluation files of these officers reflect that this has not been adequately done.

The LAPD guidelines for preparation of the performance evaluation reports contain several provisions that may limit a supervisor's ability to discuss an officer's complaint history in the evaluation. Under the guidelines, the

supervisor is to comment on personally observed activities of the officer during the six-month rating period and to discuss, in connection with discipline, sustained complaints that occurred during the evaluation period. However, the evaluator is permitted to comment on poor judgment not amounting to misconduct (i.e. not resulting in a sustained complaint) that may have precipitated the complaint. Whether the inadequacies in these performance evaluations resulted from LAPD policy regarding preparation of the report or from failures in the implementation of that policy (or some combination of the two), decisive action is necessary to correct the management failures reflected in these files.

DISCUSSION OF BEATINGS, SHOOTINGS, AND PURSUITS IN PATROL CAR COMPUTER COMMUNICATIONS

The existence of a significant number of officers with an unacceptable and improper attitude regarding the use of force is supported by the Commission's review of computer messages sent from patrol cars throughout the City. Those messages also evidence the LAPD's management problem in the area of use of force.

The LAPD's Mobile Digital Terminal ("MDT") system is a sophisticated communications network through which patrol cars are linked with headquarters and each other by computer terminals in each car. Officers transmit messages by typing them into the terminal in their patrol car and receive messages on the terminal screen. The MDT network offers the advantage that it cannot be monitored by civilians as can police radio communications. Under LAPD policy and regulations, the MDT communications are subject to monitoring by supervisors, who can read messages coming across their terminal screens, and auditing by the LAPD Communications Division, which can review printouts of messages stored on computer disks.

Given public concern over the MDT messages from officers involved in the King incident, the Commission staff reviewed all MDT communications between patrol cars for approximately 180 days selected over the 16-month period from November 1989 through February 1991. (A chronological listing of approximately 700 MDT messages selected from those reviewed by the Commission staff, and an explanation of the operation of the MDT system, are

separately available from the Commission offices.) Although the vast majority of messages reviewed appeared to be routine police communications, there were a number of messages, similar to those publicized after the King incident, in which officers from all geographical areas of the City talked about beating suspects and other members of the public:

- "Capture him, beat him and treat him like dirt

"Sounds like a job for the dynamic duo . . . after I beat him what do I book him for and do I have to do a use of force [report]"

- "I was out of vehicle, whippin on a couple of em, how r u."

"Sgt Brutality."

- "Wakeup . . . the susp on our perimeter got caught, but he got beat by a BB bat"

"Tell [an officer] to use a baton next time"

- "Gary,,if you see [name omitted],,grab him and beat him,,he has a fel warr"

"Rgr will destroy him"

- "No problemmm . . . we R hungry . . . we got a little physical w/ a [name omitted] on Colombus . . . it was fun . . . we had to teach him a little respect . . . for the police . . . hahahahaha . . . we had fun . . . no stick time though."

- "Did U arrest the 85yr old lady of just beat her up."

"We just slapped her around a bit . . . she/s getting m/t [medical treatment] right now."

- "We prond him straight out of his jaguar....."

"He is crying like a baby."

"Did U educate him."

"Take 1 handcuff off and slap him around."

"He is crying to hard and there is 4 detectives here."

"Well dont seatbelt him in and slam on the brakes a couple times on the way to the sta..."

- "I hope there is enough units to set up a pow-wow around the susp so he can get a good spanking and nobody c it..."

"U mean susps ... cut to pieces."

- "I,m going to kill this guy."

"Haaaaaa..you,re so bad..u cutie u....I,ll be back I,m going to do it"

"I obviously didn,t beat this guy enough. He got right back up and is still being obnoxious."

- "My partner wants to know if you beat those guys..."

"Yes..."

- "We'll start with beat the drunk and go from there gotta go now talk to u later."

- "Juvi says U hit him with flashlight ... I didn't see U do that"

"Smile. I'm against viol"

- "I would just beat and release that fat slob in the red suit named ... Homey Claus ... and I heard reindeers real good eating ... hohoho mofa ..."

- "U missed out bro. we backed 2X53 [a patrol unit] on a poss snots fired from veh. some of

the susps had some big boot marks on their heads, once they were in custody."

- "The last load went to a family of illegals living in the brush along side the pas frwy . . . I thought the woman was going to cry . . . so I hit her with my baton"
- "What, did U beat another guy"
"Let's discuss it later"
- "We're sitting on a C37 that was dropped off by two Mexicans . . . going to sit on it for a while."
"R U going to beat em up like U did the last one"
- "[Name omitted] who did u beat up this time"
- "[Name omitted] wanna go over to Delano later and hand out some street justice . . ."
- "Ti was fun..but no chance to bust heads..sorry"
"Oh well....maybe next time"
- "So are you going to take that call"
"After the beating"
- "Did you really break his arm"
"Along with other misc parts"
"We have his oriental buddy for 11364"
"Great . . . make sure u burn him if he's on felony probation . . . by the way does he need any breaking . . ."

- "They give me a stick they give mee a gun they pay me 50G:s to have some fun"

In a number of messages, officers showed their awareness of Department monitoring procedures:

- "Cease fire . . . we r being monitored"
- "Can't say on MDT . . . but M.T [medical treatment] was needed."
"I fig . . . it was ugly . . . oh well . . . U know what happens . . . my guy is gonna need it too if he gives me a hassle . . ."
- "This is the only job I've ever had where U don't have freedom of speech. As U can tell I'm aggravated but still smiling and glad to serve and protect. The last sentence was put in just in case they're monitoring. Ha ha"

Officers also used the MDT system to express their attitudes regarding shooting suspects:

- "Go get em my-man, and shoot him twice for me"
- "Looking to end 1990 with a good shotgun killing ruggg"
"Raa a full moon and a full gun make for rewards from god"
"A full moon and a full gun makes for a night of fun"
"Everybody you kill in the line of duty becomes a slave in the afterlife"
"Then U will have a lot of slaves . . ."
- "I shoulda shoot 'em huh, I missed another chance dammmmmm"
"I am getting soft"

- "We got a burglar tonight, who was cold 6c and had nine thousand dollars warrant you want any help just holler"
"No: I'm just going to shoot him:"
- "If I find it itl be ois [officer-involved shooting] time. God I wanna to kill something oh so bad point to oor 361."

The MDT transmissions make clear that some officers relish the excitement of a pursuit, and some view a pursuit as an opportunity for violence against the running suspect. One patrol unit advised another to "drop back a block before you light him up [referring to the patrol car light and siren], we want a good run." Other MDT messages expressing an eagerness for pursuits included:

- "U don't call what u do really work, last time u spoke u were in foot pursuit, C/6 [Code 6]"
"Caught the sob too . . . had to beat him on the head and pull him off his movig m/c . . . when are we getting together foray brewski"
- "Im gonna bk my pursuit susp. Hope he gets ugly so I can vent my hate. -rrr hrr. . .A-H"
- "Ok whens my next pursuit????"
- "If U get into anything, make it a pursuit okay . . . I love pursuits . . ."
- "Don't even try it, it was nice and quiet, don't start any mess/hahahaha"
"Just for that we're gonna get into a pursuit with C-6 Charles susps . . ."
- "OK its ur turn for a pursuit . . . I love them"
- "Well . . . find me a pursuit . . . make this an exciting nite . . . jjezz I req to work here cuz it's busy . . . and nothing happens"

- "Getting energy for the foot pursuit and shooting . . . I won't lose the susp"
- "Roger, thinks I'm hoping for a great busy night . . . I love pursuits"
- "Standby we feel pretty good, we may have another foot pursuit here soon,, ha ha ha ha"
- "U think you can handle Sgts huh, haaa out Lts can t even handle us why do u think you can. An let me know sometime I'll take u out busy nites are best Its been fun lately. Almost shot a dummy, had a good fight an the pursuit. Ha sick huh"

MDT messages can be monitored by a field supervisor, who has the capability of reading on his or her MDT screen the messages being sent between two other units. A commanding officer told the Commission staff, however, that such contemporaneous monitoring "was not routinely done." The Department acknowledges that, in addition to contemporaneous monitoring, it stores MDT transmissions in a database and has the ability to review them and to audit officers' use of the system for improper messages. Prior to the King incident, however, there was no requirement that area commanders regularly audit the MDT printouts. If a complaint was made against an officer, the Department sometimes would review relevant MDT transcripts as part of its investigation, but no regular review of transcripts was conducted. In short, the MDT materials reviewed by the Commission's staff were equally available to the Department, but no effort was made to review them. Only when the MDT messages following the Rodney King incident inflamed the public did the Department take action to monitor and audit the system. It then found, by its own count, 260 patently offensive comments over a one-month period.

That officers would feel free to type such messages as those listed above into the Department's official computer communications channel, knowing that the communications were subject to monitoring, is, in the Commission's view, evidence of a serious problem with respect to excessive force in the LAPD. The apparent confidence of these officers that nothing would be done about their

inflammatory statements suggests a tolerance within the LAPD of attitudes condoning violence against the public.

FORCE-RELATED CIVIL LITIGATION INVOLVING LAPD OFFICERS

Before and since the King incident, lawsuits alleging improper use of force by LAPD officers have been a source of public concern. Large settlements and jury verdicts frequently have been in the headlines. Questions have been raised regarding how effectively the LAPD investigates and disciplines the officers who are involved in conduct for which the City pays millions of dollars every year.

The Commission staff reviewed the files of all 83 cases of alleged excessive or improper force by LAPD officers that resulted in a settlement or judgment of more than \$15,000 during the five-year period 1986 through 1990. Based on the evidence examined in this review, a majority of the cases appeared to involve clear and often egregious misconduct resulting in serious injury or death to victims, although some of the cases involved accidental or negligent conduct. The LAPD's investigation of these 83 cases was flawed in many respects, and discipline against the officers involved was frequently light or nonexistent. Moreover, the LAPD does not have adequate procedures in place to review or learn from the results of this litigation.

Citizen Claims and Civil Litigation Involving the Use of Force

Claims

From 1986 through 1990, members of the public filed over 2,500 claims alleging personal injury or property damage resulting from the use of force by LAPD officers. Not all claims were pursued formally in court, but filing such a claim is prerequisite to a lawsuit. Most claims are routinely denied by the City, largely because of inadequate resources to investigate claims.

Claims alleging excessive use of force represented the majority of all claims filed against the LAPD (excluding claims arising from traffic incidents). During this five-year period, members of the public filed 3,716 claims with the City for non-traffic related incidents involving the LAPD. Over two-thirds of these claims involved allegations of excessive use of force against police officers. Although the total number of non-traffic related claims declined consistently from 1986 to 1990, the proportion of excessive force claims

remained constant. Approximately one-third of the excessive force claims were eventually litigated. Assault and battery was the single largest category of allegations, constituting over 25% of the total allegations in all non-traffic related claims against the LAPD.

Civil Litigation

From 1986 through 1990, the City paid in excess of \$20 million in judgments, settlements, and jury verdicts in over 300 lawsuits against LAPD officers alleging excessive use of force. This amount does not include the cost of defending these suits. Excessive force cases accounted for nearly 85% (93% in 1990) of the total amount of damages and settlements the City incurred in non-traffic related police litigation during this period. As with the citizen claims discussed above, assault and battery was the single largest category of allegations in all non-traffic related police litigation.

Physical beatings were the most common type of excessive force at issue. Physical abuse by baton, punches, kicks, and other types of beatings accounted for over half of the excessive force allegations. Injury or death by gunshot was significant, representing 22% of the allegations. Nearly a quarter of the cases involved a pursuit, either by automobile or foot, resulting in a variety of injuries once the arrestee was apprehended. Although shootings were the most common use of force at issue at the end of a pursuit, baton beatings were a close second. The pursuit cases accounted for approximately \$3.7 million in settlements or judgments. In 42% of the cases, the officers used force after the suspect was physically subdued or in custody. The most common setting in these cases was the basic arrest. In 60% of these cases, the officers' use of force in arresting suspects, without any pursuit, resulted in injury or death.

Analysis of LAPD Investigation and Discipline in Cases Costing the City More than \$15,000

In addition to reviewing the litigation files of all 83 excessive force cases resulting in settlements or judgments of more than \$15,000, the Commission staff reviewed all investigation files made available by the LAPD and personnel files of the officers involved in the incidents (excluding the personnel files for the officers involved in the 39th and Dalton litigation).

The LAPD's Internal Affairs Division ("IAD") investigated 23 out of the 83 incidents. Fifty-two of the incidents were investigated by either the Robbery-Homicide Division (for shootings) or the division where the officer was deployed at the time of the incident. Fourteen incidents were not investigated at all by the LAPD. (The total number of investigations and uninvestigated incidents exceeds the number of incidents due to multiple investigations in certain cases.) Only 29% of the investigations resulted in at least one allegation sustained against an officer for excessive use of force or improper tactics. Eleven officers were involved in two incidents each.

The LAPD disciplined only 21% of the officers investigated in the 83 incidents. The majority (61%) of the officers involved in the investigated incidents received no discipline. (For 18% of the officers investigated, it could not be determined whether they received discipline.) Of the officers who were disciplined, nearly half were not suspended or terminated, but instead received admonishments or training. The great majority of those suspended (80%) were suspended for 22 days or less. Only three officers, 6% of those investigated, were terminated.

The majority of the officers (84%) received overall positive ratings in their personnel performance evaluations (the data for 8% was unavailable) and 42% of the officers have been promoted since the date of the incident (promotion data for 22% were unavailable).

Specific Cases and the Underlying LAPD Investigations

We summarize briefly below a few of the troublesome cases involving excessive force by LAPD officers and the LAPD discipline, if any, imposed on the officers involved.

Murrales v. City of Los Angeles

Luis Milton Murrales, a 24-year old Latino man, lost the sight in his right eye when LAPD officers beat him at the end of a pursuit in April 1988. Two LAPD officers saw Murrales commit a traffic violation and began a pursuit that ended when Murrales' car collided with another pursuing police car. Murrales tried to run, but several LAPD officers found him hiding under a stairwell and ordered him out. Murrales claimed that, once he emerged from the stairwell, one officer struck him with a baton, and that after he fell to the ground, other

officers joined in beating and kicking his face and body. After he was taken to Rampart Station, the officers allegedly continued the beating and threatened to kill him. Although none of the 28 LAPD officers involved in the incident corroborated Murrals' version, several did admit to striking Murrals on his shoulders, head, and arms, but only after Murrals had allegedly swung his gym bag at the officers. Medical records of the loss of his sight, however, supported Murrals' account. The City settled the case for \$177,500.

Describing the incident, the commanding officer acknowledged that a "lynch mob" mentality appeared to have existed once Murrals fled the scene on foot. However, after an LAPD investigation, no allegations were sustained against the officers involved. Four officers who used force on Murrals had similar prior incidents.

Alfred Johnson v. City of Los Angeles

In a 1981 altercation with LAPD officers, Johnson, an African-American, apparently resisted arrest while under the influence of PCP. The officers placed handcuffs and leg restraints on him. Johnson alleged that the officers then removed the back seat of the car and put Johnson over the drive shaft. An officer then placed the seat on top of Johnson and rode to the station on top of the seat. The officers denied ever placing Johnson on the drive shaft. Medical records indicate that after the arrest, Johnson had large third degree burns requiring skin grafts. Johnson received a \$28,500 settlement. There was no LAPD investigation, and no officer involved in the incident received any discipline.

Bernal v. City of Los Angeles

Michael Bernal, a white male, lost two teeth and suffered multiple concussions resulting in permanent brain damage when several officers beat him in a holding cell in May 1981. Bernal had been arrested for outstanding traffic warrants. The officers claimed Bernal became belligerent when ordered to carry a mattress to a cell. When Bernal brushed the mattress against him, an officer placed Bernal in a chokehold and brought Bernal to the ground with the help of two other officers. The officers allegedly punched Bernal over 15 times in the face, kicked him in the groin, and slammed his head against the floor.

The officers denied ever striking Bernal. The City Attorney recommended settling the case for \$300,000.

The IAD interviewed Bernal, the prisoners who witnessed the incident, two sergeants on duty at the time of the incident, and the three officers involved in the incident. The counts of excessive force, discourtesy to a prisoner, and abusive language were sustained. The LAPD suspended two officers for five and 10 days respectively. One of the officers received seven complaints between January 1986 and December 1990. The other officer had 12 complaints filed against him during that period.

De La Cruz, et al. v. City of Los Angeles

Two officers observed two young Latino men in a high-crime area. The officers suspected that the individuals were gang members involved in a burglary. The officers ordered the individuals to stand against a fence with their hands up. Jose Sanchez, a relative of the two young men, approached the officers and demanded an explanation. The officers ordered Sanchez to take his hands out of his pockets. Sanchez refused because he claimed he was doing nothing wrong and was on his own property. Fearing a concealed weapon, the officers grabbed Sanchez, shook him, and pushed him into the fence. When other family members attempted to intervene, one of the officers swung his baton at the group. The officer contended that someone tugged at his holster. One of the baton blows struck a pregnant woman in the stomach. Sanchez claimed that on the ride to the station, the officer struck him again with a baton. A jury returned a verdict for compensatory damages of \$160,000 in favor of the seven plaintiffs involved in the incident.

The LAPD did not investigate the use of force in this incident, and consequently the officers received no discipline. During the six-month period immediately following the incident, one of the two officers was promoted to PIII and received excellent evaluations. Between January 1987 and March 1991, the same officer generated 23 use of force reports.

Abel Romero v. City of Los Angeles

In a September 1984 incident, the LAPD put out a call that a van involved in a homicide was seen near Fifth and Main. The call failed to mention that the suspects were young African-American gang members. The police

responded to the call by stopping Abel Romero in his van. Romero is a middle-aged Latino man who speaks little English and has no criminal history. The officers ordered Romero, only in English, to exit the van and kneel on the sidewalk. Romero apparently had difficulty understanding the orders, but in an attempt to cooperate, he exited the van with his hands over his head. Romero knelt down, then stood up and sat down. Feeling that Romero was willfully failing to comply, an officer kicked Romero from behind, pushed him on the sidewalk, and then placed his knee in Romero's back to achieve a rear wrist lock. Romero suffered strained wrists, a bruised upper back and ribs, and profusely bleeding facial cuts. Romero stated that his face was slammed into the sidewalk with such force that he momentarily lost consciousness. When the officers realized the mistake, they released Romero at the scene. The City Attorney's office recommended settlement for \$30,000.

The only investigation by the LAPD was by the supervising officer, who prepared a use of force report. The evidence indicated that the language barrier created the misperception that Romero refused to cooperate. One of the officers admitted that Romero seemed to do his best to cooperate. Nevertheless, the supervising officer found the use of force to be in policy. No officer received any discipline.

Civil Litigation As a Management Problem

Chief Gates testified that the LAPD lacks effective procedures or "feedback" for reviewing the results of civil litigation involving LAPD officers. The City Attorney essentially agreed. The delays and difficulty encountered by the LAPD in providing the Commission with information regarding the investigation and discipline of officers involved in these incidents confirms the lack of management attention to this aspect of the use of force problem in the Department. Given the millions of dollars paid by the City as a result of use of force by LAPD officers, and the egregious conduct revealed in some of the lawsuits, the Department must establish procedures to monitor the results of civil litigation and make use of the information obtained.

This is not to suggest that merely because a lawsuit alleging improper force is settled on the recommendation of the City Attorney, or a jury verdict is returned for the plaintiff, one should conclude that the officer involved is guilty of misconduct or that the LAPD should discipline the officer. A sympathetic

plaintiff may prevail, or lawyers may advise settlement, even if the officer's conduct was in policy. Moreover, the present one-year limitation under the City Charter on conduct that may be used for disciplinary suspension or termination of officers (a limitation that the Commission recommends in Chapter 9 be removed) may prevent disciplinary action based on evidence obtained in civil litigation relating to incidents years in the past.

The complexities and uncertainties of civil litigation, however, cannot justify the apparent inattention on the part of the LAPD to instances of serious misconduct. Where suspension of an officer is not possible under the present rules, an official reprimand may still be issued to an officer. The LAPD may use additional counseling, training, and supervision for officers whose problems with use of force are established in civil litigation. The Commission's review of five years of litigation and related disciplinary files demonstrates that this manifestation of the excessive force problem in the LAPD needs to be addressed.

RECOMMENDATIONS

The LAPD has done an outstanding job, by all accounts, of creating a culture in which officers generally do not steal, take bribes, or use drugs. The LAPD must apply the same management tools that have been successful in attacking those problems to the problem of excessive force. Subsequent chapters will address specific recommendations in areas such as training, promotion, discipline, community relations, and the structure of the Department. We address here several broad recommendations that apply to the system as a whole.

Leadership

The leadership of the LAPD must give priority to curbing excessive use of force. The leaders must make this priority felt throughout the system, in the powerful incentives and disincentives that influence the behavior of police officers.

Especially in a quasi-military organization such as the LAPD, the leadership has great power to bring about change and a concomitant responsibility to use that power wisely and effectively. The leaders of the LAPD can send, if they want to, an unequivocal message that the pride so often expressed and widely

felt within the Department is deserved only if officers act within the law in the use of force and exercise restraint in the power entrusted to them. That message has not been sent. Without it, meaningful progress in reducing excessive force by the LAPD cannot be achieved.

The Police Commission must be part of this leadership effort. We explain in detail in Chapter 10 our recommendations for strengthening that body. We emphasize here that Police Commission audits and review of the excessive force problem must be accompanied by a firm resolve to accord this issue the priority it requires in the LAPD's policies and goals.

Command Accountability

Command officers have not been held accountable for excessive or unnecessary force by officers whom they supervise. This must change. Accountability means that command officers will be evaluated on the basis of how officers under their supervision adhere to the Department's policies regarding use of force. Accountability must be stressed throughout the system. When an incident of excessive force occurs, supervisors up the chain of command must be accountable, regardless of whether they actually participated in the wrongful conduct.

Supervision, Monitoring, and Counseling

Lieutenants and sergeants working with officers in the field must monitor the use of force by those they supervise. The guidelines for preparation of performance evaluation reports must be revised to require supervisors to assess information from complaint histories, especially where a repetitive pattern exists. The Department must provide command officers with the statistical information already available and readily accessible for use by appropriate command officers. Supervisors must understand what force is being used and why, detect "early warning" signs of a developing problem, and arrange for officers to receive the training and counseling they need to exercise the appropriate level of restraint in contacts with the public. Training must be more than perfunctory, as we discuss in detail in Chapter 7. Officers should be encouraged to receive professional counseling by experts if appropriate. If counseling and training do not work, discipline must.

Management Attention to Civil Litigation

The City of Los Angeles is paying millions each year in defense, settlement, and verdicts in cases alleging violence and brutality by LAPD officers. This problem must not be dismissed as resulting from out-of-control juries or inadequate defense lawyers. Too often in the cases studied by the Commission, the officers' conduct was egregious, their testimony not credible, and the City Attorney's settlement recommendation prudent in the face of the evidence and likely result.

LAPD management must recognize that the problem of litigation is a reflection of the more fundamental problem of excessive force, not in all cases to be sure, but in far too many of them. Prompt investigation and discipline, if appropriate, should be pursued. Information about officers' conduct that becomes available in the litigation should be used in evaluating those officers. Conduct that results in large settlements or judgments, including punitive damages awarded on the basis of egregious or intentional misconduct, should be carefully studied to determine what went wrong and why. In addition, the Department, in conjunction with the City Attorney's office and other interested bodies of City government, might consider arbitration or mediation of claims that are now routinely denied and often lead to more expensive litigation.

Audio and Videotaping of Contacts Between the Police and the Public

A promising possibility for reducing excessive force and assisting the LAPD and the City in defending civil litigation is video technology. The state-of-the-art technology utilizes a small camera mounted in the patrol vehicle, which can be turned on either manually, or automatically with lights or sirens. The camera can be equipped with a wide-angle lens and rotated 360 degrees. The unit is equipped with a wireless remote microphone capable of picking up sound within 1,000 feet of the patrol car. The unit is tamper proof, and the tape is kept in a secure box in the patrol vehicle's trunk. It cannot be erased or re-recorded.

Chief Gates, Assistant Chief Vernon, and Commander Bostic in testimony before the Commission endorsed this concept as having substantial merit. Similar technology has been used for a number of years in various jurisdictions. The Commission recommends that the LAPD pursue efforts to use such technology, including the formulation of proposed Department guidelines for

use of video technology and experimental use in a substantial number of patrol cars.

The Commission recognizes that many have asserted that in some situations officers may fail, intentionally or otherwise, to use the video and audio equipment properly to record the event at issue. Possible ways to address this concern should be studied as part of the experimental program recommended here.

According to the LAPD officer studying the use of video technology, installation in patrol vehicles Department-wide could cost roughly between \$5 and \$8 million. In addition, the cost of videotapes could run as high as \$1 million per year. While this expenditure must be weighed against other competing needs, the costs of video technology may be offset or recouped if the system reduces excessive force claims (because the tapes demonstrate that the officers acted appropriately and because officers would be more careful to use force appropriately). Videotaping might also promote officer safety by deterring violence by suspects against police officers.

"Mid-Level" Use of Force Options

Many LAPD officers have contended that a major problem with the Department's use of force policy is the perceived gap in "middle level" use of force options. When dealing with a combative suspect, many officers complain of a lack of realistic Department-approved options between talking and using the baton.

While other options are available at the baton force level -- specifically, chemical mace and taser -- they are less frequently used than the baton and are believed by many officers to be less effective. A large number of officers interviewed urged reinstatement of the carotid chokehold, which restricts the flow of blood, as a "mid-level" use of force option. As discussed in Chapter 10, the Police Commission in 1982 equated the carotid and bar-arm chokeholds with other forms of "deadly force" on the use of force escalation scale, in response to reports that the chokehold had caused several deaths. The officers advocating return to use of the carotid hold, many of whom joined the force after its use was limited, assert that it is more humane than striking someone with a baton. The Department, however, made no recommendation to the Commission regarding the carotid or bar-arm chokehold.

The Department is interested in testing a chemical agent called capstun, used by the FBI and numerous other law enforcement agencies. Several officers also indicated support for the stun gun. This weapon, like the taser, uses an electrical charge to control the suspect but, unlike the taser, is held in contact with the suspect.

In the Commission's view, before the implementation of these or other tactical approaches can be recommended, a thorough study by police, medical, scientific, psychological, and other appropriate experts should be undertaken as part of a comprehensive evaluation of middle-level use of force options by the Department and the Police Commission.

Chapter Four:

Racism and Bias Affecting the Use of Excessive Force

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"Well . . . I'm back over here in the projects, pissing off the natives"

"I would love to drive down Slauson with a flame thrower . . . we would have a barbeque."

Computer messages sent
between LAPD patrol cars

Chapter Four: Racism and Bias Affecting the Use of Excessive Force

RACIAL AND ETHNIC BIAS IN THE LAPD

The nexus between racial and ethnic bias and the use of excessive force is sharply illustrated by the results of a survey recently taken by the LAPD of the attitudes of its sworn officers. Subsequent to the King beating, an LAPD survey of 960 officers found that approximately one-quarter (24.5%) of 650 officers responding agreed that "racial bias (prejudice) on the part of officers toward minority citizens currently exists and contributes to a negative interaction between police and the community." (55.4% disagreed; 20.1% had no opinion.) More than one-quarter of the poll's respondents (27.6%) agreed that "an officer's prejudice towards the suspect's race may lead to the use of excessive force." (15% expressed no opinion; 57.3% disagreed.)

Background

Within the minority communities of Los Angeles, there is a widely-held view that police misconduct is commonplace. The King beating refocused public attention on long-standing complaints by African-Americans, Latinos and Asians that LAPD officers frequently treat minorities differently from whites, more often using disrespectful and abusive language, employing unnecessarily intrusive practices such as the "prone-out," and engaging in use of excessive force when dealing with minorities.

The Problem of Racism Is Not New

The issue of disparate treatment of minorities by the LAPD is not new. More than 25 years ago the Governor's Commission on the Los Angeles Riots, chaired by John A. McCone, issued a report on the immediate and underlying causes of the Los Angeles riots during August 1965. No single factor was identified, but the starting point for examination of the causes of the August riots was an evaluation of law enforcement in Los Angeles. The McCone Commission found "a deep and longstanding schism between a substantial portion of the Negro community and the Police Department. 'Police brutality' has been the recurring charge." (December 2, 1965 Report, p. 27.) The Commission identified then-Chief of Police William Parker as the focal point of criticism within the African-American community:

He is a man distrusted by most Negroes and they carefully analyze for possible anti-Negro meaning almost every action he takes and every statement he makes. Many Negroes feel that he carries a deep hatred of the Negro community.

Notwithstanding that view, the McCone Commission noted Chief Parker's "record of fairness" to African-American officers, and observed that "he is recognized, even by his most vocal critics, as a capable Chief who directs an efficient police force that serves well this entire community."

The McCone Commission concluded that it was essential to promote communication between the police and the African-American community. The Commission urged a better understanding by the police of attitudes within Los Angeles' African-American community and recommended that the LAPD change its personnel complaint procedures and hire more minority officers.

While the issue of racism in Los Angeles law enforcement is not new, the changing demographic profile of the City -- the explosion of multiple cultures within the LAPD's jurisdiction noted in Chapter 2 -- has heightened the need for sustained efforts at finding solutions to this troubling problem.

The Blake Consent Decree

In March 1981 the City of Los Angeles settled discrimination suits brought by Fanchon Blake and the United States. The consent decree entered as a result of that settlement set hiring goals for women, African-Americans, and Latinos and dramatically altered the criteria for employment as an officer in the LAPD. The consent decree made no provision for increased employment of Asian officers.

The LAPD has now made substantial progress in the hiring of minorities and women. By June 1990, minority officers constituted 37.1% of LAPD's sworn officers (13.4% African-American; 21% Latino; 2.7% Asian) compared to 18.6% before the consent decree. Women comprised 12.6% of the LAPD, compared to 2.6% before entry of the consent decree. The recruitment effort for African-American, Latino, and female officers should be sustained. Because the Asian population is underrepresented in the LAPD, a special effort should be mounted to recruit Asian officers, especially those with relevant language capabilities. As discussed in subsequent sections of this Report, issues remain as to whether minority and women officers receive their share of quality assignments and have the same opportunities for promotion as white male officers.

MDT Transmissions

As discussed in Chapter 1, shortly before Officers Powell and Wind responded to the call for assistance in the pursuit of Rodney King, they had handled a domestic disturbance call at the home of an African-American family. In their exchange with the radio telephone operator over their MDT, the Powell-Wind unit described the incident as being "right out of 'Gorillas in the Mist.'" The Department unit receiving this message responded in what has been described as mock African-American language, "hahaha . . . let me guess who be the parties."

Public release of these two MDT transcripts shortly after the King beating further fueled charges that the beating was racially motivated. Because of the offensive nature of the comment and response, the Commission undertook the extensive general review of MDT transcripts described in Chapter 3. This review revealed an appreciable number of disturbing and recurrent racial remarks.

Some of the remarks describe minorities through animal analogies or are derisive of ethnic origins of minority groups. The remarks, often made in the context of beatings or pursuits, cover the spectrum of racial and ethnic minorities in the City.

- "Well . . . I'm back over here in the projects, pissing off the natives"
"I would love to drive down Slauson with a flame thrower . . . we would have a barbeque."
- "Sounds like monkey slapping time."
- "Oh always dear . . . what's happening . . . we're huntin wabbits"
"Actually, muslim wabbits"
"Just over here on this arson/homicide . . . be careful one of those rabbits don't bite you"
"Yeah I know . . . Huntin wabbits is dangerous."
- "A fem named [C] . . . I will be careful . . . we are out to get 211 susp that have been hitting almost twice a night. 2 m/blks . . . are you busy . . ."
"I was for awhile, But now I am going to sloow it down. If you encounter these negroes shoot first and ask questions later."
- "Wees be reedy n about 5"
"Wees also bees hungry"
- "Hi . . . just got mexercise for the night"
- "Don't be flirting with all ur cholo girlfriends"

- "The sneaky ones r . . . you watch me find you one sneaky guy . . . soon as dey bweak law me swoop down big time and make dem confess"
- "Okay people . . . pls . . . don't transfer me any orientals . . . I had two already"
- "Just like the word cholo, can't be said over the air. I don't make rules."
- "Just clear its buxsy [busy] out hear this hole is picking up. I almost got me a Mexican last nite but he dropped the dam gun to quick, lots of wit"
- "Lt says learn Spanish bone head . . . Sgt. [A] says tell them to go back to Mexico . . ."
- "Don't cry Buckwheat, or is it Willie Lunch Meat"

The racist comments freely exchanged over the MDT system stand in sharp contrast to the LAPD's official policy against "racially or ethnically oriented remarks." Memorandum No. 1, dated April 24, 1987, "Unacceptable Remarks of a Racial Nature," states:

This Memorandum reaffirms the Department policy concerning racially or ethnically oriented remarks, slurs, epithets, terminology, or language of a derogatory nature. These remarks are an inappropriate form of communication which becomes a destructive wedge in relationships with peers and members of the community. The deliberate or casual use of racially or ethnically derogatory language by Department employees is *misconduct* and will not be tolerated under any circumstances. (Emphasis in original.)

The officers typing the MDT messages apparently had little concern that they would be disciplined or otherwise sanctioned for making those remarks. Other officers took no steps to prevent this behavior; supervisors made little effort to discipline it or to review the messages. In fact, many of the offensive MDT comments were made from sergeants' field supervisory units.

A review of records provided by the LAPD indicates that only a small number of personnel complaints have been sustained on the ground of

improper racial remarks (not involving other misconduct) in the seven-year period from 1984 to 1990. The sustained complaints resulted in modest penalties. These records also show that during this period only two personnel complaints were sustained for transmission of an improper message over the MDT. In one case an officer was admonished; in the other, two officers received one-day suspensions. In the second incident, a white male officer transmitted a vulgar sexual and racial remark to an African-American female officer, who used her MDT to respond with angry profanities. The commanding officer recommended a four-day suspension for the white male officer and a two-day suspension for the African-American female officer. The Chief of Police reduced the penalties to one-day suspensions for each. As described in Chapter 3, the MDT materials reviewed by the Commission's staff were equally available to the Department, but no systematic effort was made to review them to enforce official Departmental policy against racist remarks.

The LAPD emphasizes the aggressive performance of police duties. LAPD officers are trained not only to respond to service calls, but also to seek out potential criminals before they commit crimes. This aggressive, hardworking style of policing is reflected in the Department's effectiveness and productivity. According to *The Big Six*, discussed in Chapter 2, Los Angeles in 1986 had the lowest ratio of sworn officers to residents, but the highest number of violent crime arrests per sworn officer.

If combined with racial and ethnic bias, the Department's active style of policing creates a potentially grave problem. Because of the concentration and visibility of gangs and street drug activities and the higher rates of violent and property crime in Los Angeles' minority communities, the Department's aggressive style -- its self-described "war on crime" -- in some cases seems to become an attack on those communities at large. The communities, and all within them, become painted with the brush of latent criminality.

Bias In the Treatment of Minority Citizens

Testimony in public and executive sessions and written presentations made to the Commission by a variety of witnesses depict the LAPD as an organization with practices and procedures that are conducive to discriminatory treatment and officer misconduct directed at members of minority groups. Witnesses repeatedly told of LAPD officers verbally harassing minorities;

detaining African-American and Latino men who fit certain generalized descriptions; employing the so-called "prone-out" tactic (described below) in minority neighborhoods, even for routine traffic stops; and using excessive force, particularly in African-American and Latino communities. While the Commission does not purport to adjudicate the validity of these complaints, the intensity and frequency of them reveal a serious problem.

Discourtesy and Harassment

A large number of witnesses complained that there is a general climate of hostility between the police and members of minority communities and that discourtesy and verbal harassment by LAPD officers are commonplace. That perception was shared by former Assistant Chief of Police Jesse Brewer, who testified that he told Chief Gates in 1989 that he was deeply concerned about the manner in which officers treated the public.

Discussions held with a cross-section of the City's religious leaders indicate that even respected members of minority communities are subject to harassment by the LAPD. For example, one minister explained that he wore his collar in his driver's license picture and when driving his car in order "to avoid getting harassed." Another minister said that while most members of his predominantly African-American congregation have no contact with the police, "those who have had contact have had almost uniformly negative experiences." A Catholic priest told us that "I don't feel I could find a single person who couldn't tell you a story of police abuse, of humiliation, of degradation at the hands of the [local] Police Division -- not a single one."

"Prone Out" Position

The "prone-out" position is a police control tactic that requires the suspect first to kneel, and then lie flat on his stomach, with his arms spread out from his sides or his hands behind his back. The Commission received numerous accounts of incidents involving African-American or Latino males, stopped for traffic infractions, who were "proned-out" under circumstances that did not present any risk of harm to the officers and that did not involve a felony warrant. The Commission recognizes that use of this tactic is often necessary to ensure officer safety, but believes that greater discretion should be exercised in its application.

Police officers interviewed in the investigation said that use of the prone-out position in African-American and Latino communities was "pretty routine." One officer described the practice as the product of an attitude that officers acquire while working in the field, particularly the south end of the City. He indicated that such use of the tactic is accepted as part of getting the job done. In his view,

it starts with roll call, where you are repeatedly told you must be careful because these people tend to be more aggressive and carry guns . . . that aggression and force are the only things these people respond to.

Unjustified Stops

Many witnesses complained of the apparent practice by the police of stopping individuals because they resemble a generalized description of a suspect or because they appear not to belong in a particular neighborhood. The Commission repeatedly heard accounts of African-American and Latino males, often in expensive or late model cars, or in parts of the City where they might be considered out of place, being stopped for no apparent reason or for one that appears on the surface to be a pretext. The existence of this practice among some LAPD officers was acknowledged by an LAPD senior command officer in testimony before the Commission. It is also vividly reflected in a MDT transmission reviewed by the Commission:

- "U can c the color of the interior of the veh . . . dig."
"Ya stop cars with blk interior."
"Bees they naugahyde."
"Negrohide."
"Self tanning no doubt."

In one incident that occurred in 1986, an African-American male, alone, driving a new Porsche in South-Central Los Angeles around 2:00 a.m., was followed by LAPD officers for several blocks. He was stopped when he pulled in front of his home. According to the officers, he had several blocks earlier stopped his car beyond the white line at the intersection delineating the

pedestrian crosswalk. The individual stated that he was ordered out of his car and handcuffed while the police checked his car. He received a traffic ticket, which was canceled after he complained to the Department.

Similar incidents involving well-known African-American athletes and television personalities have recently been reported by the media. Jamaal Wilkes, a Los Angeles businessman and former college and professional basketball player, was stopped by LAPD officers after leaving his mid-Wilshire office one evening about 8:00 p.m. Wilkes reported that the officers first informed him that he was stopped because his license tag was about to expire. During the stop, he was handcuffed and told a felony arrest warrant was outstanding against him. A second check showed this information to be incorrect, and Wilkes was released. After Wilkes filed a complaint, the investigating officer informed Wilkes that he had been stopped because of a broken tail light.

Routine stops of young African-American and Latino males, seemingly without "probable cause" or "reasonable suspicion," may be part and parcel of the LAPD's aggressive style of policing. The practice, however, breeds resentment and hostility among those who are its targets. Moreover, the practice has created a feeling among many in Los Angeles' minority communities that certain parts of the City are closed to them or that being detained by the police is the price of traveling in those areas.

The experience of some minority officers when off duty is consistent with that of other African-American and Latino males. Incidents were reported of African-American officers being stopped by white officers in circumstances not resulting in an arrest or otherwise involving any apparent infraction or illegal activity by the African-American officers. In two of these incidents, notwithstanding the African-American officers having identified themselves as LAPD officers, the white officers were said to have responded that the identification could be stolen and would have to be checked.

LAPD Use of Canines

The Commission also heard numerous complaints about the frequency and manner of use of police dogs in minority neighborhoods. Witnesses described incidents when LAPD officers allegedly had dogs attack

minority youths already in custody or failed to call off the dogs after the suspect was under control.

Analysis of data provided by the LAPD shows a high correlation between the frequency of use of the canines and areas of the City with significant minority populations. The South and Central Bureaus are composed almost entirely of African-American or Latino/mixed populations. During the period 1986-1989, these two bureaus comprised 70.8% of the total canine searches, 70.4% of the suspects apprehended in canine searches and 69.6% of the reported dog bites. The questions raised by these complaints and by the limited data the Commission has been able to review are serious ones, and we recommend the Department and the Police Commission investigate them further.

Bias in the Treatment of Minority Police Officers

The extent to which minority officers are accepted and integrated within the LAPD is a measure of the Department's responsiveness to the larger minority communities. The MDT messages and other evidence suggest that minority officers are still too frequently subjected to racist slurs and comments and to discriminatory treatment by fellow officers.

The Commission interviewed current and former Asian, Latino, and African-American officers, all of whom exhibited a strong sense of loyalty to the Department, even when critical of certain aspects of its operations. Two recurrent issues emerged.

First, there is concern about the apparent lack of sensitivity among supervisors to the debilitating effects that racial and ethnic biases have, not only on minority officers' acceptance and treatment within the Department, but on the way in which LAPD officers interact with the public. Many of the officers expressed fear that, if it were known that they were speaking to the Commission on these issues, their careers might suffer or they might become known as troublemakers and be ostracized by their peers. One of the officers interviewed reported that, after meeting with members of the Commission staff, he found a hangman's noose on the telephone that he used every morning to call home from the station. He stated that he has not reported the incident to his supervisor because he knew nothing would be done.

Second, there is concern, sometimes expressed as disappointment or frustration, over the failure of the Department to take an active stance in enforcing its formal policies against racial and ethnic bias. While the relative number of officers who openly make racially derogatory comments or treat minority officers in a demeaning manner seems by all accounts small, their attitudes and behavior carry a greater impact than would otherwise appear warranted because of the failure of supervisors to enforce, vigorously and consistently, the Department's policies against racist conduct. In the words of one African-American officer:

[N]arcotic use, theft, and other criminal acts are not tolerated and carry strong disciplinary penalties. Penalties for persons engaging in racist acts should be equally severe. Racist acts and racism directed at fellow employees or at the people they serve should not have the appearance of being condoned.

The failure to enforce existing policies conveys to minority and non-minority officers alike the message that such conduct is in practice condoned or tolerated by the Department, notwithstanding its stated policies to the contrary. This apparent tolerance seems in turn to dissuade officers from reporting instances of misconduct because of the fear that they will not be supported by their supervisors and will themselves be criticized and harassed by their peers. To the extent there is the perception of tolerance of racist behavior toward other officers, it is likely to engender a greater acceptance of similar behavior toward minority citizens.

Racial Comments and Attitudes Within the Department

A number of the racial comments appearing in the MDT transcripts discussed above were directed at minority officers. The MDT transcripts, however, are not the only evidence of racial and ethnic slurs within the Department. The Commission was told by most of the minority officers interviewed that racially derogatory remarks are made on an on-going basis at roll call and that racist jokes and cartoons appear from time to time on the bulletin boards in the stations' locker rooms.

Latino officers reported they are often referred to by ethnic nicknames such as "Chico," "burrito-man," and "Chuy." African-American

officers reported similar experiences involving racial slurs. Some of the Asian officers stated that, although racism against Asians is far more subtle today than 20 years ago, on an almost daily basis they hear some racist comments or reference to Asian stereotypes. Almost all of the officers said that, while they found such racial slurs and remarks offensive, they endured the name-calling and jokes to avoid the label of being "thin-skinned" and "sensitive."

Many of the minority officers also noted that some divisions within the Department have the reputation of being less accepting of minority officers than others. The Valley Bureau was often identified as an area where African-American officers in particular were not welcome.

Concerns about the apparent tolerance of racism were also expressed about South Bureau. In August 1989, an emblem containing the South African flag and the words "South Africa" were found attached to the grill of the unmarked police car of two white homicide detectives in South Bureau. The *Los Angeles Times* reported on August 23, 1989 that the emblem had been observed by "supervisory personnel" just before a dedication ceremony. The detectives' supervisor was ordered to have it removed. More than a week later, however, the emblem was again observed on the car. The flag and emblem were finally removed after a *Times* reporter and photographer saw them. Only then did the Department begin a formal investigation. The two officers were eventually reprimanded.

African-American officers interviewed at the time by the *Times* stated that they believed that the South African emblem was a symptom of a deeper problem -- the presence of a clique of openly racist white police officers in the South Bureau who were tolerated by their supervisors. The emblem was viewed by several African-American officers as an endorsement of repression of minorities and apartheid. They stated that they feared ostracism if they made formal complaints.

The minority officers interviewed almost uniformly echoed the opinion of one African-American officer who said that, "there are many fine white officers who are doing their job and do not harbor racist sentiments. However, there is still a significant group of individuals whose old line, deep-seated biases continually manifest themselves on the job." This officer felt that -- with the support of white commanders, captains, and lieutenants -- significant changes could be made in the Department.

LAPD Survey of Perceptions of Minority and Female Officers

In 1987, Dr. Martin Reiser, Director of the Behavioral Science Services Section of the Department, conducted a study of perceptions of sworn personnel about the treatment of male minorities and females in regard to promotions, attitudes about administrative problems, and peer relationships. Of the minority officers responding, 45% of the African-American officers, 31% of the Latino officers and 25% of the Asian officers answered affirmatively that they had encountered discrimination on the basis of race. Of the female officers responding, 36% of the white officers, 34% of the African-American officers, and 30% of the Latina officers responded that they had encountered gender discrimination. Forty-five percent of the African-American male officers, 27% of Latino male officers, and 31% of Asian male officers said they had encountered racial slurs by supervisors, peers or both. Forty percent of the African-American female officers also responded that they had encountered such slurs; significant percentages, 36% and 24%, respectively, of the Latina and female white officers also had experienced slurs from supervisors or peers.

Lack of Minority Officers In Managerial Positions

As previously noted, the LAPD has made substantial progress in hiring minorities and women since entry of the Blake consent decree in 1981. The Department's statistics show, however, that the vast majority of minority officers are concentrated in the entry level, Police Officer ranks of the Department. As of February 1991 there was a total of 1,154 African-American sworn personnel, of whom 947 or 82% held positions within the ranks of police officer I-III. Latino and Asian officers are similarly concentrated; more than 80% of Latino and Asian officers held positions within the ranks of police officer I-III. In contrast, only 61% of white officers held positions within the ranks of police officer I-III.

The present concentration of minorities in entry level positions is consistent with the pattern in the LAPD that has emerged over the years. The Commission reviewed comparable data for the years 1980, 1986 and 1991. Using 1980 as a base year, 1986 and 1991 were selected in part to take into account the minimum tenure requirements for eligibility for promotions within the Department to sergeant and lieutenant. Analysis of these data shows that,

although there are now more minority officers on the force and more minority officers with the minimum tenure requirements for promotion to sergeant and above, the same relative concentration in the patrol ranks exists today as it did 10 years ago.

Between 1980 and 1990, African-American representation among managerial and supervisory ranks (sergeant and above) increased only from 5.3% to 8%; Latino representation increased from 4.9% to 10.4%. The percentage of female officers with the rank of sergeant or above increased in the same 10-year period from 0.8% to 2.4%. In 1990, 6.4% of the LAPD detectives were women; 6.5% were African-American and 13.2% were Latino. The absence of minorities and women from higher level investigative, supervisory, command, and staff positions might be due to a variety of individual factors. Evidence gathered by the California Fair Employment and Housing Commission suggests, however, that it might be in part the result of covert discrimination. Whatever the reason, the leadership of the Department remains predominantly white and male.

Many minority officers cite this white dominance of managerial positions within the Department, even in African-American and Latino areas of the City, as one reason for the Department's continued tolerance of racially motivated language and behavior. Leaders in the minority communities also have articulated their frustration at the absence of minority officers in managerial positions. As recognized in 1967 by the *President's Commission on Law Enforcement and the Administration of Justice, Task Force Report: The Police*, "if minority groups are to feel that they are not policed entirely by a white police force they must see that [African-American] or other minority officers participate in policy making and other crucial decisions."

The Commission's review of LAPD assignments as of April 1991 reveals that in many of the City's 18 areas with significant minority populations, few of the supervisory and management personnel (lieutenants and above) assigned to those divisions are minority officers. There are currently 46 minority officers in the ranks of lieutenant and captain (out of a total population of 300). Such small numbers obviously do not permit the Department to staff all of its divisions to reflect the diversity of the populations they serve. While the Commission does not suggest that minority officers should only serve in minority communities, it is important that the Department evidence greater

sensitivity to the impact and consequences, real and perceived, that can result from having predominantly minority communities served exclusively by white management and supervisory personnel.

Coveted Positions

Certain assignments and units within the LAPD are officially recognized as "coveted positions," ones that are generally perceived as more desirable, attractive and prestigious. Assignments to units such as Metropolitan (considered the most elite uniformed unit), Narcotics and Internal Affairs are highly sought after. Those positions also are considered to provide officers career-enhancing promotion opportunities.

Assignments to most coveted positions are discretionary appointments by the commanding officers and are not subject to civil service, competitive selection criteria. Many of the minority officers interviewed expressed the strong view that the "good old boy" network among white staff officers and supervisory personnel makes it extremely difficult for minority officers to get transfers into those units. The Department's 1990 Coveted Position Report confirmed that minorities and females are underrepresented in these desirable assignments.

BIAS BASED ON GENDER WITHIN THE LAPD

Bias within the LAPD is not limited to racist and ethnic prejudices, but embraces widespread and strongly felt gender bias, as well. The Commission developed little evidence that the gender bias results in excessive force or harassment of female suspects or victims. This bias does, however, result in the underutilization of female officers. Because the Commission heard persuasive evidence that most female officers use a style of policing that minimizes the use of excessive force and inappropriate confrontations, the continued existence of discrimination against female officers can deprive the Department of specific skills, and thereby contribute to the problem of excessive force.

Gender Differences in the Use of Excessive Force

Virtually every indicator examined by the Commission establishes that female LAPD officers are involved in excessive use of force at rates substantially

below those of male officers. There were no female officers among the 120 officers with the most use of force reports. Female officers accounted for 3.4% of the officers involved in or at the scene of incidents underlying the 83 most serious lawsuits against the LAPD resolved from 1986 through 1990.

A study also was conducted by the Commission of the top 10% of the LAPD officers ranked by the combined use of force reports, personnel complaints and officer-involved shootings. There were no female officers among the top 132 officers. Only 3.7% (30) of the 808 LAPD officers with the highest number of incidents were women officers.

The statistics indicate that female officers are not reluctant to use force, but they are not nearly as likely to be involved in use of excessive force. The statistics are borne out by the weight of academic and anecdotal evidence gathered by the Commission. With some exceptions, female officers interviewed believed they were more communicative, more skillful at de-escalating potentially violent situations and less confrontational. A suspect's defiance and disrespect of an officer often gives rise to use of force by an officer. Many officers, both male and female, believe female officers are less personally challenged by defiant suspects and feel less need to deal with defiance with immediate force or confrontational language.

Official and Unofficial Attitudes of Male LAPD Officers and Staff Toward Female Officers

The official Departmental policy is one of full equality for, and full acceptance of, female officers:

Current law clearly forbids discrimination on the basis of race, religion, national origin, sex (includes sexual harassment and pregnancy discrimination), age, marital status, sexual orientation, disability, creed, color, ancestry, medical condition, affliction or perceived affliction with AIDS, or retaliation for having filed a discrimination complaint.

Yet law should not be the primary basis for our beliefs, behaviors, and responsibilities. Accepting others and respecting their differences should be natural and spontaneous. . . . Prejudiced remarks, offensive jokes, and the promotion of stereotypes cannot and will not be tolerated in the workplace. Ridicule based on personal characteristics, health, race, sex or sexual orientation creates an environment which negatively impacts the

performance of all employees. (Memorandum No. 5, Department Policy on Nondiscrimination, issued May 17, 1991.)

Many male officers interviewed did not personally subscribe to the Department's formal policy or were otherwise unaccepting of female officers. That negative viewpoint is not confined to any level or race of male officers, but represents a pervasive attitude within the Department.

Despite Chief Gates' public statements, several female LAPD officers cited Chief Gates' choice of certain top assistants whom they believe to be insensitive to women's points of view as indicating a lack of commitment to female equality at the most senior levels.

The disparity between official policy and unofficial practice was recognized by Chief Gates in his appearance before the Commission on June 14, 1991. Chief Gates testified that he was "really pleased with my women in the Department," and stated they had done a "magnificent job." He conceded, however, that female officers, even more than officers who are gay or lesbian, had a "real tough time" in achieving acceptance within the Department and admitted that full equality for female officers remains a problem.

The seriousness and extent of the problem for female officers have been recognized by internal LAPD studies. In his 1987 study of the perceptions of sworn personnel about the treatment of females and minorities, Dr. Reiser found that the vast majority of the female officers reported problems with "not being judged on ability" (70% of females), "sexist remarks" (76% of females), "partner with negative attitude about personal competence passed on verbally" (55% of females), and "lack of sensitivity to cultural/racial issues" (43% of females).

Another study by the LAPD in 1987 concluded that female officers were subjected to a double standard and subtle harassment and were not accepted as part of the working culture:

Those interviewed indicated that women are still not accepted. For example, female probationers are told they are not as good as men in a "man's" job and they "must earn their way."

In some geographic areas, female police officers are told outright that they aren't wanted working at the division. One female officer reported being told by her male training officer, "It's my task to get rid

of you." Another described her probationary period as a "game of intimidation" where there was always "the hidden agenda" of being tested day after day. In response to the question of female acceptance, one male sergeant stated, "We didn't ask them to work here. They came on the job and if they can't take it then they can get out."

It appears that male officers do not overtly refuse to work with females but rather use subtle tactics such as not talking to them in the car or not providing them with information to help them learn the job. In addition, there were numerous cases described in which male officers had deliberately orchestrated a fight, provoking a suspect to see how a female probationer would "handle herself." One male officer indicated "women should be able to handle the testing and not be so sensitive and think it's harassment." Another example indicated that after a recent use of force review, the female partner received remediation but the male partner did not when both individuals' tactics were at fault.

These LAPD studies were reviewed in detail at a 1987 meeting attended by all senior staff. No subsequent meetings were scheduled, nor was any specific action undertaken as a result of this meeting.

The problem has not abated in the four years since this meeting. To assess current attitudes toward female officers in the field, the Commission interviewed approximately 90 training officers in four divisions. Training officers are assigned as partners to new officers during their first year out of the Academy, and thus play a major role in shaping the new officers' views of police work. While some of the training officers were supportive and complimentary of female officers, many expressed concerns that female officers were not as capable, effective, or trustworthy as their male counterparts. Others said they did not have problems with female officers, but confessed that many of their male colleagues did.

A sampling from the training officers' statements demonstrates this viewpoint:

- "We worked with many female officers but only know one who was equal in ability to male officers. Women tend to be smart and good at writing reports, but are weak and timid."

- "Female police officers 'don't want to do anything but collect a paycheck.'"
- "A lot of male officers prefer working with men over women. For me, it's a question of upper body strength. The department needs a more stringent height requirement."
- "I know most officers have problems working with female officers and dislike working with them because they believe women don't have the physical stature to do the job."

Commission interviews of other male LAPD officers reflect the same pattern of negative feelings:

- "Many male officers feel very uncomfortable dealing with a physical situation when a female officer is partnered with them."
- "Female officers generally cannot back up officers."
- "Female officers sometimes exacerbate the situation because they feel the need to assert themselves or escalate the potential for use of force."
- "I clearly won't get involved in some situations if I have a female partner. It's protective. It's not a question of comfort, but of safety. I'm more inclined to lay back and evaluate the situation if I have a woman partner. They're just not as strong."

MDT Transmissions

Acceptance of widespread gender bias is evidenced by the Commission's review of MDT transcripts, discussed above, which revealed a constant stream of sexist comments and remarks with obvious sexual overtones. As indicated earlier, these are official Department communications, typed into a MDT displayed on the screen of another, and subject to monitoring by a field supervisor, as well as being retained for subsequent audit. Yet blatantly sexist messages are openly transmitted.

- "U wont believe this ... that female call again said susp returned ... I'll check it out then I'm going to stick my baton in her"

- "Ohh, I just fuckin love it when you talk sexy."
- "U wanna partake w/me my little love bud."
- "Do you know where your pussy is."
- "No but I left a 14 year old girl that I me yesterday handcuffed naked o my chin-up bar wearing nothing but a blind-fold and salad oil . . . I'd like to ck on her."
- " . . . 415 female, huh . . . well, just slap that silly broad sense less."
- "Your getting a new boot from Academy . . . a breathtakin blonde with huge kazoopers."

In addition, male officers repeatedly refer on MDT communications to their female counterparts with condescending or derogatory nicknames.

Extensive research on women in police work throughout the United States reveals that, while they perform as well as male officers, the main obstacle confronting female officers in all major metropolitan police departments continues to be male attitudes toward them, as well as the influence of stereotypical role models in law enforcement. Traditional views concerning the nature of police work in general -- that is, that police work is a male-oriented profession with a major emphasis on physical strength -- foster a climate in which female officers are discouraged. A corollary of that culture is an emphasis on use of force to control a situation, and a disdain for a more patient, less aggressive approach.

BIAS BASED ON SEXUAL ORIENTATION

The Los Angeles Police Department has a well-documented prior history of discrimination against gay men and lesbians. A memorandum circulated in the Department in 1975 confirmed that homosexuality was an absolute bar to employment:

To retain the current trust of the community and the high level of efficiency enjoyed by the Los Angeles Police Department, the disqualification of police applicants based on substantiated homosexual conduct must be continued.

As recently as 1988, an LAPD background investigator told a Central Division watch commander that he had identified several "faggots" in his applicant pool and was searching for reasons to disqualify them.

Current policy, set forth in the May 17, 1991 Memorandum No. 5, now prohibits such discrimination. Chief Gates affirmed this nondiscrimination policy before the Commission, stating that sexual orientation should be totally irrelevant to an officer's status within the LAPD.

Apparently putting that policy into practice, the Los Angeles Gay and Lesbian Police Advisory Task Force announced on June 18, 1991 that the Department had given gay and lesbian officers permission to wear their uniforms and staff a recruiting booth at a gay pride festival held on June 22-23, 1991. Several gay and lesbian officers did operate the recruiting booth at both days of the festival.

A tension remains, however, between the LAPD's official policy and actual practice. Some of the most offensive comments in the MDT transcripts reviewed by the Commission concerned lesbians and gay men.

- "No. 1600 how many homosexuals did you give orals to today"
"That's a touchy subject . . . not fit for MDTing . . ."
- "Just finished writing 4 tickets to some poo butts"
- "Did you check your fruits at the park . . . I hope you watered them . . ."
"I figured how to get rid og them . . . Im sending in a bunch of naked girls, that will scare them a way . . ."
- "I'll c u at the County Jail bun-boy . . ."
"If I was a bun-boy you'd be asking to sleep over my house homo"
- "Houston PD has a new chief --- Elizabeth Watson 40 yrs old . . ."
"I bet that's going over reeeeeaaaalll good with the troops dude . . . they have some dyke bleding heart for a mayor . . ."

The hostility within the Department toward homosexuals is evidenced by the absence of openly gay or lesbian officers among the LAPD's ranks. While there are a number of gays and lesbians in the Department, not one LAPD officer was openly gay or lesbian at the time this Commission was appointed. The Commission staff interviewed more than 50 gay and lesbian officers, virtually all of whom said they believe they cannot reveal their sexual orientation without jeopardizing their careers. Many also reported fear that revealing their sexual orientation would jeopardize their physical safety. The gay and lesbian officers interviewed recounted stories about harassment of suspected homosexual officers and about the daily patter of slurs and jokes concerning "faggots," "dykes," and "queers." In mid-June 1991, however, several gay and lesbian officers publicly identified themselves.

The Commission received conflicting evidence as to whether disqualification of suspected gay and lesbian recruits continues in a less overt, unofficial manner. Many officers in the LAPD's most recent graduating class reported that they were required, as part of the application process, to provide the name and address of at least one member of the opposite sex with whom they were involved romantically. Until recent months, the standard psychological test administered to all applicants to the Police Academy included the question, "Are you attracted to members of your own sex?" Yet the Department's background investigators insist that, while applicants are asked about close relationships, no questions are asked about heterosexual relationships or concerning "members of the opposite sex," and they deny that gay or lesbian applicants are disqualified because of their sexual orientation. (The background investigation of LAPD applicants is discussed further in Chapter 6.)

As with other attitudes of bias, prejudice against gays and lesbians appears to affect officers' interactions with members of the community. Virtually all of the gay and lesbian officers and approximately 10% of the heterosexual field training officers interviewed by the Commission staff stated that "gay-looking" suspects are regularly subjected to derogatory comments about their presumed sexual orientation. Both gay and heterosexual officers have noted that police are far more aggressive in enforcing minor infractions against suspected homosexuals than against presumed heterosexuals. Several officers, including heterosexual officers, stated that they believe many fellow

officers take "gay calls" lightly, particularly if the calls involve domestic disputes between gay men. One gay officer described instances in which he witnessed officers actively dissuade victims of "gay bashings" from pressing charges against the perpetrators by threatening to arrest the victims and place them in the same cells as the perpetrators.

Bias against lesbians and gays also contributes to excessive use of force. As one LAPD officer put it: "It's easier to thump a faggot than an average Joe. Who cares?" Another officer said that gay people tend to get beaten more frequently than straight people because "they love it. They want to get hit." During the 30-day period prior to the beating of Rodney King, five separate incidents of alleged abuse by LAPD officers against homosexuals were reported to the Los Angeles Gay and Lesbian Community Services Center. Over the last two years, more than a dozen other incidents of alleged police abuse by LAPD officers based on sexual orientation have been reported by community groups. Several of the incidents involved excessive use of force by police officers sent into public areas specifically to arrest gay men allegedly engaging in lewd conduct.

RECOMMENDATIONS

The Department has begun important steps to correct many of the symptoms of racism and ethnic and gender bias within the LAPD. A comprehensive review of training, particularly regarding human relations and the use of force, is being conducted by Commander Michael J. Bostic. An extensive monitoring procedure for MDT communications has been implemented. Far more is needed.

The Department needs to acknowledge there is in fact a serious problem that must be confronted. It is not acceptable to say that prejudice exists because, as several senior officers have said, "LAPD recruits from the human race." Having acknowledged the problem, LAPD must do all it can to change those attitudes, including holding command officers responsible for continued incidents by their subordinates. Specifically:

1. The Chief of Police should seek tangible ways (for example, through disciplinary measures) to establish the principle that racism and ethnic and gender bias will not be tolerated within the Department. Such bias cannot be eliminated without active leadership from the top.

2. The LAPD must establish a program of cultural awareness training (or retraining) to eliminate stereotypes for all officers. This program should be funded by the City Council and developed by an independent organization experienced in providing such training. Supervisory/administrative officers (Lieutenant I and higher) should be trained first, with the remaining officers trained on a specified schedule. Retraining of all officers should thereafter take place on a regular basis.

3. A new, separate position should be created at the commander level, a "Community Relations Officer" reporting to the Chief of Police. This officer's responsibilities will include (i) liaison with those conducting the cultural awareness program; (ii) establishment of liaisons with representatives of minority communities within the City of Los Angeles; (iii) establishment of an "ombudsman" to deal with LAPD officers concerning racial and gender related matters, including complaints concerning bias and discrimination within the LAPD; and (iv) monitoring use of force reports regarding minorities, and public complaints involving racial matters. It is essential that officers have a means to address racial grievances to someone other than the officer in charge of the station where the act occurred.

4. The LAPD must address the problems created in minority communities by the inappropriate and unnecessary use of the "prone-out" tactic and the practice of stopping young minority males without proper justification.

5. The recruitment effort for African-American, Latino, and female officers should be sustained. Because the Asian population is underrepresented in the LAPD, a special effort should be mounted to recruit Asian officers, especially those with relevant language capabilities.

6. Female and minority officers must be given full and equal opportunity to assume leadership positions in the LAPD. Women and minorities must be assigned on a nondiscriminatory basis to the so-called "coveted positions," and promoted to supervisory and managerial positions on the same basis.

7. The LAPD must fully implement in practice its policy of nondiscrimination in the recruitment and promotion of gay and lesbian officers.

NOTES TO CHAPTER FOUR

- † Commission Study by Jeff Dasteel and Chick Naumer. *Officers and Suspects Listed on Use of Force Reports by Sex, Descent & Injury 1/31/89-3/31/91*. dated June 13, 1991

Chapter Five:

LAPD Culture, Community Relations,
and "Community Policing"

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"My parishioners have told me many times that they want to have a good relationship with the police. However, they are caught in a dilemma because they are suffering at the hands of the police. On one hand, they don't want to speak up because they don't want to undermine the ability of the police to deal with the negative elements. But I have been told of many incidents where my parishioners have been the victims of disrespect or the victims of excessive use of force by the police."

A Los Angeles Clergyman

Chapter Five: LAPD Culture, Community Relations and "Community Policing"

As previously emphasized, the Commission believes that proper supervision and management, including command accountability, are important steps toward eliminating the identifiable group of officers who repeatedly engage in improper uses of force. More difficult to control, because they are more fundamental, are those aggressive confrontations with the public that result from the LAPD's assertive style of law enforcement.

During the past century, the purposes and methods of policing have evolved as different philosophies or models have dominated police behavior. The LAPD's current approach is the product of a reform era that emphasized creation of professionalism within the force. A "professional" model of policing is primarily concerned with maintaining a well-disciplined, highly trained, and technically sophisticated force insulated from improper political influence. Crime-fighting is seen as the principal objective of policing.

A competing model of community-based policing has developed and gained increased acceptance in the 1980's and is seen by many as the preferred policing style of the future. The community policing model treats service to the public and prevention of crime as the primary function of police in society. Proponents believe that the police, the public, and other government agencies must form a working partnership to have a meaningful impact on crime. Officers at the patrol level are required to spend less time in their cars communicating with other officers and more time on the street communicating with the public.

Evidence from all sources -- senior LAPD officials, rank-and-file patrol officers, community leaders, and members of the public -- describes the LAPD as having a "professional" organizational culture that has emphasized crime control over crime prevention and isolated the police from the communities and the people they serve. To the applause of many, the LAPD insists on aggressive detection of major crimes -- murder, burglary, automobile theft -- and a rapid, seven-minute response time to calls for service. Patrol officers are evaluated by statistical measures (for example, the number of calls handled and arrests made) and are rewarded for being "hardnosed." This style of policing produces results (the LAPD consistently outperforms other major city police departments in the number of violent crime arrests per sworn officer), but it does so at the risk of creating a siege ("we/they") mentality that alienates the officer from the community.

Assistant Chief Dotson described the LAPD as "stuck" in a "1950's sort of world view":

We reward our people -- our field people, the people that got us here to this [Commission] meeting -- we reward them for what we call hardnosed, proactive police work. We want them to go out and identify criminal activity and stop it, either before it occurs, or certainly after it occurs, we want to go out and determine who the criminals were who perpetrated this particular act and get them into jail.

The consequence of this 1950's approach, according to Chief Dotson, is confrontation with the public:

We expect people to go out and aggressively identify people, and investigate them, and that puts these police officers in the middle between what we evaluate them on and what they are able to do legally. And so it results in police officers bluffing their way into situations, and, when they stop people on the street, frequently the guy knows, you don't have anything on me, you don't have any reason, and he knows that very well. And he knows they're bluffing. And that gets us in, time after time, into these conflict situations that end up, frequently with uses of force, frequently with manufacturing or at least puffing of the probable cause.

A number of commanding officers share the opinion that too many LAPD patrol officers view the public with resentment and hostility. One recently promoted lieutenant, who is currently a watch commander, testified that LAPD training emphasizes "command presence" that can lead to inappropriate confrontations on the street. He also testified that, in his view, too many LAPD officers fail to treat the public with the necessary courtesy and respect. That opinion was also expressed by former Assistant Chief Brewer, who testified that he has believed for several years that officers' conduct is "out of control" in terms of rude and disrespectful treatment of the public.

William Rathburn, Chief of Police of Dallas, Texas, and former Deputy Chief of the LAPD, testified that many techniques and procedures used by the LAPD tend to exacerbate, rather than calm, potentially volatile situations. Chief Rathburn specifically noted that the "prone-out" position as used in minority neighborhoods generates substantial hostility against the LAPD in those communities. While acknowledging the need for officer safety, Chief Rathburn expressed the view that the prone-out tactic was used by many LAPD officers in an indiscriminate and offensive manner.

The LAPD, in turn, is viewed, in the words of one minister of an African-American and Latino congregation, with "a grave mistrust." Another minister, who is a former police officer, expressed the view that the "problem transcends

cultural differences. The police department divides everybody into two categories: blue and everyone else." A third minister explained the dilemma felt by his parishioners (half African-American, half Latino):

My parishioners have told me many times that they want to have a good relationship with the police. However, they are caught in a dilemma because they are suffering at the hands of the police. On one hand, they don't want to speak up because they don't want to undermine the ability of the police to deal with the negative elements. But I have been told of many incidents where my parishioners have been the victims of disrespect or the victims of excessive use of force by the police.

Concern over the Department's interaction with the community is not limited to senior LAPD officials and members of the public. Nearly two-thirds (62.9%) of the 650 LAPD officers who responded to the post-King-incident LAPD survey expressed the opinion that "increased interaction with the community would improve the Department's relations with citizens." (Only 15.8% disagreed, 21.3% had no opinion.)

"COMMUNITY POLICING" AS AN ALTERNATIVE TO TRADITIONAL METHODS OF CRIME CONTROL

The Commission heard from several experts in police administration who urged adoption of the community policing model as a means of combatting excessive use of force and improving relations between the LAPD and the people it serves. Community-based policing proponents argue that the existing strategy of policing -- which depends on random and directed patrol, rapid response to calls for service, and retrospective investigations of crime -- is not succeeding. Crime remains high; the public remains fearful. Moreover, these experts assert that by focusing primarily on controlling serious crime, the police become too narrow in their focus and too harsh in their treatment of the public.

Community policing emphasizes a department-wide philosophy oriented toward problem solving, rather than arrest statistics. The concept also relies heavily on the articulation of policing values that incorporate community

involvement in matters that directly affect the safety and quality of neighborhood life. To acquire an understanding of the particular concerns and priorities of different neighborhoods, officers must interact with residents on a routine basis and keep them informed of police efforts to prevent neighborhood crime. Community policing proponents believe that, as this communication continues, a cooperative and mutually beneficial relationship will develop between the police and the community that will ensure police accountability to the community, as well as to the Department, and will promote a better understanding by the community of the realities of police work.

To be effective, a department adopting community policing principles must decentralize managerial control and provide officers greater autonomy to approach and solve the underlying causes of crime and other neighborhood problems. Proponents of this style of policing insist that addressing the causes of crime makes police officers more effective crime-fighters, and at the same time enhances the quality of life in the neighborhood.

The LAPD's Adoption of Community-Oriented Policing Programs

Community policing concepts are not foreign to the LAPD: it has made several efforts to incorporate them into the "professionalism model" the LAPD embodies. In the late 1960's, after the Watts riots, Chief Tom Reddin appointed Community Relations Officers ("CROs"), all lieutenants, to provide liaison to neighborhood organizations. In 1970, Chief Ed Davis created "the basic car plan," a beat system in which small teams of officers had 24-hour responsibility for patrolling a relatively small area within a precinct. A new rank was created -- senior lead officer ("SLO") -- to lead the team. The SLO coordinated the basic car team, handled his or her own patrol responsibilities, monitored conditions within his or her geographic area, organized Neighborhood Watch groups, and arranged crime-prevention meetings with the local residents. Several years later, Chief Davis instituted team policing, which decentralized authority by creating a number of smaller, autonomous units throughout the City. The goal of team policing was to develop closer ties with the community and to respond to concerns for the overall well-being of the area.

Beginning in 1979, Chief Gates began to emphasize priorities that turned away from the team policing system and recentralized authority in headquarters, in part because of budget constraints and a reduction in the number of officers. In light of budget cuts, CRO lieutenants were eliminated; area captains were given responsibility for the work the CROs had done. Although the SLO rank still exists, it is increasingly difficult for those officers to perform community policing activities because of the emphasis on producing arrests and performing other, regular patrol functions. Within the LAPD, when scarce resources cause community policing efforts to collide with demands for statistics or rapid response, community policing yields.

Current Community-Based Programs

Notwithstanding the erosion of team policing, Chief Gates has continued to experiment with programs that reflect community policing values. In 1983 he developed a highly visible, community-oriented program, "DARE -- Drug Abuse Resistance Education," in which officers leave patrol and go to schools to teach children about the dangers of drug use. Many view the DARE program as one of Chief Gates' major achievements, promoting substantial public goodwill toward the LAPD.

In 1985, responding to complaints from residents about their dissatisfaction with police services, the Wilshire Area created its Community Mobilization Project ("CMP"). All eight of Wilshire's SLOs were relieved of any patrol responsibilities and directed to respond to the needs of the community. The SLOs went to block meetings, implemented programs suggested at those meetings as well as programs they developed based on their own sense of the neighborhood, handled complaints that came through the local Council member's office, and organized community groups (including Boy Scouts) to paint over graffiti. There was time to focus on residents' concerns rather than exclusively on robberies and burglaries. But Wilshire Area's response time dropped to the worst in the City, and the SLOs were again given patrol responsibility.

Another program that experimented with elements of community policing was instituted in 1989. In "Operation Cul-de-Sac," police erect barriers

on streets in high-crime areas so that motorists cannot drive through a neighborhood. The most ambitious use of this program occurred in a 30-block area of the Newton district of South-Central Los Angeles. The LAPD set up two cul-de-sacs in the section and erected small barriers on other streets. The zone was saturated with officers on foot, horse, and bicycle. "Open to Residents Only" and "Narcotic Enforcement Area" signs were posted. The aim was to discourage drug dealers and gang members from driving through the area. At the same time, debris was removed from alleys and graffiti scrubbed off walls. Officers worked with other City agencies to insure that residents received basic City services.

With its targeting of high crime neighborhoods and its intensive use of officers, Operation Cul de Sac is not a model of community-based policing. Nonetheless, the results of this program appear promising. Serious crime in Newton dropped 17% in the first year. Drive-by shootings plummeted from 38 in 1989 to only one in 1990. Assaults were down 25%. One salutary effect, reflecting the potential for positive interaction between the police and the community, was that attendance at a local high school increased by more than 100 students.

Approval for Operation Cul-de-Sac is not unanimous, however. Some critics question the fact that it operates only in minority communities and claim it produces harsh, unjustified treatment in those neighborhoods of young African-American and Latino male residents who are suspected of being gang members. For at least a few residents and certain civil liberties organizations, the barricades and concentrated police activity have created an unacceptable "armed camp." Finally, a number of officers interviewed, as well as members of the public, have suggested that Cul de Sac's impact on crime is illusory: when the police operate in one neighborhood, crime is simply displaced to another.

MODIFYING THE LAPD'S LAW ENFORCEMENT STYLE TO IMPROVE COMMUNITY RELATIONS

Despite approval for the DARE program and the qualified successes of Wilshire Area's CMP and Operation Cul-de-Sac, the LAPD remains committed

to its traditional style of law enforcement with an emphasis on crime control and arrests. The values underlying community policing, most fundamentally restraint and mutual respect, are most difficult to incorporate into the behavior of officers operating within the LAPD's current professional system. LAPD officers are trained to command and to confront, not to communicate. Regardless of their training, officers who are expected to produce high citation and arrest statistics and low response times do not also have time to explain their actions, to apologize when they make a mistake, or even to ask about problems in a neighborhood. They must write the citation or make the arrest and rush off to answer the next call as quickly as possible.

Community policing concepts, if successfully implemented, offer the prospect of effective crime prevention and substantially improved community relations. Recognizing this promise, the chiefs of police of 10 major metropolitan departments, including New York, Chicago, Boston, and Dallas, issued a position paper endorsing community-based policing on April 16, 1991:

Police agencies across America are moving toward a community-based style of policing. This style of policing values partnerships, problem-solving, accountability, and a service orientation to our citizens. Our hope is for the Los Angeles tragedy to have a positive outcome by accelerating change toward this new form of policing, in order to better serve our diverse communities.

Assistant Chief Robert Vernon has also advocated adoption of community-based policing: "I would implement the principles of community-based policing, and I think community-based policing rather than being a program, must be an attitude, a culture, if you will, that has its threads going through the whole fabric of the organization."

Los Angeles' social problems are well beyond the ability of the LAPD to resolve on its own. The active involvement of other governmental entities, as well as business leaders, community leaders, educators, and others in the private sector, is essential to reduction of the root causes of crime, which range from unemployment and drug use to the failure of our mental health system.

But a positive relationship between the police and the members of the communities they serve can facilitate those solutions.

Community-based policing is not a panacea for the problem of crime in society, and its implementation may encounter special problems given the vast geographic area of Los Angeles. Nonetheless, the Commission believes that the LAPD should adopt the community-based policing model and implement it fully, albeit carefully, throughout the Department. Continued experimentation with individual programs that use community policing principles can have only limited success, so long as the demand for crime control and crime statistics remains at the core of the Department's values. Using a community-based style of policing, LAPD officers can continue to be active and energetic in preventing crime, as well as reacting to it, without unnecessarily aggressive confrontations with the public.

Community-based policing's emphasis on patrol officers interacting positively with the public should have the effect of "humanizing" officers' perceptions of those whom they police. As suggested by many of the clergy who spoke to the Commission, community-based policing would both increase the effectiveness of the police and diminish the tension between the public and the LAPD by eliminating the view of "the community as enemy."

Although we recognize that the culture of an organization developed over many years cannot be changed by simple fiat, it is now time to develop programs to deemphasize force and promote restraint, to foster within the LAPD a different attitude toward the population it serves, and to assist the public to gain greater trust in the Department. Creation of the high-ranking position of **Community Relations Officer**, recommended in Chapter 4, should assist in breaking down racial barriers and promote greater cooperation between the police and local communities. (See also Chapter 7, below, discussing the need for improved training in human relations and cultural awareness.) Incentives should be created to encourage officers to develop innovative programs within their assigned communities. Equally important, the Department must develop and employ tactics that emphasize containment and control, rather than confrontation and physical force. Credit for pay advances and promotions should be given not simply for arrest statistics, but for

innovation and creativity in developing and implementing crime prevention programs. But these are only initial steps.

New programs, no matter how worthwhile, will not alone implement community policing. It requires the most fundamental change of values within the LAPD. The Department must recognize the merits of community involvement in matters that affect local neighborhoods, develop programs to gain an adequate understanding of what is important to particular communities, and learn to manage departmental affairs in ways that are consistent with the community views expressed. Above all, the LAPD must understand that it is accountable to all segments of the community.

Chapter Six:
**Recruitment, Selection,
and Psychological Testing**

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"[Research indicates] that the emotional and adjustment problems frequently seen in law enforcement officers [are] not pre-existing, but were acquired on the job."

L.J. West, M.D., Professor of
Psychiatry, UCLA School of
Medicine

Chapter Six: Recruitment, Selection, and Psychological Testing

Police work is dangerous, frustrating, frightening, stressful, and violent. Police officers have high suicide rates and suffer disproportionately from stress-related health impairments. As noted in Chapter 2, Dr. L. J. West, a distinguished psychiatrist, has served as a consultant to the Commission. Dr. West has provided the Commission with abundant data establishing that, because of the emotional turmoil inherent in being a police officer, applicants to the LAPD must undergo a rigorous selection process, including preemployment psychological testing, to screen out applicants with emotional disorders.

Accordingly, although the Commission investigated all aspects of the LAPD's recruitment and selection practices, it focused its inquiry on psychological testing and the background investigation performed on each candidate. A large number of candidates who reach these stages of the selection process are disqualified; for example, approximately 40% of candidates who were investigated in 1990 were disqualified. The Commission was primarily interested in the effectiveness of the screening processes.

particularly in whether candidates with violent tendencies are identified and screened out.

The Commission has determined that many emotional and psychological problems develop during an officer's tenure on the force and cannot be detected by pre-employment screening. Accordingly, a principal recommendation of the Commission is that officers should be retested regularly for psychological, emotional, and physical problems.

RECRUITMENT AND SELECTION

The Initial Psychological Evaluation Is an Inexact Predictor of an Applicant's Proclivity Toward Violence

The initial psychological evaluation, given to entry-level police applicants by staff psychologists of the Occupational Health and Safety Division of the City of Los Angeles, is designed to screen out those applicants who may not be psychologically suited for police work. This evaluation is comprised of several components, including the MMPI-2² test, a social history questionnaire, the 16PF³ test and an oral interview.

The MMPI-2 is designed to measure personality characteristics such as anger, cynicism, the tendency toward aggression, anxiety, and anti-social personality. While the test can give only what psychologists consider a "gross" warning that a person may be emotionally disturbed, it can at least identify areas that should be explored further in conjunction with other psychological evaluation procedures.

The oral interview portion of the psychological evaluation is conducted by a City psychologist and may include questions about information revealed in the psychological tests or adverse information uncovered by the background investigation of the applicant. Under the civil service rules, applicants may appeal an adverse decision in their initial psychological evaluation by hiring a private psychiatrist or psychologist to evaluate the applicant. A second review may be held before a psychiatric review panel composed of volunteer psychologists, with a final appeal to the Civil Service Commission.

This initial screening can identify obvious social misfits in the grossest sense, but cannot test for more subtle abnormalities which may make an individual ill-suited to be a police officer, such as poor impulse control and the proclivity toward violence. The appeal process has also been described as

"less than optimal" because it allows applicants who fail the psychological examination to "shop around" until they find their own doctor who will give them a different psychological assessment.

***LAPD Investigators Pay Too Little
Attention to the Violent History of Candidates***

Because the physical and psychological tests rarely exclude applicants from the Department and, as discussed in Chapter 7, the Academy graduates over 90% of each class, the background investigation is the primary screening device for new LAPD recruits. Yet in interviews with the Commission staff, employees of the City Personnel Department stated their belief that the LAPD's background investigators often focus their attention on a candidate's use of drugs and sexual history and gloss over information concerning a candidate's violent tendencies and inability to interact with others. In the background interview, investigators are required to ask a certain number of questions concerning all of these aspects of a candidate's life. However, according to the Personnel Department, the investigators often ask intensely personal and pointed follow-up questions regarding sexual history and use of drugs, while not pursuing a candidate's responses to the questions on violence. As a result, the investigators may not effectively screen out individuals with violent tendencies. Also, these employees of the City Personnel Department, as well as police officers who are gay and lesbian, claimed, as discussed in Chapter 4, that this overemphasis on sexual behavior reflects the LAPD's alleged desire to exclude gay and lesbian applicants.

A number of investigators acknowledged that they consider "use of drugs and intoxicants" to be the most important background standard. But all investigators interviewed by the Commission denied that any pointed sexual questions are posed to candidates. The investigators stated that the LAPD is interested only in sexual conduct that is illegal (such as prostitution), that suggests a lack of mature judgment (such as having sex in public), or that indicates psychological problems. The investigators stated that they do not normally make any inquiries beyond those topics and asserted that interviews often take place within earshot of others, thereby inhibiting them from asking improper questions.

Further evidence that the investigations may be distorted came from a sample of the written reports of background interviews with recruits. These reports usually are reviewed by a supervising sergeant who underlines topics on which the background investigation should focus. In a number of files, drug use and sexual background were marked for attention, but a candidate's discussion regarding losing his or her temper or engaging in fights was not. While the evidence is not conclusive regarding inadequate attention to violence and overemphasis on sexual conduct, the Commission believes that the LAPD should adopt auditing procedures designed to improve the process in the future.

Background Investigators Are Inadequately Trained and Overworked

Experts agree that the best predictor of future behavior is past behavior; thus the background investigation offers the best hope of screening out violence-prone applicants. Unfortunately, the background investigators are overworked and inadequately trained.

At any given time, investigators are expected to carry a caseload of approximately 120-150 investigations, each of which involves contacting about 10 to 20 people (a candidate's relatives, friends, current and former employers) and running checks with federal, state, and local law enforcement agencies. Most investigators complained that they did not have enough time to contact all the references of all candidates. This problem is compounded during a period of expanded hiring (such as occurred in 1989-1990, as discussed below). As a result, an investigation may not be completed until after a candidate has been hired and begun work as a police officer.

In addition, there is no formalized system of training for new background investigators. Each new investigator receives a 31-page Background Investigation Manual and on-the-job training by accompanying a veteran investigator. The new investigator then begins to conduct his or her own interviews, under the supervision of the veteran, and to write reports on those interviews, which are reviewed by the veteran and the supervising sergeant. When the new investigator feels ready, he or she will begin working on investigations without direct supervision.

This training may last several weeks. However, if there are a large number of ongoing investigations and few investigators, the training may be greatly

abbreviated. For example, during the period of expanded hiring in 1989-90, some new investigators began working on their own within a week of joining the Background Investigations Unit. The training problem is magnified because a number of investigators have been selected with only patrol experience, despite the apparent policy of the Unit to select only officers with significant investigative experience.

Moreover, the background investigators, who are best positioned to ferret out past behavioral problems, may not be well trained to detect subtle psychological abnormalities, nor may they have the time or resources to uncover everything about a person's past that would be relevant to making a decision on psychological well-being, particularly when information is sought from other jurisdictions. Finally, although the background investigators are required to forward any adverse information to the City psychologists, the two groups do not work together closely enough.

Disqualification Standards Are Not Applied Uniformly

The Commission staff reviewed a sample of the background files which were completed in the periods December 1989 through January 1990 and January 1991 through March 1991. The first sample period occurred after the Department obtained authority to increase the number of officers dramatically. In the fiscal years that ended June 30, 1989 and June 30, 1990, the LAPD hired 768 and 991 officers, respectively; and in the latter year, the Department conducted background interviews of 3,674 candidates. The second sample period was taken during a hiring freeze, which remains in effect.

Investigations conducted during the first sample period were colored by the Department's desire to hire as many people as possible. This atmosphere was fostered, in large part, by a budgetary process that requires the Department to spend its allocated budget within the fiscal year or lose it. This hiring boom strained the Background Investigations Unit to the breaking point by greatly overloading each investigator. The LAPD has in effect admitted the problems associated with that period by instituting an audit system to review the background files of candidates hired then. However, this audit only involves a review of the paperwork already contained in the file; there will be no attempt to bolster inadequate investigations.

In contrast, during January and March of 1991, a number of candidates were disqualified on the basis of relatively minor, past infractions. For example, one individual with an otherwise exemplary record (including a 99% oral interview score and excellent references), was disqualified for lack of honesty in failing to disclose on his application a job which he held in college for approximately two weeks.

There Are Limitations on the Initial Psychological Evaluation Process and There Is a Need for Retesting

A critical limitation on initial psychological screening is the fact that police work modifies behavior. An officer's personality may change dramatically after years on the force. Among the many factors that modify a police officer's behavior is the "culture" of police officers, which tends to isolate officers and make them feel set apart from the rest of the world. Fear is also a ubiquitous part of life as a patrol officer. Officers learn they cannot control every situation, and that they are, quite literally, risking their lives every time they stop a car or intervene in a domestic dispute. Officers also may become frustrated and cynical when they learn that even their arrests of obviously guilty suspects may not result in a conviction.

Facing this fear, frustration, and stress on a daily basis may alter the behavior of even the most well adjusted officer. One study concluded that "emotional and adjustment problems frequently seen in [police] officers were not pre-existing, but were acquired on the job." The author of the study found that police officer applicants actually were less predisposed to emotional or social adjustment problems at the time of screening than the general population, and concluded that emotional disorders must therefore be the result of "deterioration due to on-the-job stress."⁵

Thus, some officers may enter the force seemingly well suited psychologically for the job, but may suffer from burnout, alcohol-related problems, anxiety, cynicism, or disenchantment, all of which can result in their having poor control over their impulses and behavior. A person's susceptibility to these behavior-modifying experiences may not be revealed during even the most skilled and sophisticated psychological evaluation process.

Some officers who develop problems while on the force actually may have no psychological difficulties, but may simply be acting in an inappropriate

manner out of ignorance about what they believe are the requirements of their job. For example, officers may mistakenly believe that acting menacingly or in an overly hostile manner may be the best way to produce results. If an officer acts in this manner for many years and is never warned that this behavior is inappropriate, the officer may not realize that he or she has a problem until the problem gets completely out of control.

RECOMMENDATIONS AND CONCLUSIONS⁶

The Focus of the Initial Evaluation Should Be on Past Behavior as a Predictor of Future Behavior

The initial psychological evaluation process could be improved by focusing less on test and oral interview results, and more on an analysis of past behavior. This requires the following improvements in the background investigation process:

Background Investigators Should Receive Better, Formalized Training.

In addition to the practice of assigning new investigators to accompany veterans, investigators need formal instruction in how to question candidates and their references. Furthermore, while it is not necessary for investigators to become psychologists, they should be schooled in the basic indicators of abnormal psychological behavior.

There Should Be Periodic, Unannounced Audits of Background Investigations and Files.

Audits should evaluate whether the LAPD focuses too much or too little attention on particular background standards, maintains uniform application of those standards, and appropriately limits inquiries about the sexual history of candidates. At present, supervisory officers are supposed to conduct occasional "audits" of investigators, but only to verify the log entries of investigators. More comprehensive audits should be performed by officers who are not members of the Background Investigations Unit or perhaps by the City Personnel Department.

**A Candidate Should Not Be Certified For Hire
Until the Background Investigation is Complete.**

Currently, a background investigation may continue even after a candidate has graduated from the Police Academy and begun work as a police officer. This places the public and other officers potentially at risk because an unsuitable individual may be at work as an officer.

Officers Should Be Retested Periodically

Officers should be retested every three years to uncover both psychological and physical problems. In a proposed "Wellness Program," Dr. Martin Reiser, Director, Behavioral Science Services Section of the LAPD, recommended that officers be given periodic check-ups to assist them "with potentially debilitating problems before they become major casualties." This program would focus on physical problems, as well as psychological problems, such as hypertension, obesity, lung capacity, and stress symptoms. This proposed retesting would also train officers to develop coping skills to enable them to deal effectively with the many stressful situations they encounter.

***Supervisors Should Emphasize the
Detection of Problems in Officers' Field Work***

Supervisors must understand their role to include training, counseling, and guiding officers to cope with the stressful, frightening, and violent situations that the job can often entail, so that problems may be dealt with before an officer loses control or requires disciplinary action. Thus, supervisors must make it clear to officers that they may seek counseling or training either formally or informally, and that this counseling or training may be had on a confidential basis and without any punitive action being taken as a result.

NOTES TO CHAPTER SIX

1. West, Louis Jolyon, M.D., "Unwanted Violence by Police Officers," at 6, 7 (May 1991) ("Unwanted Violence") (citing Nelson and Smith (1970), Saatnoff and Buckman (1990)) (unpublished report prepared for and on file with the Commission.)
2. The MMPI-2 is a more recent version of the MMPI (Minnesota Multiphasic Personality Inventory) designed to delete offensive language and reflect a more current understanding of psychology. City psychologists believe that this updated test includes areas more relevant for police work. The City has been using the MMPI-2 for approximately three months.
3. The Sixteen Personality Factor Questionnaire is a comprehensive personality inventory designed to yield sixteen scores of various personality traits.
4. "Unwanted Violence," at 7 (citing Aylward (1983)).
5. *Id.* at 7-8. Another study cited in "Unwanted Violence" concluded that "police officers are exposed to stress outside the range of human experience, which leads to demoralization and brutalization, and predisposes them to a post-traumatic stress disorder (PTSD) similar to that found in veterans of the Vietnam War." *Id.* at 9. (citing McCafferty (1990))
6. The Commission wishes to acknowledge the assistance in the development of these recommendations of Dr. Nels Klyver, a staff psychologist in the Behavioral Sciences Division of the LAPD's Psychological Services Department, and coordinator of the Assistance and Resources for Managers and Supervisors (ARMS) Program for the LAPD.

Chapter Seven: Training

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"I don't think there is any FTO training in this organization. Field training officers are made field training officers on a Friday afternoon and Monday they go to work."

LAPD Commander Michael Bostic, assigned by Chief Daryl Gates to review all LAPD training following the Rodney King incident

Chapter Seven: Training

On March 27, 1991, slightly more than three weeks after the King beating, Chief Gates ordered a thorough examination of all LAPD training, particularly in the areas of use of force and human relations. Commander Michael J. Bostic was named to lead the review. The Commission has been in close contact with Commander Bostic in conducting its analysis of the relation between LAPD training and the excessive use of force; Commander Bostic's assistance has been most valuable. We anticipate that his comprehensive report will complement many of the training recommendations we make here.

LAPD officer training has three phases. Each recruit spends approximately six months at the Police Academy. The new officer then spends one year on probation working with various field training officers ("FTOs"). All officers receive continuing training, including mandatory field training and daily training at roll call. The Commission believes that in each phase of training additional emphasis is needed on the use of verbal skills rather than physical force to control potentially volatile situations and on the development of human relationship skills to better serve Los Angeles' increasingly diverse population.

ACADEMY TRAINING

The Police Academy enjoys a reputation as an excellent training institution, and the Commission found the quality of its instruction generally impressive. The Department is reviewing the Academy curriculum and teaching methods and is considering several changes that could improve the Academy training. The Commission encourages that effort and offers the following observations for consideration.

The newly created civilian position of Police Training Administrator ("PTA") is expected to provide continuity, academic expertise and teaching experience. The PTA will serve as second in command of the Academy. The Department is seeking an academic with Ph.D. credentials to fill this position. A PTA should be appointed as promptly as possible. The Department, and in particular the Academy staff, must support the PTA.

The Professional Advisory Committee ("PAC"), a volunteer group of religious, academic and community leaders, advises the Academy with respect to human relations training. While PAC has made significant contributions to the Academy (and is largely responsible for the past improvements in human relations training), the Academy has been slow to draw upon the resources and input of this group. Indeed, many of PAC's proposals have taken years to implement. The creation of the PTA position, which may be credited at least in part to PAC, should help to improve PAC's efficiency by providing a full-time liaison to assist in the implementation of PAC's recommendations.

Curriculum

Academy instruction currently consists of 960 hours, covering such diverse subjects as report writing, law, human relations, physical fitness, use of force, tactics, foreign language, and shooting. Courses are generally taught as individual subjects. Neither the teaching nor testing is integrated with other courses.

Human Relations and Verbal Skills Training

Each trainee spends approximately 75 hours in human relations/crisis intervention training, covering a range of topics from dealing with rape victims to domestic violence. The training includes an eight-hour cultural

awareness class, designed in conjunction with PAC and Department psychologists. In small-group sessions led by minority group representatives recruits are taught about cultural differences, prejudices, and biases. At present, no more than 1-1/2 hours is devoted to any ethnic group. Eight hours on this important topic is insufficient. (In contrast, the San Francisco Police Department requires 40 hours of such cultural awareness training.) Many of the cultural awareness classes now are taught with the assistance of sworn personnel from the respective minority groups. However, there is no such representation for the class on gay and lesbian issues. The Department should seek the assistance of gay and lesbian officers to teach the class. The PTA and PAC should further review the cultural awareness training and consider methods to better integrate it into the Academy curriculum. In particular, consideration should be given to moving this training to the beginning of the curriculum where it could serve as a building block for other training.

Similarly, the Department has recently offered a special eight-hour class, "Verbal Judo," which teaches officers to use verbal skills to avoid using force. Because most of an officer's job (excluding paperwork) involves talking to other people, the PTA and PAC should consider placing this training at the beginning of the Academy curriculum where it would serve as a foundation for other courses.

Foreign Language Training

As part of the Department's effort to recognize the changing face of the communities it serves, the Department provides recruits with approximately 95 hours of basic Spanish language training. The Commission agrees that foreign language skills are very important. The current language program, however, has been uniformly criticized by LAPD officers as ineffective. The PTA should closely review this training, including teaching methods and available technology, and make necessary changes. At present a recruit can graduate from the Academy without passing this class. As a result, the class often is not taken seriously. Methods should be considered to increase officers' motivation regarding this training.

In addition, the Commission recommends that the Department increase its incentives for officers to become fluent in foreign languages relating to all segments of the Los Angeles population (for example, by providing

substantial pay incentives). Officers who are fluent in a foreign language should be encouraged to attend advanced courses on mediation techniques, crisis intervention or other specialized skills using their foreign language abilities.

Teaching Methodology and Techniques

Officers on the street have great discretion and are expected to make many quick judgments. Experience is an invaluable aid to the informed use of judgment and discretion, particularly in situations of stress and possible danger. At the Academy, however, recruits can begin to learn the skills needed for exercising good judgment. The PTA should review Academy instructional techniques and consider methods, including increased cross-training of instructional staff and use of team teaching, to integrate concepts and to encourage recruits to apply principles from the curriculum as a whole. The Department should consider making simulation instruction more "lifelike" and require the interaction of multiple skills. Academy training should not be limited to the performance of specific tasks. Recruits should be trained and tested on their ability to make decisions and use judgment, particularly concerning the use of force.

In addition, an ongoing relationship should be created between Academy training and field training. This could be accomplished by requiring recruits to spend a significant amount of time in the field before graduation. Alternatively, new officers should return to the Academy for additional training after spending time in the field. Involvement of FTOs in this "debriefing" program would also help to integrate the Academy and field training programs.

Personnel

The Commanding Officer

Because the Academy's commanding officer frequently is promoted in a relatively short time to a higher position, turnover in that leadership position has been a continuing issue at the Academy. The commanding officer establishes the policies and practices of the Academy. Frequent turnover in command inhibits the full implementation of changes and creates discontinuity. The addition of the PTA should help alleviate this problem.

Instructors

Although the commanding officer fills vacancies in the Academy instructional staff, he or she has little ability to remove instructors. As a result of this limitation and the absence of any fixed term of appointment, many instructors stay at the Academy for extended periods of time. Moreover, officers without significant field experience are sometimes assigned to the Academy instructional staff. Experienced patrol officers expressed concern that some Academy instructors are not sufficiently familiar with field work as it exists today. That belief might be at least partially responsible for the much-reported statement to probationary officers: "Forget everything you learned at the Academy." The benefits of requiring instructors to have appropriate field experience are self-evident. Limiting an officer's service at the Academy would have two benefits. First, it would insure that officers with relatively recent field experience are teaching at the Academy. Second, individuals with Academy teaching experience can be rotated to serve as training officers, roll call sergeants, or field training coordinators and thus bring to the field the benefits of their teaching experience and the newest techniques and theories.

Graduation Rates

At present approximately 90-95% of each entering Academy class graduates. Less than ten years ago that rate was closer to 60%. Some of this difference undoubtedly is due to changes in teaching practices, the availability of remediation programs, improvement in pre-hiring screening efforts, and reduction in physical training requirements. A portion of this change, however, seems attributable to an unwillingness to terminate poorly performing recruits, especially those protected by the consent decree or other similar mandate, for fear of civil liability or legal challenge or simply not meeting Departmental guidelines. The Commission urges that unqualified recruits not be retained for any reason. To do so only threatens the well-being of the public and the police force.

FIELD TRAINING

Introduction

Upon graduation from the Academy, officers spend the next year as "probationary officers," paired with FTOs. The FTO guides new officers' first contacts with citizens and with "the streets," and has primary responsibility for introducing these probationers to the culture and traditions of the Department. FTOs thus have enormous influence over the development of new officers' skills, work habits and attitudes. As many of the experts testified, a police officer is a composite of his or her FTOs.

The Commission focused its investigation of field training on four divisions that provide a representative cross-section of the City's population and the various levels and types of criminal activity faced by the Department: Foothill, 77th Street, Devonshire, and Wilshire. The Commission staff reviewed the personnel files of the 227 police officers who have served as FTOs in those four divisions within the last five years and conducted extensive interviews of more than 70 of those officers.

There are a number of highly committed, capable FTOs. However, our review of FTOs in these four divisions revealed disturbing evidence that many FTOs openly perpetuate the siege ("we/they") mentality that alienates patrol officers from the community. Flaws in the process by which FTOs are selected and trained allow too many FTOs to pass on to their trainees confrontational attitudes of hostility and disrespect for the public.

Field Training Officers

Selection of FTOs

Any police officer with the rank of PIII is eligible to serve as an FTO. To qualify as a PIII, the officer must pass a written examination, but needs only one and one-half years of experience, which includes the six months spent at the Academy and one year of probationary field training. The same written examination is administered to all PIII applicants, regardless of the position they seek. Because a rank of PIII is required for assignment to many non-patrol positions (such as vice and narcotics), the written test contains general questions about Department policies and procedures and does not attempt to

measure an applicant's aptitude for training or, indeed, for patrol work. Officers who pass the written examination may apply for PIII positions as they become available. An officer with more than 10 years of LAPD experience need not take the written examination.

The Department has no other formal criteria for eligibility for FTO positions. In particular, there are no formal eligibility or disqualification criteria based on applicants' disciplinary records. In the four divisions the Commission studied, 93 of the 227 FTOs were selected as FTOs after personnel complaints were sustained against them. Fourteen of those officers were promoted to FTO positions despite having been disciplined for use of excessive force or improper tactics. Five others were promoted despite having been disciplined for improper use of force (such as domestic violence) during off-duty hours.

For example, one FTO had been disciplined, while still on probation, for falsifying his daily activities log to cover up the length of time his partner spent escorting a rape victim back to her apartment. In fact, during that time, the partner sexually assaulted the woman and was terminated for that offense. About one year before his promotion to FTO, the same officer, while off-duty, also fired shots at two citizens who rear-ended his car. Following his promotion, this officer was disciplined for being discourteous to a citizen, for firing shots at a suspected prowler escaping from his back yard, and for beating his wife.

Another FTO had been disciplined, when he was still on probation, for using excessive force to subdue a fleeing suspect. Another was promoted to FTO after receiving a sustained complaint for improper tactics when he unnecessarily struck a citizen in the stomach, head, chest and back with his baton and slammed the citizen's head into an elevator door. This officer also pushed the citizen's wife to the ground during this altercation. Two other officers were promoted to FTO after they were disciplined for hitting handcuffed suspects. In yet another incident an officer later promoted to FTO was disciplined for his failure to prevent the beating of a suspect following a high-speed pursuit.

Final selection of FTOs from among the applicants is left to the discretion of the division command. In most divisions applicants are interviewed by one or two superior officers (usually lieutenants), who then either select the FTOs or make recommendations to their commanding officer. The

selection criteria vary widely among divisions. Many of the FTOs interviewed said that the process does not focus on the applicants' aptitude for training.

Only a few of the FTOs interviewed stated that they sought promotion to a PIII/FTO position because they had an interest in training. A majority indicated that they applied because they viewed those positions as a "stepping stone" to future promotions. (Most PIII assignments are as FTOs.) The importance of FTOs in developing qualified police officers should be emphasized by the Department, and officers with an aptitude for and interest in training should be given significant compensation and promotion incentives to accept FTO positions.

Virtually all of the FTOs interviewed expressed concern that police officers have been promoted to FTO positions too quickly, a practice either created or exacerbated by the 1989-90 hiring expansion referred to in Chapter 6. Most stated that officers with only two or three years' experience lack the maturity and patrol experience necessary to train probationers. To the extent the available pool of officers permits restricting FTOs to officers with four or five years of field experience, the Commission agrees that additional experience should be required.

Training And Evaluation of FTOs

Commander Bostic testified that FTO training is nonexistent: "Field training officers are made field training officers on a Friday afternoon and Monday they go to work."

The Department's only formal FTO training is an optional 40-hour FTO School, conducted at the Academy in five eight-hour sessions. Based on a review of personnel files, it appears that as many as 86 of the 227 FTOs never attended FTO School; most of those who did attended months or even years after being promoted. (Many who did attend either could not recall having done so or could not remember what was taught.) Only five of the officers attended the school before they began training probationers.

To the extent the FTOs interviewed could recall, the vast majority stated that the classes at FTO School focused largely on filling out evaluation forms properly. Many complained that the school provided no instruction on how to train probationers. No cultural awareness training was given, a particularly significant omission because the Academy began such training only

in 1984 and a number of these FTOs graduated from the Academy prior to that time. A few officers specifically stated that a problem with the school was its failure to address methods of teaching appropriate use of force practices to probationers.

The FTO School's entire curriculum was revised effective January 7, 1991. The revised curriculum, however, as its predecessors, apparently includes no cultural sensitivity or awareness training, nor does it instruct training officers to encourage their probationers to utilize the communication skills taught at the Academy.

FTOs, like all sworn members of the LAPD, receive formal performance evaluation from their supervisors every six months, but the evaluation form that is used contains nothing specifically devoted to the officers' training ability. Most of the FTOs interviewed stated that, although their evaluations generally "mentioned" training abilities, performance in training probationers was not emphasized. Instead, like all other patrol officers, FTOs are evaluated on their "productivity" based on statistical measures such as citations issued, arrests made and response time. This evaluation standard inevitably results in less attention being devoted to training probationers.

Probationers

Assignment and Rotation of Probationers

Probationers are assigned to divisions after graduation based upon the Department's analysis of staffing needs. No divisions are singled out as "training" divisions. Division watch commanders and other supervisory personnel have complete discretion in assigning probationers to particular FTOs. Assignment practices vary considerably from division to division, but in general, FTOs who are regarded as effective trainers tend to be assigned to probationers who are experiencing problems or not performing adequately.

The Department's FTO Manual indicates that a probationer should be assigned a new FTO every two months, but each division appears to have developed its own rotation practices. A large majority of the officers interviewed stated that they work with a probationer for between one and three deployment periods (a deployment period is approximately one month).

Probationers do not, however, always work with their assigned FTOs. Many FTOs indicated that they work with their probationers at most two or three days a week. On other occasions, the probationer works with another FTO, with a PII in need of a partner or even with other probationers. Many divisions have abandoned their prior practice of assigning two FTOs to each probationer so that at least one FTO would be likely to be available to work with the probationer at any given time. Many probationers now apparently spend as much on-duty time with officers who have received no FTO instruction whatsoever as they do with FTOs.

Most of the FTOs strongly supported regular rotation of probationers among FTOs. Rotation gives a probationer exposure to several different methods of doing the job and to a healthy variety of attitudes about police work. Rotation to different watches, in particular, gives probationers an opportunity to experience the varied atmosphere on different watches in the same division. Other FTOs stated that regular rotation keeps the evaluation process objective by preventing an FTO from becoming too close personally to a probationer, or allowing a personality conflict to affect the evaluation. In the course of rotation, attention should be paid to exposing probationers to diversity among trainers.

Training of Probationers

The most influential and effective training received by a probationer comes from the example set by his or her FTO. If a probationer works with an FTO who is adept at "talking people into jail" and is courteous, that probationer is likely to acquire the same skills. Conversely, if a probationer works with an FTO whose usual conduct is to be rude or arrogant, the probationer may be taught by example to accept those attitudes as appropriate.

The example set by FTOs is particularly important in teaching appropriate use of force. Probationers enter the field from the Academy with substantial technical training about how to use force techniques, but with little practical experience in judging when force is warranted. Many FTOs have stated that probationers therefore tend to resort to the use of force too quickly. These FTOs said that they believe one of their most important tasks is to show probationers how to "calm down" and use effective communication as an alternative to force.

Most FTOs interviewed listed developing effective communications skills in their probationers as an important objective. A majority stated that they specifically instruct probationers to explain to citizens the reasons why the citizens are being stopped or detained. While describing their own efforts at teaching effective communication, however, the same FTOs noted that many of their fellow FTOs do not share their emphasis on verbal skills. Several officers asserted that many FTOs lack good communication skills and therefore are incapable of imparting such skills to their probationers.

Although acknowledging the importance of communication, virtually all of the FTOs interviewed by the Commission staff stated that their primary objective in training probationers is to instill good "officer safety skills." In a statement characteristic of those made by most FTOs, one training officer explained that when he is assigned to a new probationer, the first thing he tells the probationer is, "I hope you realize that you could get killed tonight. What we want to do is minimize that risk."

The high levels of fear and anxiety exhibited by FTOs color the training provided to probationers. The probationers' world quickly is divided by their FTOs into "we/they" categories. One FTO stated that he routinely draws his gun whenever he approaches "suspicious" people, even though LAPD policy states that a gun should not be drawn unless the officer anticipates an imminent need to use deadly force. This officer further stated that he also encourages his probationers to draw their guns if they feel "uneasy" about citizens encountered in the field. Other FTOs noted that they routinely search or handcuff citizens, even absent reasonable suspicion of criminal activity or danger, in order to increase their own "comfort" level. These FTOs stated that they encourage their probationers to follow the same rule of "search or handcuff first, talk later."

The "we/they" mentality is exacerbated by the failure to integrate cultural awareness or sensitivity training into field training. Few of the FTOs devote any attention to teaching probationers how to interact effectively and respectfully with minorities. Instead, probationers are often exposed to the derogatory comments, slurs and jokes that many officers have attempted to characterize as "locker-room" banter or good-natured fun. The FTO interviews provide evidence that this problem is particularly acute in reference to gay men and lesbians.

Evaluation of Probationers

Probationers receive a formal written evaluation from their FTOs twice each month for the first six months of probation, and once each month for the next six months. The FTO is encouraged, but not required, to make daily notations regarding the probationer's progress. Several FTOs reported that their superiors require them to evaluate probationers daily. The evaluations consist of a standard form containing rating boxes for 30 skills and attributes, including contact with the public, report writing, performance under stress, officer safety, "control of conflict," and use of the radio and MDT.

Virtually all of the FTOs interviewed expressed dissatisfaction with the large amount of paperwork that the evaluation process entails. Substantial time is shifted away from actual training, and FTOs are forced either to decrease the amount of time they spend in the field or to spend considerable time after their shifts completing the necessary paperwork.

When a probationer is performing poorly, the burden of documenting deficiencies is apparently even greater. Many of the FTOs stated that it is extremely difficult to terminate even probationers whose weaknesses are meticulously documented. As a result, many FTOs simply do not negatively evaluate their probationers' performance. They prefer, instead, to pass the problem probationers to other FTOs, who may or may not decide to create the documentation necessary for termination.

The reason most FTOs offered for their attempts to have probationers terminated was poor officer safety skills. Although many of the FTOs said they emphasized communication and human relations skills in training their probationers, none of those FTOs reported ever seeking to terminate a probationer based upon the probationer's inability to deal appropriately with the public.

Reporting of Police Misconduct

Virtually all of the FTOs interviewed stated that they would report serious police misconduct, and that they instruct their probationers to do likewise. Yet only a few in fact had ever reported misconduct or made a complaint against a fellow officer. This conflict between policy and practice was evidenced further by an apparent "code of silence," found in a review of the FTOs' personnel files.

Twelve of the FTOs in the four divisions studied had been disciplined for dishonesty. For example, the officers had failed to report misconduct they witnessed, lied about their own involvement in an incident, or agreed to lie about other officers' involvement in an incident. In addition, in at least four incidents a probationer "covered" for his FTO's misconduct or refused to contradict his FTO's version of an encounter with a citizen. In one incident, both the FTO and the probationer were disciplined for using excessive force to subdue a suspect.

CONTINUING EDUCATION

Roll Call and Other In-Service Training

Patrol officers start each day with roll call that lasts approximately 45 minutes to an hour. During roll call watch commanders provide information affecting the officers' performance of their jobs, for example, updates on crime trends within the division. A portion of each roll call (usually 20 minutes or less) is devoted to training. Typical roll call training involves the watch commander lecturing to the officers. Many watch commanders simply read the Department's policy on a given topic without any discussion of the practical application of that policy in the field.

Roll call training should serve as a means to update veteran officers on new policies, procedures, and tactics developed by the Department since they were at the Academy, as well as to review or practice current policies, procedures, and tactics. The current quality of roll call training varies widely from division to division. Although the Department develops a schedule of topics to be covered each month, with certain topics repeated on a regular basis, it does not monitor the presentation or actual content of the training provided in each division. Furthermore, few watch commanders have been trained to teach their officers effectively, and watch commanders do not receive any training on the topics that they must cover beyond receiving the Department's written policies. Lack of training assistance is particularly acute in those areas, such as cultural awareness and sensitivity, that have only recently been added to the Academy curriculum and therefore may be largely unfamiliar to the watch commanders. Commander Bostic candidly admitted that roll call training in the Department is a "disaster."

In addition to roll call training, the Department periodically provides in-service training on new techniques and tactics that are taught at the Academy. In-service training days are one of the few opportunities for patrol officers to receive practical application training in tactics, including those related to the use of force. However, the Department neither mandates nor monitors in-service training. Division commanders have discretion to conduct in-service days and to design the training program. When in-service training is conducted, the division typically is on maximum deployment, with half its officers in training, and the other half in the field. As a result, some area commanders are reluctant to schedule in-service training with any frequency. As with roll call training, therefore, there is no consistency in the usefulness of these programs across the Department.

Training of Sergeants, Lieutenants, and Captains

Sergeants, lieutenants, and captains are expected to be leaders as well as administrators and should therefore receive formal leadership training including command accountability. Supervisory and command officers must learn to be role models, to recognize problems in other officers, and to assist troubled officers through such difficulties. While command staff currently receive some training in these areas, the training emphasis is on administrative skills not leadership or accountability. By re-focusing the primary goal to leadership and command accountability, those officers may develop greater ability to supervise their subordinates and to solve potential behavioral problems in other officers.

RECOMMENDATIONS

Academy Training

The overall high quality of Academy training should be maintained. We offer the following recommendations to further improve it:

1. The PTA should be identified and appointed as soon as possible, consistent with proper selection procedures.
2. Human relations/cultural awareness and verbal skills training should be reviewed by the PTA and PAC, who should, among other things, consider expanding and moving those classes to the beginning of the

curriculum. Consideration should be given to integrating those skills with the tactical, use of force, physical, and foreign language training through the use of "lifelike" situation simulations.

3. Foreign language training, especially Spanish, should be reviewed by the PTA to correct present deficiencies. In particular, consideration should be given to methods of motivating recruits to develop these skills. Officers with an interest in developing broader language skills should be encouraged to do so through appropriate incentives.

4. Recruits should spend a significant amount of time in the field before graduation or should return to the Academy for additional training after having spent a period of time in the field.

5. The Academy's commanding officer should serve a minimum period of time in that position, such as three years, and have greater discretion to remove instructional staff. Instructional staff should have either a minimum period of field experience, such as five years, or some unique expertise. The term of service for instructors should be limited to a specified period, such as five years.

6. The Academy should establish high performance standards in academic as well as physical fitness endeavors for recruits to qualify for graduation. The Academy should terminate those recruits who fail to meet those standards.

Field Training

1. Probationers' training should include systematic instruction on the use of verbal skills, recognition of when force is appropriately used, and cultural awareness and sensitivity.

2. The Department should encourage and facilitate FTO efforts to terminate unsatisfactory probationers, including those exhibiting an inability to interact appropriately with the public.

3. Uniform criteria for selection of FTOs should be established. To the extent possible with the existing pool of officers, FTOs should be required to have at least five years' field experience. Priority should be given to officers with the ability and interest to train junior officers.

4. Officers with sustained complaints for use of excessive force or other serious violations of Departmental policy within the past five years should

be disqualified from serving as FTOs, except as specifically approved for the position under guidelines established by the Department. In addition, as is now done by at least some commanders, an officer's entire disciplinary record, including unsustained complaints and the officer's history of use of force, should be weighed in the FTO selection process.

5. To become FTOs, officers should be required to pass written and oral tests designed to measure communications skills, teaching aptitude and knowledge of Departmental policies regarding appropriate use of force, cultural sensitivity, community relations, and nondiscrimination. Officers with an aptitude for and interest in training junior officers should be encouraged to apply for FTO positions. The Department should provide compensation and promotion incentives to encourage qualified officers to accept those positions.

6. Successful completion of FTO School should be required before an FTO begins training probationers. The FTO School curriculum should be further modified to place greater emphasis on communications skills, teaching skills, appropriate use of force, and sensitivity to specific cultural differences within Los Angeles. FTO training should also include a substantial continuing education component.

Continuing Education

1. The Academy should take responsibility for roll call and other in-service training by providing a pool of officers whose function is supervising roll call training and the implementation of effective in-service training days. The Academy should develop detailed training outlines that every division would use and have Academy instructors available to assist watch commanders to implement those training programs.

2. Command accountability and effective supervisory techniques should be the primary focus of the training of sergeants, lieutenants, and captains.

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Promotion, Assignment, and Other
Personnel Issues

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"We transferred [an officer involved in the 39th and Dalton incident] to Foothill to get him the heck away from South Los Angeles. . . . So we took him out of the field. After 39th and Dalton and [another] incident, we decided he shouldn't be in the field. He was supposed to go to work at the desk. . ."

LAPD Assistant Chief
David Dotson

Chapter Eight: Promotion, Assignment, and Other Personnel Issues

PROMOTION

LAPD's Promotion System

There are two types of sworn personnel advancement within the LAPD: promotion in rank and advancement in paygrade. Rank promotions are decided through a civil service examination system. Promotions in grade (that is, promotions within a rank, such as from sergeant I to sergeant II) are discretionary within the LAPD.

The procedure for promotion from police officer to sergeant begins with a multiple choice examination, which counts for 40% of the candidate's total score. Those who pass the written test then proceed to an oral session in front of an Interview Board made up generally of two captains, a community member, and an Interview Specialist, chosen by the Civil Service Commission. That Board considers the candidate's central personnel "package," maintained at LAPD headquarters, which includes performance evaluations, major commendations, educational and training background, former LAPD assignments, and all sustained complaints. The Board also considers an essay written by the candidate.

Following the Interview Board session, candidates are ranked by "whole scores" (e.g., all candidates at 97 followed by all at 96 and so forth). Candidates within whole scores are then ranked by a panel of captains, and all promotions to sergeant are made in rank order. A similar process is utilized for promotions to lieutenant.

In addition to rank promotion, the LAPD provides paygrades for officers within Civil Service positions such as police officer, detective, and sergeant. These paygrade advancements are outside the City's civil service system and are discretionary within the LAPD.

The LAPD provides three paygrades for officers below the rank of sergeant. An Academy graduate on probation is a police officer I. That officer becomes police officer II ("PII") upon successful completion of probation. A PII advances to the police officer III ("PIII") paygrade by passing an LAPD written examination and then applying for, and being appointed to, an appropriate position. The most common PIII position is field training officer, a position discussed in Chapter 7. The various division commanding officers have broad discretion to select among qualified applicants for a PIII position. Paygrade advancements within higher ranks are entirely discretionary.

Complaint History and Promotions

The information available to the Civil Service Interview Boards regarding a candidate's complaint history and disciplinary record is limited. Sustained complaints are provided, but complaints that are not sustained (even if numerous) are not provided. With this limited information, the Interview Board may not be aware of disturbing patterns of allegations of excessive force that were held not sustained. Moreover, as illustrated with respect to one group of officers discussed in Chapter 3, personnel evaluation reports (which are provided to the Interview Board) often paint unduly favorable pictures of officers who appear to have significant problems in their use of excessive force.

Including only sustained complaints in the Board's evaluation may leave an incomplete perspective, partly because so few excessive force complaints are ultimately sustained. Thus, failing to include at least information regarding not sustained complaints in the material provided to the Interview Board deprives the promoting authority of information that may be highly relevant to the officer's relationship with the public. (Unlike a "not sustained" complaint, which

is in essence simply a complaint that the LAPD could not resolve on the merits one way or the other, complaints deemed "unfounded" or "exonerated" reflect an affirmative determination that the officer engaged in no misconduct. The Commission does not recommend that information relating to these latter two categories of complaints be provided to the Interview Board.)

This is not to say that a past complaint history, even including a sustained complaint for excessive force, must automatically disqualify an officer from promotion or paygrade advancement. Given proper training, counseling, and (where appropriate) discipline, an officer with such a history may nonetheless be well qualified for promotion. Before that decision can be made, though, an Interview Board should consider the nature of the complaint history, what counseling or training the officer has received, and objective indicia (such as the passage of time with no further complaints) that the problem has been resolved.

An officer's complaint history is also vital in making an informed decision by the Department as to paygrade advancement, especially to a Pill position. According to our review, 27 of the 44 officers discussed in Chapter 3 as having the greatest concentration of excessive force and improper tactics complaints against them were Pills. Of those, 11 had a history of one or more unsustained complaints for excessive force or improper tactics prior to their advancement -- information that, at least in narrative form, was unavailable to the division commanding officer making the paygrade advancement decision. Six others had a record of sustained excessive force or improper tactics complaints prior to their advancement.

The critical positions of field training officer and field sergeant must be given to those demonstrating an ability to train and supervise by example. Where a field training officer uses excessive force, the probationers may learn to do the same. Similarly, where the sergeant in the field either participates in misconduct, or observes it and does nothing, the wrong message is sent to the officers under his or her supervision.

Interview Boards, as well as commanding officers making discretionary pay grade advancement decisions, need a more complete complaint history for applicants than is presently available. Although sustained complaints are certainly important to the decision-making process, a history of "not sustained"

complaints, especially if they involve a similar fact pattern, can be equally telling.

Accordingly, the Commission recommends that a complaint history including "sustained" and "not sustained" charges should be included both in the central and divisional personnel files. This history, at least for "not sustained" complaints, need not include the entire complaint investigation. Rather, a summary similar to what the LAPD sends to the Police Commission (which includes a short narrative) is sufficient. Access to the complete file should for each summarized complaint be available on request for consideration in rank promotion and paygrade advancement.

ASSIGNMENT AND TRANSFER

Desirable Assignments and Transfers

In addition to promotions and paygrade advancements, there are desirable assignments such as "coveted positions" generally seen as a stepping-stone to promotion. The decision of who gets these assignments is entirely discretionary; no civil service or other constraints apply so long as the applicant is of an appropriate rank and paygrade.

The person making the assignment or transfer decision generally has available the same information as those making paygrade decisions, and so has the same limitations. In order to use these desirable assignments as incentives to encourage officers to use force appropriately, the additional complaint information outlined above should be available for assignment purposes.

Assignments of Officers With Significant Complaint Histories

Assignments can also be used at the LAPD, in conjunction with other personnel policies, to deal with problem officers who may be using force improperly or excessively. For example, where training and counseling are not effective with such officers, assignments may be available within the division that would not expose the officer to the situations giving rise to the inappropriate behavior.

Another technique of assignment is the pairing of partners so that a problem officer is teamed, for example, with a more experienced officer with communication skills that may lessen the need for use of force. On the other

hand, assigning the problem officer to work with a partner with whom he or she has been involved in repeated incidents of force might well exacerbate the difficulties of both officers.

Upon order of the Chief of Police, an officer may be transferred administratively to another division. Where a transfer is appropriate, the transferring division commanding officer should note in the officer's file the types of duty for which that officer is not suited or requires close supervision. That information would be placed in context through the narrative complaint history discussed above.

The dangers of inattention to excessive force problems in assignment and pairing of officers is illustrated by a 1988 incident similar in some respects to the Rodney King incident. An African-American man was severely beaten following a car chase by two veteran LAPD officers with long histories of personnel complaints against them for excessive force. According to eyewitnesses, a sergeant joined them in kicking and beating the prone suspect while he was lying on the ground and after he was handcuffed. The officers then left the suspect handcuffed and bleeding with serious injuries for 30 to 45 minutes before taking the suspect to the hospital. They told the doctor that the suspect's injuries were caused by a traffic accident following the pursuit, a claim that the doctor questioned. The division's initial investigation was rejected as inadequate by the Internal Affairs Division, which conducted its own investigation. Ultimately, the captain who adjudicated the complaint criticized the supervisory "lapse" that had allowed the two violence prone officers to work together:

I am very concerned that [the two officers who initiated the pursuit], who were being administratively transferred because of their propensity for personnel complaints, were allowed to team up as partners. Their prior conduct should have [precluded] this from ever occurring. Because there was a lapse in supervisory insight, this whole incident was placed in motion.

As the captain's comment indicates, these two officers were apparently in the process of being administratively transferred to another division "because of their propensity for personnel complaints." (This incident occurred in the transferring division.) Assistant Chief Dotson noted in his testimony the

dangers of such transfers that do not adequately address the officers' underlying problem:

DOTSON: There was a fellow who was involved in the 39th and Dalton [incident]. We transferred him to Foothill to get him the heck away from South Los Angeles. Now he got there and about one of his first acts was to take off his Sam Brown belt and challenge somebody to fight out on the street, and eventually, headbutted him, whatever, with his forehead, broke the guy's lip, and so on. So, we took him out of the field. After 39th and Dalton and that incident, we decided he shouldn't be in the field. He was supposed to go to work at the desk, where he at least would have to come around the desk to assault somebody.

* * *

So, he got tired of working the desk and said, could I go work detective, so I'll help 'em process the paper in detectives. That'd be more interesting than working this desk. I'm going nuts. So, he was allowed to go to detective. After a couple days there, he read a crime report that listed a named suspect. He said, oh, I think I'll go out and arrest him, and off he went. And the next day, in the newspaper it described how he'd made this unlawful arrest, there was a search. So we took him -- my God, don't you guys understand? He can't be out there. He can't be trusted. We're still adjudicating all these complaints. So they pulled him back in.

* * *

So, a couple of weeks later, I discovered where did they put him, in Foothill jail. Now there is no place that I know of where, if you have a tendency toward abusing people, you can do it more easily than in jail. The management out there didn't understand those kinds of sensitivities.

In short, LAPD management can use assignments and transfers in a variety of ways to promote appropriate use of force and to control problem officers. When the LAPD ignores or overlooks these objectives in assignment and

transferring officers (as in the examples discussed above), its management must be held accountable for the consequences.

OTHER PERSONNEL ISSUES

Rotation of Patrol Officers

Since at least 1980, the Department has permitted intra-Departmental transfers at the request of non-probationary sergeants and patrol officers under a procedure adopted by agreement between the Chief of Police and the Police Protective League, embodied in "Memorandum No. 4." A commanding officer of a given geographic division who needs to have replacements added to his or her command is entitled to select someone of his or her choosing so long as the next opening that becomes available is chosen from the top of a list containing the names of all officers seeking transfer into that division. Thus, for every two sergeants or two patrol officers transferring into a division, one must be taken from the list.

Under the present system, the sergeants and patrol officers tend, after a period of time on the force, to remain in one particular geographic area unless they are promoted or ask to be transferred. The divisions within the heart of Los Angeles are often referred to as "fast" divisions, where crime rates are high and police officers constantly confront violent situations. Divisions in Valley Bureau, Harbor Division, and West Los Angeles Division, are less active. It is widely perceived that many officers seek assignment to these less demanding areas.

Although the current assignment policy offers many officers the opportunity to work close to home, it tends to work against ethnic and racial diversity among divisions. A pattern has developed of white officers patrolling white neighborhoods. The command officers interviewed were virtually unanimous in their opposition to this present assignment policy. Nearly all of the patrol officers interviewed believe that rotation to different divisions, and the diversity of policing functions available in the different geographic areas of the City, are valuable in developing a wide range of experiences as an LAPD officer. The more experienced an officer, the more likely he or she will be able to deal with difficult situations without overreacting or escalating the use of force inappropriately. Finally, many officers believe that a rotation system would reduce the problems of cliques and regularly bring new energy to a division.

The Commission believes that assignment procedures should be modified to ensure that police officers work in a wide range of functions and varied patrol locations during the course of their careers, and that they rotate through different divisions. Such a rotation program will not only increase the quality of the officers by way of experience and expertise, but will also enable the residents of this City to have police patrols with greater diversity.

Emphasis on Patrol

Patrol is perhaps the most basic function of the LAPD. Yet it is almost unanimously seen within the Department as a "dead end" assignment that an officer should transfer out of as soon as possible. It is easier to be promoted to sergeant having had experience from a non-patrol position, and to be promoted beyond sergeant it is perceived to be necessary to move outside the patrol function. Thus, officers are encouraged, as a practical matter, to transfer out of patrol quickly.

Even so, and not surprisingly, officers generally agree that the City is better protected and served when the Department's most experienced officers are in the field. These officers also agree that it is easier for them to perform their own duties when they are working with experienced officers.

To rectify this problem, the Department must add incentives for some of its best officers to remain in patrol. Such incentives can include, for example, higher pay grades or recognition of a successful history in patrol for promotion purposes. In addition, the Department should consider rotating qualified officers back into patrol after a reasonable tour of duty in another assignment.

Stress Disability Pensions

A number of officers at the scene of the King incident reportedly claimed "acute anxiety" and "severe emotional stress" -- often a precursor for a stress pension application. A single disability pension can cost the taxpayers of this City close to one million dollars over the lifetime of the employee. Further, officers who joined the Department before 1980 are eligible to receive fifty to ninety percent of their salary tax-free for life regardless of whether they are later employed elsewhere. As a result of a City Charter amendment, officers joining the LAPD after 1980 are eligible for disability pensions ranging only from thirty

to fifty percent. Since 1987, between twenty-six and thirty-one percent of all disability pensions sought have been pension applications related to stress.

Many officers receive stress pensions based on expressions of frustration with the system. As one member of the Board of Pension Commissioners complained, "In the LAPD, if you don't like your job, see a psychologist." Unfortunately, this problem is particularly evident in claims from officers with a disciplinary history.

The Commission has reviewed the 36 disability pension claims filed by LAPD officers between 1988 and 1990. The typical stress disability pension applicant is a patrol officer with ten to fifteen years of service who has not advanced in the Department and reports a sense of frustration and dissatisfaction with a police career. Of those 36 officers, 26 had one or more personnel complaints lodged against him or her, and a majority were the subject of at least one complaint of excessive force. Most had a history of multiple sustained complaints.

Several witnesses have stated that a stress disability pension provides an "escape hatch" for officers facing disciplinary proceedings. The Department does not discontinue an investigation due to a pension filing. If such a pension is granted, however, the officer is retired from service and is not subject to Department discipline.

Most stress pension applicants do not point to a single precipitating incident as the cause of stress. Instead, they claim that the stress is cumulative. The pension application frequently attributes stress to "repetitive emotional trauma" experienced during employment as a police officer. For many officers this is no doubt true; however, there remain police officers who file for pensions following a particularly serious charge of misconduct or when faced with discipline.

RECOMMENDATIONS

Promotion

1. Summaries of not sustained complaints, as well as the sustained complaint information that is presently available, should be included in an officer's central and division personnel files. This history could be in the form of a short allegation summary, similar to that provided to the Police Commission in the LAPD Weekly Summary of Adjudicated Complaints. The full complaint file should be available for review on request. These complaints, or complaint summaries, should be available to, and carefully considered by, Interview Boards and those making discretionary paygrade advancement decisions.

2. An officer's decision to remain in patrol (especially where that officer's record demonstrates the qualifications to transfer out of patrol) should be a positive factor in promotion decisions.

Assignment and Transfer

1. As with promotions, histories of "sustained" and "not sustained" complaints should be available to managerial officers for use in making desirable assignments. This use, coupled with the similar use in promotions, will help to demonstrate the LAPD's priority on the appropriate restraint in the use of force by patrol officers.

2. Administrative assignments should not be used simply to transfer a problem officer from one division to another. Rather, division commanding officers should enroll such an officer in a formal or informal training or counseling program. If that program is unsuccessful, consideration should be given to an assignment that will not place the officer in the position of repeating his or her inappropriate conduct. Finally, if an administrative transfer is necessary, an explicit statement as to any appropriate assignment limitations should be included with the transfer. Such officers should not be transferred to the jail division.

Other Personnel Issues

1. The assignment policy for patrol officers should be modified to require periodic, mandatory rotations every five years in a manner designed to increase ethnic and gender diversity among divisions, and to expose officers to

a broad variety of division experiences. Officers should be rotated back into patrol after reasonable tours of duty in non-patrol assignments.

2. Increased rewards for patrol functions should be provided. The Department should consider, for example, augmenting the longevity pay program already in place.

3. The Commission has elsewhere in this Report recommended that officers be retested psychologically during their careers. By recognizing and treating early signs of stress, the Department would reduce the number of stress disability pension applications while improving officer well-being and self-control. The Behavioral Science Services Section can be utilized to aid both in helping to treat stress and in training supervisory officers to recognize stress symptoms in those they supervise.

4. The California Labor Code creates an exception for workers' compensation awards that permits a city to deny workers' compensation benefits to a peace officer whose departmental regulations expressly prohibit the activity giving rise to the officer's injury, disability, or death. The Commission supports a City Charter amendment that would direct the Board of Pension Commissioners, based on that Labor Code provision, to take it into account as a negative factor if an officer's disability is a direct result of serious misconduct.

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"[W]hen an officer finally gets fed up and comes forward to speak the truth, that will mark the end of his or her police career. The police profession will not tolerate it, and civilian authorities will close their eyes when the retaliatory machinery comes down on the officer."

Former LAPD Officer Brenda
Grinston, *Los Angeles Times*,
July 2, 1991

Chapter Nine: Complaints and Discipline

No area of police operations received more adverse comment during the Commission's public hearings than the Department's handling of citizen complaints against LAPD officers, particularly allegations involving excessive use of force. Many community groups and members of the general public firmly believe that the Department is incapable of disciplining its own officers.

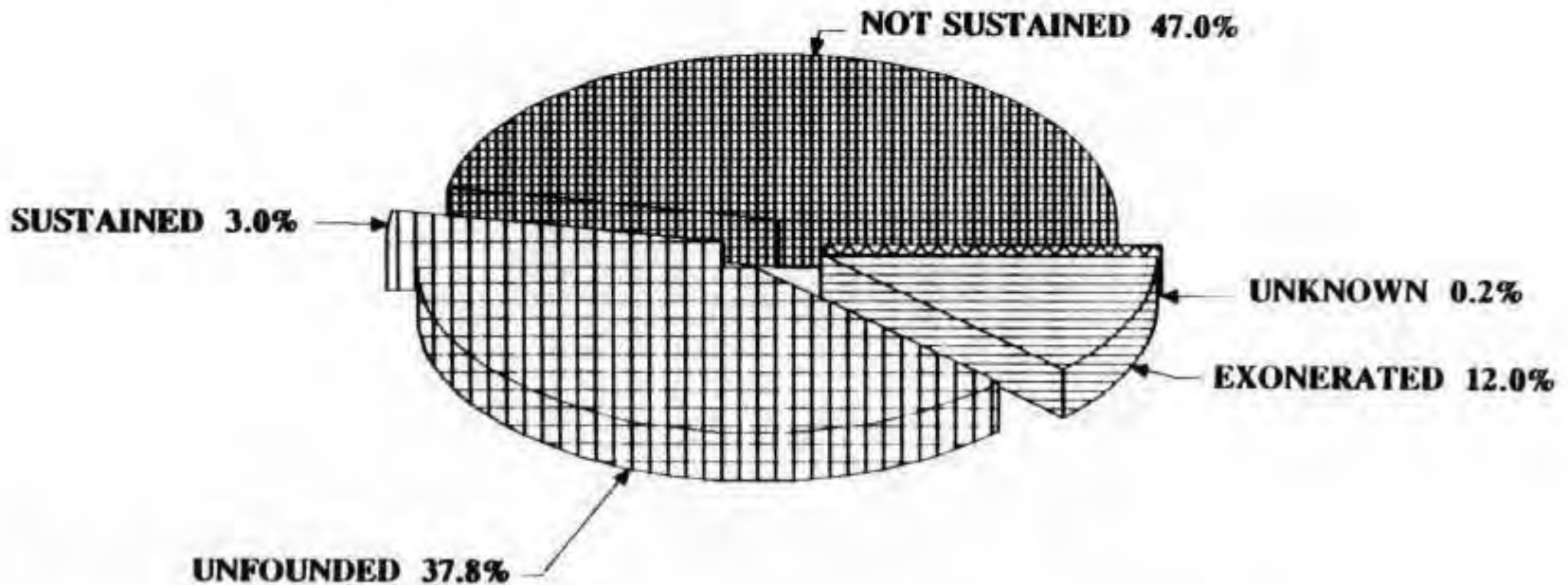
Statistics make the public's frustration understandable. As the following table shows (Table 9-1), of the 3,419 allegations of excessive force or improper tactics initiated by members of the public from 1986 through 1990, only 103 (3.0%) were sustained. Of the 2,152 allegations involving excessive force, only 42 (2.0%) were sustained.

We recognize that many specious complaints are made against police officers and that making a complaint can be a tactic designed to divert attention from the complainant's wrongdoing. We nevertheless believe that, in cases involving allegations of excessive force, the system is unfairly skewed against the complainant. Our study indicates that there are significant problems with the initiation, investigation, and classification of complaints. To eliminate these

TABLE 9-1

**DISPOSITION OF ALLEGATIONS OF EXCESSIVE FORCE
OR IMPROPER TACTICS IN COMPLAINTS BY THE PUBLIC**

3,419 TOTAL ALLEGATIONS FROM JANUARY 1986 THROUGH DECEMBER 1990



Source: LAPD Complaint Database.

problems, we recommend that the discipline system be restructured fully and that the operation of that system be open to meaningful public review by a civilian authority. To ensure that review, we recommend establishment of an Office of the Inspector General within the Police Commission, with responsibility to audit and oversee the disciplinary process, participate in the adjudication and punishment of the most serious cases, and report to the Police Commission and its newly created Chief of Staff.

CURRENT COMPLAINT PROCEDURES: INTAKE, INVESTIGATION, AND ADJUDICATION

Complaint Intake

A complaint may be initiated by the Department or by a member of the public. Individuals who initiate complaints against officers may do so at either a police station, the Police Commission headquarters, or through the Department's Internal Affairs Division ("IAD"). Complaints lodged through other locations such as the Mayor's office or a City Council member's office are typically referred to IAD, which then notifies the complainant and initiates the complaint process. As a practical matter, most complainants are unaware of the opportunity or unable to lodge their complaint through any location other than the local police station.

According to LAPD procedures, when a complainant comes to the police station, his or her complaint should promptly be received by a supervisor, who should meet with the complainant and take a statement. Complaints can also be initiated by telephone or letter. When the complainant's allegations, if true, would constitute an act of misconduct, the supervisor must, if necessary, assist the complainant in completing LAPD Form 1.81 (personnel complaint). The failure to take the complaint and record it on a Form 1.81 is a violation of LAPD policy.

Investigation

All complaints must be routed through IAD, where a captain reviews each new Form 1.81. The captain decides whether the complaint will be investigated by IAD or the charged officer's division. Generally, IAD investigates only the most severe cases because of limited resources. In recent years, IAD has investigated only a very small fraction of all excessive force complaints.

If the investigation is retained by IAD, a team of two investigators is assigned to the case, one of whom is principally responsible. (IAD investigators generally rotate through the division on a two-year cycle.) If the investigation is referred to the division, the case is ordinarily handled by a supervisor, usually a sergeant who is likely to have many other duties.

Since the Eulia Love incident in 1979 (discussed in Chapter 10), officer involved shootings have been investigated by a special officer involved shooting team, which is separate from IAD. As part of the special procedure for investigating such cases, the Department notifies the District Attorney's office at the time of the shooting to allow a Deputy District Attorney and a District Attorney Investigator to go immediately ("roll out") to the scene.

Classification, Adjudication, and Punishment

When the investigation is completed either by IAD or by the division, the entire investigation file is delivered to the charged officer's division commanding officer (referred to here as "DCO") -- generally a captain -- for adjudication. The DCO reviews the investigation file and classifies the result into one of the following four categories:

Sustained -- the police officer engaged in the alleged conduct and the conduct was out of policy. Excessive force and improper tactics complaints are rarely sustained unless there are non-involved, independent witnesses who corroborate the complainant's version of the facts.

Not Sustained -- the evidence is insufficient to prove or disprove clearly the allegations made. This classification almost always results when the only witnesses to the alleged misconduct were the accused officer and the complainant or witnesses in some way affiliated with the complainant, such as the complainant's family or friends.

Unfounded -- the act complained of did not occur. This classification results when the investigators find non-involved citizen or police witnesses who contradict the allegations of the complainant.

Exonerated -- the event of alleged conduct occurred, but it was justified, lawful, and proper.

The DCO classification of the complaint determines not only whether punishment may be imposed in that particular case, but also what use can be made of the incident. The officer's past record of "not sustained," "unfounded," and "exonerated" complaints is not considered for any future disciplinary purpose. The officer's past record of "sustained" complaints may not be used in the classification of a personnel complaint, but may be used in determining the penalty if a future complaint is sustained.

The penalties that can be imposed for a sustained complaint include the following:

Warning -- a statement by the DCO instructing the officer to resolve the problem giving rise to the complaint. The LAPD Manual states that this penalty should be used only for very minor censurable acts of misconduct.

Admonishment -- a more severe censure imposed by the DCO.

Official Reprimand -- a letter from the Chief of Police criticizing the officer's conduct. The letter is formally read to the officer, and a copy is placed in the officer's personnel file.

Suspension -- imposition by the Chief of Police of up to six months (approximately 130 working days) off duty without pay.

Removal -- termination of employment, imposed by the Chief of Police.

Whatever the classification and penalty recommendation, the case is then reviewed by the area and bureau commanders (generally a more senior captain and a deputy chief, respectively). These commanders can concur or disagree with the DCO's recommendation. In either case, the views of the commanders are included in the file, which is then forwarded to the IAD Review and Evaluation Section. The charged officer is given an opportunity to review the investigation and the proposed discipline, and to respond in writing.

The file is reviewed by IAD to determine the adequacy of the investigation, but not the classification or recommended penalty. (If the investigation is deemed inadequate, it is returned to the division for more work.) If the complaint is sustained and the recommended penalty does not include suspension or removal, the appropriate commanding officer imposes the

penalty and a record of the penalty is included in the officer's personnel file. If the complaint is sustained and the recommended penalty is suspension or removal, the system allows for additional review and administrative proceedings (described below). Pursuant to the City Charter, any action by the Chief to suspend or remove the officer must be initiated within one year of the act giving rise to the complaint. If the complaint is unsustained (that is, if it is not sustained, unfounded, or exonerated), the proceedings are concluded.

If the DCO or area or bureau commanders recommend that an officer should be suspended or removed, the IAD Commanding Officer and an assistant chief submit the case to the Chief of Police for his determination as to what discipline to impose. The Chief may accept, increase, or decrease the recommended punishment.

Pursuant to the City Charter, if the Chief decides that a suspension for 22 working days or less is appropriate, then the officer has the option of (1) accepting the suspension, in which event the case is concluded, or (2) refusing the suspension, in which event the case proceeds to a Board of Rights hearing. If the Chief decides that a suspension for more than 22 working days or removal is appropriate, the case automatically proceeds to a Board of Rights hearing.

A Board of Rights hearing is an adversary proceeding to determine whether the officer is guilty of the misconduct alleged in a complaint. The names of six officers of the rank of captain or above are drawn at random. The accused officer then selects the three Board members from the six names drawn. The Board decides, based on a "preponderance of the evidence," whether an officer is guilty and, if so, recommends a punishment to be imposed by the Chief. At these proceedings, which are generally public, the charged officer is entitled to be represented by counsel, a Department representative of the rank of lieutenant or below, or both. The officer is also entitled to an investigator. Pursuant to the City Charter, the Chief has discretion to accept or reduce, but not to increase, the penalty recommended by the Board.

When the process is completed, the Police Commission is notified of the results in the IAD Weekly Summary of Adjudicated Cases, which consists of a one or two paragraph summary of each case.

Under state law, any officer subjected to discipline may seek judicial review of the Department's decision.

PROBLEMS WITH THE CURRENT SYSTEM

Many witnesses, during both the Commission's public and executive sessions, identified substantial problems at every stage of the discipline process. In addition, the Commission's independent review of over 700 personnel complaint files involving charges of excessive use of force or improper tactics revealed significant problems in the investigation and classification of complaints.

Complaint Intake

Many witnesses at the Commission's public hearings testified that individuals who wish to file complaints face significant hurdles. Some commented on the complainant's fear of presenting his or her complaint at the local police station. Others complained of practices that made filing a complaint unnecessarily difficult or impossible.

For example, Latino LAPD officers stated that even in many heavily Latino divisions, there is often no Spanish-speaking officer available to take complaints. Witnesses testified at the Commission's public hearings that intake officers actively discouraged them from filing complaints by tactics such as requiring the complainant to wait for long periods before being permitted to make a complaint, and even threatening defamation suits or referrals to the Immigration and Naturalization Service. Several former Police Commissioners told us they felt the police station was not a good place to start the complaint process.

LAPD Deputy Chief Glen Levant confirmed that some officers actively discourage people from filing complaints. Chief Levant stated that he asked volunteers to try to lodge complaints in certain divisions and report their experiences. The volunteers reported that division personnel actively discouraged people from lodging their complaints. Chief Levant, who has initiated action to stop that practice, believes that the problem is Department-wide.

In an attempt to verify these practices independently, Commission staff contacted by telephone a sample of former complainants (approximately half

whose complaints were sustained and half whose complaints were unsustained). Even among those whose complaints were sustained, we found several said they had been "discouraged" or "intimidated" from making a complaint. Approximately one-third of this group described procedures that were not hospitable to their efforts. An even higher number of those whose complaints were not sustained complained of harassment and intimidation. Of course, the survey could not include those persons who were sufficiently intimidated by the process so as not to make a complaint.

The LAPD has recognized that, at least in the past year, complaints of officer misconduct made by the public were often noted in daily activity logs rather than recorded in the official Personnel Complaint Form 1.81 that triggers a formal complaint investigation and IAD review. According to a 1982 LAPD audit of sergeant and watch commander logs in four divisions:

[I]nformal systems do in fact exist for documenting and adjudicating personnel complaints. Supervisors record preliminary investigations of reportable acts of misconduct in their daily logs to allow the watch commanders, and more often the division or Area Commanding Officers, to make determinations as to whether or not 1.81's should be initiated.

In response to the audit, the Department acknowledged that this practice was "unacceptable."

A 1983 audit confirmed systematic failures to fill out the Form 1.81 in another division. That audit noted that the informal system sometimes took the form of recording the complaint on a yellow tablet ("yellow sheeting") rather than initiating an official personnel complaint. Several years after the 1982 and 1983 audits, this "yellow sheeting" practice was utilized in an incident involving one of the four officers indicted in the Rodney King case. According to the complaining witness, who was interviewed by the Commission staff, the sergeant's "yellow sheet" was transformed into a formal complaint only after the complainant returned to the police station a second time and demanded (over the sergeant's objection) that his complaint be officially recorded. (The complaint was held not sustained.) No audits for recent years indicating whether or not these informal practices have been discontinued were provided to the Commission by the LAPD.

Investigation

Form 1.81 Complaint Investigations

The Commission staff reviewed over 700 personnel complaint investigation files relating to charges of excessive force or improper tactics. These included over 300 randomly selected files involving unsustained complaints for the period from 1987 through 1990, over 200 files involving sustained complaints for excessive force or improper tactics for the period from 1984 through 1990, and all personnel complaint investigation files for the 44 officers with six or more allegations of excessive force or improper tactics during the period from 1986 through 1990. That review validates many of the public's charges of inadequate or improper complaint investigation.

A typical complaint investigation should focus on identifying and interviewing individuals who were or may have been witnesses to alleged misconduct. To ensure fairness, the process requires both the prompt identification of those who participated in or might otherwise have witnessed the event, and the prompt interview of all such individuals. In the division investigation files examined, however, the Commission found lapses with respect to both of these basic procedures.

Concerning the identification of witnesses, files reflected that independent witnesses were either not identified or, if identified, were not interviewed. In a number of files, there was no indication that the investigators even attempted to identify or locate independent witnesses. Investigators were also hampered by the failure of officers on the scene to fill out or retain field interview cards.

The Commission's examination was necessarily based almost exclusively on information that appeared on the face of the files; we did not re-investigate the charges. However, LAPD Deputy Chief Bernard Parks reported to Commission staff that he had found inadequate and misleading information in the complaint investigation files in the bureau under his command. For example, in an audit of one file, Chief Parks found that an LAPD sergeant, in charge of an investigation into allegations that a handcuffed suspect was beaten on the head and face, had apparently fabricated an interview with a California Highway Patrol officer who had been at the scene of the complainant's arrest. The file contained a report that the CHP officer saw nothing and was generally uncooperative with the investigator. When the

division captain, at Chief Parks' direction, contacted the CHP, he learned that the CHP officer had never been contacted by anyone at the LAPD concerning the incident under investigation.

The Commission has reviewed all available IAD investigation files relating to excessive force or improper tactics allegations from 1986 through 1990. The percentage of sustained excessive force or improper tactics complaints investigated by IAD is substantially higher (15%) than the percentage for division investigations (5%). Because of IAD's initial screening and the relatively small number of files available from IAD, it is difficult to draw firm conclusions from those statistics. The IAD files reviewed revealed that these investigations, on the whole, were of a higher quality than the division investigations. Moreover, due to its reputation as an elite unit and its place in the Department structure, IAD has greater potential than does the charged officer's own division for independence and expertise in conducting complaint investigations. However, this potential can only be realized if there is a commitment to effective discipline in excessive force cases from the LAPD leadership, as well as a commitment of additional resources and training for IAD investigative personnel.

Officer Involved Shootings

Every officer involved shooting is investigated by the LAPD whether or not there is any allegation of misconduct. These investigations are included here because they involve use of force and, if the shooting is out of policy, can result in discipline. Although the LAPD, as stated above, has a special "officer involved shooting team," we also found serious flaws in the investigation of shooting cases. Specifically, we found that:

- Officers at the scene are frequently gathered together and interviewed as a group, which many have appropriately criticized as an opportunity for witnesses to "get their stories straight."
- Officer statements are often not recorded until the completion of a "pre-interview," which is attended only by LAPD officers. Only when the "pre-interview" is concluded is a recorded statement taken.
- When the LAPD does interview the involved officer, the officer's statement is usually "compelled" under

the statutory Police Officer's Bill of Rights. Legally, no "compelled" statement can be used in any criminal prosecution of that officer. Similarly, any information or discoveries obtained directly or indirectly from that statement cannot be used against the compelled officer in a criminal proceeding. When these compelled statements are taken at the beginning of the administrative investigation, any potential criminal prosecution will likely be very difficult to pursue.

- The District Attorney's representatives are not permitted to interview the police officer or witnesses until after the LAPD has completed its investigation.

Other law enforcement agencies have successfully conducted shooting and other investigations without resorting to these techniques. The Commission perceives no legitimate reason why the LAPD continues to engage in these practices.

Classification and Adjudication

Initial Classification

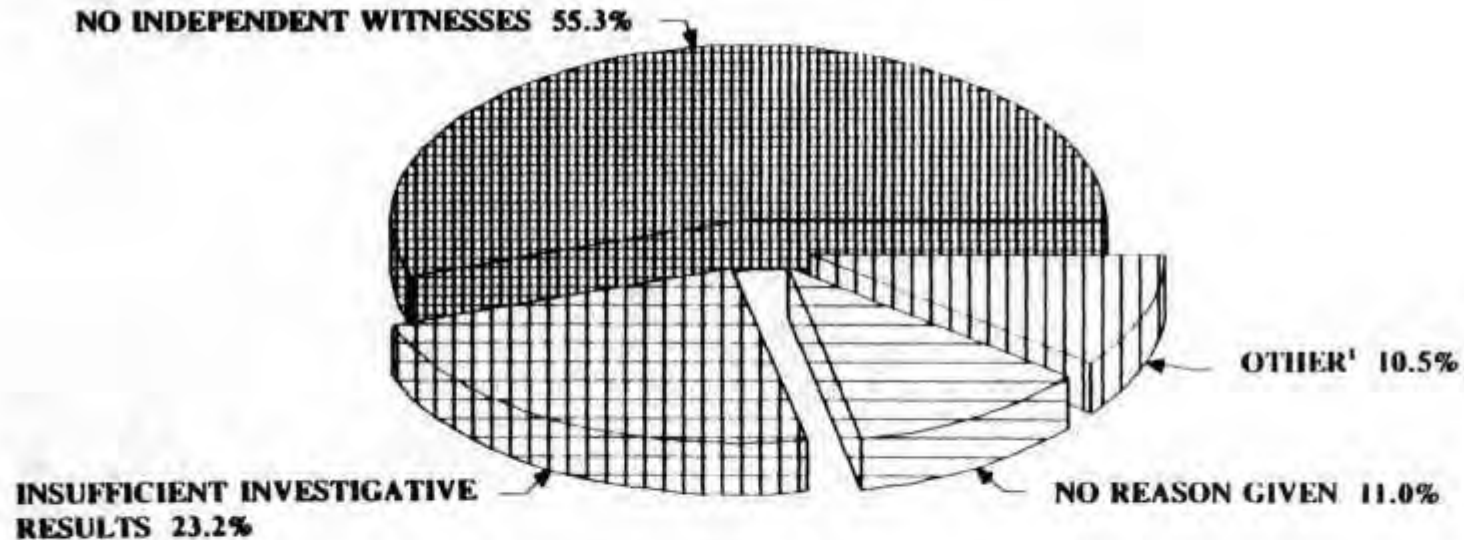
Based on testimony before the Commission and the staff's review of investigative files, the Commission has concluded that the Department's system of classification as it is now designed and operated is biased in favor of officers charged with excessive force or improper tactics.

First, there is no consistent basis for categorizing witnesses as "independent" or "non-involved" as opposed to "involved." Yet the presence of a non-involved witness can determine whether a complaint is not sustained or sustained. Similarly, the existence of a witness is often the determining factor as to whether an unsustained complaint is classified as unfounded or not sustained. Table 9-2 indicates that over 50% of excessive use of force and improper tactics allegations listed in the LAPD's weekly summary of adjudicated cases that were unsustained, were classified as such due to the lack of an "independent" witness.

Instances of this categorization problem abound. For example, in one case a non-involved witness observed the use of force against another individual and reported this event to the LAPD. When the case was finally adjudicated, the complaint was classified not sustained because the witness.

TABLE 9-2

**REASONS STATED BY LAPD FOR NOT SUSTAINING
COMPLAINTS OF EXCESSIVE FORCE OR IMPROPER TACTICS
JANUARY 1986 THROUGH DECEMBER 1987 AND OCTOBER 1988 THROUGH JUNE 1990**



¹ Other includes - Conflicting Testimony (4.4%), Insufficient Evidence (2.9%), Independent Witnesses (2.4%), Inconsistent Injuries (0.7%), and Lack of Credibility (0.1%).

Source: LAPD Weekly Summaries of Adjudicated Complaints.

by virtue merely of having reported the incident, was deemed to be "interested" or "involved." On the other hand, police officers at the scene were often treated as independent witnesses for the purpose of classifying the complaint as unfounded. In one case, a high ranking LAPD commanding officer reduced a classification of not sustained to unfounded on this ground.

Second, some commanding officers evaluated witnesses' credibility in an inconsistent and biased way. In one case, a school district police officer corroborated a complainant's claim of excessive force, but an arrestee sitting in a patrol car claimed to have seen nothing. Apparently because the arrestee corroborated the accused officer's version, that testimony was deemed to counter-balance the statement of the other law enforcement officer, and the complaint was classified not sustained.

Similarly, in many cases the reviewing officer found the complainant to be not credible because of insubstantial inconsistencies between the complainant's statement and the statement of a witness. In one case, for example, a narcotics suspect complained of being "thrown" against a barroom wall. Because the bartender said that the complainant was "pushed" into the wall, he was deemed to have contradicted the complainant. The report failed to state, however, that both the complainant and the bartender contradicted the officers, who stated that the suspect lost his balance and fell into the wall when he attempted to destroy or discard evidence.

Third, the Commission's review indicated that in several cases commanding officers discredited or diminished a complainant's charges by finding that the physical injury suffered by the complainant was not consistent with the force allegedly used, when there was no basis for such a finding. The Commission reviewed several cases in which the complainant had suffered obvious, documented injuries, but the commanding officer concluded that the injuries could not have been caused by the officer. In reaching these conclusions, the commanding officers often failed to offer any credible explanation of how the injuries might otherwise have occurred.

Fourth, commanding officers sometimes ignored obvious physical evidence in concluding that the alleged injury did not occur. In the file audited by Deputy Chief Parks discussed above, for example, the complainant alleged that he had been beaten while sitting handcuffed in a police car. The file contained a photograph of the handcuffed complainant sitting in a police car at

the scene of his arrest. In that photograph, his face shows a minor cut on the lip. However, his booking photograph, taken a short time later, shows severe injuries to his head and face as if he had been beaten. The file also revealed that one of his teeth had been found in the back seat of the police car. The commanding officer who classified the complaint as not sustained took no note of this compelling physical evidence.

Fifth, the Commission encountered a significant number of not sustained cases in which, notwithstanding the "official" result, the commanding officer's "Administrative Insight" criticized the officer's performance. In many instances, this criticism implied unmistakably that the commanding officer believed the charged officer was guilty of misconduct or improper behavior. Worse, as discussed in greater detail in Chapter 3, such negative "insights" did not appear with any frequency in the performance evaluations of at least the 44 officers who had amassed the greatest number of not sustained and unfounded complaints during the relevant period.

Review by the Chief of Police

In several cases, the Chief reversed the field commander's classification of a complaint as sustained without any explanation or rationale for his decision. This problem was the subject of an internal disciplinary audit conducted in 1986. The audit report identified nine instances in less than a year within the South Bureau in which the Chief of Police either ordered that a complaint not be sustained, ignored the recommendation of the reviewing officers that punishment be imposed, or substantially reduced the recommended punishment. The author of the report noted that in each instance, "it was clear to me that the officers had conducted themselves in a manner inconsistent with established Department standards." Noting that the Chief had disregarded the recommendations of the bureau commander, the author wrote:

In addition to the inherent undermining of Bureau judgment and credibility, the unfortunate by-product of these reversals was that the involved officers were led to believe that their conduct in these matters was acceptable though the Bureau deemed it inappropriate.

In a broader vein, Assistant Chief Dotson expressed concern over the manner in which the Chief of Police mitigates discipline. He stated:

But in a lot of cases, not only discipline, an officer will appeal to the Chief, and the Chief will mitigate whatever the situation may have been, whether it be discipline, administrative transfer, an appointment, or an upgrade, or whatever, based on the officer's appeal. And he frequently does that without informing the chain of command that had been involved in the contra-recommendation in that process, and so, that happens in discipline from time to time.

The Commission concludes that the Chief should be required to state in writing to the Police Commission any decision to alter the adjudication of a personnel complaint or the recommended penalty, and the reasons for that decision.

Punishment

The preceding sections demonstrate that the LAPD sustains relatively few excessive force complaints against its officers. The Commission is further persuaded that, even when such complaints are sustained, the punishment is more lenient than it should be. We base this conclusion primarily on testimony and information provided by the Department itself.

Commander Michael Bostic, who was assigned by Chief Gates to investigate issues relating to training and use of force following the King incident, testified before the Commission as follows:

BOSTIC: I've interviewed several hundred people in the organizations from lieutenants and captains and all of the commanders and deputy chiefs and kind of reoccurring theme that I've heard that's really bothered me . . . they say that the organization is light on excessive force

Q: Excuse me, Commander. Do you mean light in punishment?

BOSTIC: Light in punishment, light in punishment. And, I then said to them, well, what do you mean, and almost universally they gave me these examples. They said if you lie, cheat and steal we'll fire you, if you use drugs we'll

fire you. But if you use excessive force, we won't.

Commander Bostic went on to say that he disagreed with this assessment because he considered it an "apples to oranges" comparison. He testified that, while there is no degree of lying or drug use -- either you are guilty or you are not -- "[w]hen it comes to excessive force, that is extremely a case by case perception issue."

The Commission also spoke with a deputy chief who supported the "light in punishment" viewpoint. He stated that the discipline imposed by the Department is more severe for conduct that embarrasses the Department than for conduct that reflects improper treatment of members of the public. By way of example, he said that an officer caught in a liaison with a prostitute is likely to receive more severe discipline than an officer who beats an individual. A former high ranking officer with broad experience within the Department also corroborated this view, telling us that excessive force is treated leniently because it does not violate the Department's internal moral code. This former officer stated that the Department vigilantly enforces discipline for violations such as theft and bribery, which indicate police corruption. But violent behavior, such as the use of batons, is viewed by many members of the Department as not requiring discipline at all because, as this officer said, "some thumping" is permissible as a matter of course.

More support for this view was provided in interviews with members of the Police Protective League and many patrol officers. According to those sources, officers receive more severe punishment for breaking what they described as "administrative" rules than for breaking rules regarding excessive force. Many officers went on to say that they believe punishment is arbitrarily imposed and depends on the subject officer's place in the Department's formal and informal hierarchy.

This widespread view within the Department supports the inferences that can be drawn from the statistical data concerning penalties imposed in excessive force cases: the Department treats excessive force violations more leniently than it treats other types of violations.

The Commission realizes, of course, that there are gradations to excessive force. However, even taking these gradations into account, the Department's own statistics are disconcerting.

For example, the Commission reviewed the discipline imposed on officers with sustained complaints for excessive force against handcuffed suspects between 1984 and 1990. This particular misuse of force was selected because numerous witnesses (including senior ranking members of the Department) testified that unnecessarily striking a handcuffed person was absolutely unacceptable behavior which would not be tolerated by the Department. In fact, most officers agreed that, except in the most unusual cases, no force is necessary once a person is handcuffed.

From the beginning of 1984 through the end of 1990, the Department's own records reflect at least 36 cases of sustained complaints involving allegations of excessive force against a handcuffed suspect. Of these cases, only two (both involving officers with egregious records of force-related complaints including prior suspensions) led to removal. In every other case, the discipline was a 22-day suspension or less. The median number of days suspended was less than 10 days and only three officers received 22 days. Even more significant, in about half of these cases the matter was referred to a Board of Rights because of the division's commanding officer's belief that the discipline should be termination or a suspension of more than 22 days. With the exception of the officers noted above, the Boards did not recommend removal or a suspension of over 22 days even for outrageous behavior. In one incident, for example, an officer, while sitting on his motorcycle, balanced himself by placing his boot on the face of a handcuffed suspect lying on the ground. A complaint was sustained and referred to a Board of Rights. For this act, the officer received only a 15-day suspension.

Our review also revealed lax punishment for officers who blatantly lied about the event in question. Notwithstanding that those officers demonstrated willful untruthfulness, they were not removed. For example, the Board found that an officer hit a handcuffed suspect in the mouth with his fist while the suspect was quietly sitting in a chair. The officer contended that, in turning around, he accidentally swung his arm and his hand happened to come in contact with the suspect. The Board found this story unbelievable. Notwithstanding the officer's false statement, he received only a 22-day suspension.

The Commission also examined generally the punishments imposed for sustained complaints of excessive force or improper tactics. The results are

shown in Table 9-3. Of the 171 sustained complaints between 1986 and 1990 reviewed by the Commission, only 13 resulted in removal (one was a probationary officer), and only seven in a suspension of over 22 days.

The system is even less strict in cases of improper officer involved shootings. According to the Police Foundation's *The Big Six* survey of the six largest cities in the United States, Los Angeles in 1986 ranked first in civilians wounded and killed by police, with 11.1 civilians wounded or killed per 1,000 officers. Other cities ranged from a low of 1.2 civilians wounded or killed per 1,000 officers (Philadelphia) to a distant second of 7.6 per 1,000 officers (Houston). The Commission's staff reviewed the discipline imposed in a sample of 39 cases involving out of policy shootings, including at least four cases where suspects were fatally shot and 10 where suspects were injured. The most severe discipline imposed was a 10-day suspension, and 19 cases resulted in no suspension at all. A similar study of 35 improper shooting cases conducted in May 1991 by the *Daily News* also concluded that discipline in these cases was lax.

Unfortunately, there is currently no effective oversight of the disciplinary process or of the punishments imposed. The Police Commission is charged by the City Charter with overseeing the LAPD, including the disciplinary system. But as it is presently structured, the Police Commission simply cannot, and does not, effectively review the adequacy of the disciplinary system. First, the Police Commission meets too infrequently, and has too many responsibilities, to review these summaries in detail. Second, because the Police Commission is not given the actual complaint files, it does not have the information necessary to determine whether the results are appropriate.

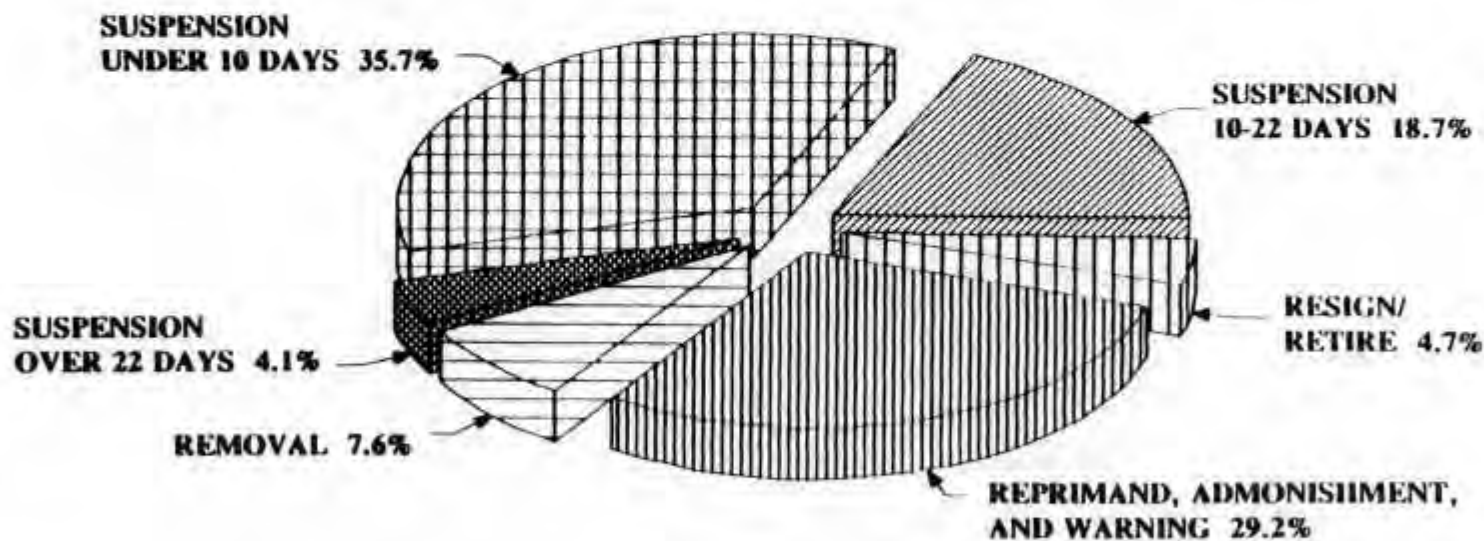
THE CODE OF SILENCE

Perhaps the greatest single barrier to the effective investigation and adjudication of complaints is the officers' unwritten "code of silence." While loyalty and support are salutary and even necessary qualities, they cannot justify the violation of an officer's public responsibility to ensure compliance with the law, including LAPD regulations. The code of silence influences the behavior of many LAPD officers in a variety of ways, but it consists of one simple rule: an officer does not provide adverse information against a fellow officer.

TABLE 9-1

**PENALTIES IMPOSED FOR SUSTAINED COMPLAINTS BY THE
PUBLIC OF EXCESSIVE FORCE OR IMPROPER TACTICS**

171 TOTAL SUSTAINED COMPLAINTS FROM JANUARY 1986 THROUGH DECEMBER 1990



Source: LAPD Complaint Database.

For example, in a recent case, one young LAPD officer initially covered up for a partner accused of an unprovoked attack on two homeless African-American people. He later reached an agreement with the prosecutor to testify against his partner. When asked to explain why he had lied to investigators in his initial interview, he testified:

Basically being raised by a Los Angeles police officer myself, coming from a rather elite unit within the armed service, it is basically a non-written rule that you do not roll over, tell on your partner, your companion.

After the officer recanted his prior statement, the investigator noted that this officer had gone "against the unwritten code of silence which states that you never cop out."

One former LAPD sergeant told the Commission that there were at least one or two officers in every division in which he had worked who regularly used excessive force, and that every sergeant in the city would say the same thing if he or she were being candid. However, he said that younger officers in the field who are in a position to observe this conduct are afraid to "blow the whistle" on fellow officers.

When asked whether there is a code of silence among officers, former Assistant Chief Jesse Brewer stated,

That may be the right way to term it in that there is a reluctance on the part of police officers to complain about misconduct on the part of their partners when they see it, when they observe it.

And when the misconduct is reported by someone else, Chief Brewer observed:

They try to save themselves by saying, "I don't know," or "It didn't happen," because if it comes out that they knew it happened and did nothing about it, then they would be subject to a personnel complaint for failing to take appropriate action.

Chief Brewer wrote a similar comment in his review as a deputy chief in the early 1980's of a complaint investigation:

It is discouraging to note that throughout this investigation, . . . regular sworn officers [immerse] themselves in half truths or blatant untruths.

One of the most distressing examples of the code of silence in operation occurred in the recent prosecution of three LAPD officers for criminal vandalism stemming from the extensive property damage in the 39th and Dalton drug raid discussed in Chapter 3. Sixteen police officers were called by the prosecution to testify against their fellow officers. The judge who presided over the trial stated on the record (outside the presence of the jury) his concern that the officers might be "trying to help the defendants . . . because they are brother officers." More dramatically, he later stated that "many of the [police officer witnesses] are clearly lying," and that their conduct in doing so was "shameful" and an "embarrassment." After, he flatly stated, "I cannot think of a case in my life . . . where I have seen more false testimony." The defendants did not testify and were found not guilty.

Officers who do give evidence against their fellow officers are often ostracized and harassed, and in some instances themselves become the target of complaints. One officer who corroborated a suspect's report of being beaten in a holding cell was forced out of the Department. Another officer who attempted to lodge a complaint against a fellow officer for excessive force was told that if she wanted to press the complaint she had two choices: stay on the force and be labeled as an oddball, or resign. She resigned. A successful Latino officer who had risen through the ranks complained of the use of racial epithets and ethnic slurs; he became the target of an investigation and was transferred out of the elite unit where he was assigned. An African-American female officer who complained of highly provocative sexist and racist remarks made by a white male officer was disciplined for using profanity in reacting to the provocation. As a former LAPD officer stated in a *Los Angeles Times* column on July 2, 1991:

When an officer finally gets fed up and comes forward to speak the truth, that will mark the end of his or her police career. The police profession will not tolerate it, and civilian authorities will close their eyes when the retaliatory machinery comes down on the officer.

Police officers are given special powers, unique in our society, to use force, even deadly force, in the furtherance of their duties. Along with that power, however, must come the responsibility of loyalty first to the public the officers

serve. That requires that the code of silence not be used as a shield to hide misconduct.

**THE NEED FOR REFORM:
THE COMMISSION'S RECOMMENDATIONS FOR CHANGE**

From the foregoing evidence, the Commission concludes that the current system of discipline does not work. There are failures in every stage of the disciplinary system from complaint intake to punishment. Minor tinkering or adjustment will not solve these problems; a major system overhaul is required.

We conclude that the best approach is to place oversight of the disciplinary process in the Police Commission, with that Commission being given adequate staffing to permit it to accomplish its mission effectively. This oversight responsibility would be centered in a new civilian staff position, the Office of the Inspector General, which will report directly to the Police Commission and its Chief of Staff, also a newly created position. The Police Commission, knowledgeable about and responsible for police policy, and with the substantially augmented staff we recommend in Chapter 10, will be in the best position to implement and oversee an effective disciplinary process.

The Police Commission should be accountable for making the process easy to use, for assuring that the Department investigates and adjudicates allegations thoroughly and fairly, and for identifying trends or indicators that raise policy issues.

With respect to discipline, we believe good management principles counsel leaving the Chief primarily responsible for imposing discipline in individual cases. The Commission should, however, set guidelines as a matter of policy, and hold the Chief accountable for following them.

We think a civilian oversight process is preferable to a so-called "civilian review board." The Commission has surveyed the 20 largest cities in the United States (other than Los Angeles) and Madison, Wisconsin, to ascertain how they handle complaints against the police. Thirteen cities review complaints using some entity that consists of or includes civilians. Six have wholly civilian review boards; four have boards composed of both civilians and sworn officers; and three have parallel review processes -- one civilian, one internal -- operating concurrently. Only four of these 13 cities use investigators

unaffiliated with the city's police department; thus, 17 out of the total 21 surveyed use police department investigators.

A number of witnesses before the Commission called for the establishment of a civilian review board, entirely external to the Police Department, authorized to review particular cases of alleged misconduct. However, the literature regarding civilian review boards, expert testimony before the Commission, and our survey of other cities persuade us that this proposal is not the best alternative. First, such a system would greatly increase the risk of an "us against them" attitude on the part of police officers, which could in turn aggravate the code of silence problem and result in a lack of respect and cooperation on the part of officers toward the complaint review process. Second, the review board itself could become politicized, resulting in manipulation of the complaint review process that would harm both the complainants and the Department. Third, it could be difficult to recruit a balanced, professional staff for such a single-purpose agency.

These deficiencies have led at least some experts to conclude that "a [complaint review] system has rarely, if ever, been successful if the opportunity to respond to complaints was completely removed from the police force." The Police Commission, in its July 2, 1991 report, also recommended against an elected civilian review board. Instead it proposed increased civilian oversight of the complaint process by means of more extensive involvement of the Police Commission itself.

In short, we are not persuaded that it would be effective to create yet another body, thereby diffusing responsibility and creating a new bureaucracy, to do what a properly staffed and empowered Police Commission ought already to do as part of its Charter mandate. In our judgment, the tension between the need for public accountability and the apparent failure of civilian review boards to perform effectively is best resolved by using the already existing Police Commission actively to oversee and audit the disciplinary system, but to allow professional Department investigators and supervisors to be responsible and accountable for individual cases. To this end, we make the following recommendations.

Recommendation 1: Complaint Intake

The Police Commission should create an Office of the Inspector General within the Police Commission, reporting directly to the Commission and its Chief of Staff, to audit and oversee the complaint and disciplinary process. The Inspector General's office should be adequately staffed to perform the functions set forth in these recommendations, consistent with our related recommendations in Chapter 10.

Responsibility for the receipt of complaints should rest with the Police Commission. The Police Commission should publicize the ways to obtain complaint forms and to complete and file them. These forms, which should be straightforward enough to be filled out by a complainant, should be printed in English, Spanish, and other appropriate languages. Complaints should be received at places in addition to the police station. For example, City Council district offices might be acceptable locations. Posters in English, Spanish, and other appropriate languages should be placed conspicuously in police stations informing people how and where to file complaints, and where to go for help in doing so. The Police Commission's Inspector General should have trained personnel available through a telephone "hot-line" (the number of which should be included on the station-house posters) ready to help people complete and file complaints. The Inspector General's office should maintain a file of each complaint. Once a complaint is properly completed and filed, it should be routed to IAD for transfer onto a Form 1.81 and further processing. If an individual fills out a Form 1.81 initially, a copy should be routed to the Inspector General's office.

The statute of limitations set forth in City Charter Section 202 (currently one year) should be extended and modified. The Commission has heard substantial testimony that this limitation unduly hampers the Department, especially in cases where the misconduct is not discovered quickly, where outside forces delay the adjudicatory process, or where the charges do not relate to a single "incident" but rather to a pattern of conduct (such as poor supervision).

The City Attorney's office should promptly notify the Police Commission and the Department when civil claims are filed against the City arising out of alleged police misconduct. The Department, through IAD, should investigate every significant claim.

The Department should actively enforce the already existing requirement that business cards be handed out following police contact with the public.

Recommendation 2: Investigation

All complaints relating to excessive force (including improper tactics) should be investigated by IAD rather than the division, and should be subject to periodic audits by the Police Commission through its Inspector General. IAD should be given sufficient staff to handle the substantial extra burden that this shift will entail. Longer assignments to IAD should be established to allow investigators to develop the detachment necessary for full and fair investigations. IAD investigators should generally be detectives. This modification will allow police station and division supervisory personnel to concentrate on officer supervision, rather than officer investigation. Moreover, IAD's structural removal from the division will result in a more neutral and thorough investigation.

To further IAD's structural independence, the head of IAD should be a deputy chief, and should report directly to the Chief of Police. This person should work closely with the Police Commission and its Inspector General.

To ensure that the investigation is adequate and fair, IAD should route the completed investigation file not only to the adjudicatory authority (discussed below), but also to the Inspector General. The Inspector General's office will therefore be able to satisfy itself, at this critical stage, that the investigation is thorough and complete.

The improper investigative practices identified in this Chapter should immediately be discontinued. Specifically, there should be no group interviews of officers -- whether in officer involved shooting investigations or other misconduct investigations -- and no "pre-interviews" of officers before taking their statements. As is currently done by IAD, all interviews should be tape recorded in excessive force related cases (including improper tactics) as well as in cases involving shootings. Further, in an investigation where the officer's conduct is potentially criminal, special precautions should be taken to protect against compromising evidence against the officer. In excessive force cases, IAD should investigate the role of all bystander officers (that is, officers present at the scene but not participating in or directing the use of force) to determine whether and to what degree they are in violation of Department policy.

Recommendation 3: Classification and Adjudication

The initial classification of complaints should be made by the bureau commanding officer (a Deputy Chief or commander), not the charged officer's division commanding officer. Although the bureau commanding officer may discuss the matter with the relevant DCO, the bureau commanding officer must retain personal responsibility for making the classification decision. The Commission agrees that it is imperative, if management is to be held accountable, that management be empowered to make the initial classification. However, our review of the current process has persuaded us that this task cannot be fairly accomplished at the division level. This decision must be placed at the bureau level, allowing the person making the initial classification to benefit from a wider view of the Department. This modification also minimizes the personal bias that was apparent in many of the files the Commission staff reviewed.

Classification system terminology should be modified to reflect more accurately the nature of the actual determination made. The "not sustained" classification should be renamed "not resolved." A "not resolved" finding, while not sufficient to impose discipline in that particular case, should be available for review in future investigations, as well as available for consideration at the time an employee evaluation is completed and for purposes of promotions and upgrades. Any finding, including unfounded or exonerated, should also be available for non-punitive purposes such as training, counseling, and assignment.

The automatic preference for officers' testimony (sometimes called the "tie goes to the officer" approach) should not be relied on as a decision-making technique. All available evidence, including statements from witnesses -- whether they are deemed independent or involved -- should be fairly and dispassionately evaluated in making a classification based on a "preponderance of the evidence" standard.

After the initial adjudication is complete, the file should be sent back to IAD for its review not only of the investigation, but also of the classification. This "second look" outside the chain of command will provide an appropriate check on the initial determination. A copy of the completed complaint file should simultaneously be routed to the Inspector General's office.

The bureau chief should provide his or her subordinate command officers monthly with a list of officers who have been the subject of personnel complaints and the results of the adjudication of those complaints. In evaluating those subordinate command officers, the bureau chief should take into account and give significant weight to the complaint histories of the officers under that subordinate's command. Careful scrutiny should be given to the management and leadership qualities of command officers whose subordinates have high levels of personnel complaints lodged against them. Likewise, the bureau chiefs should be evaluated on their effectiveness in dealing with subordinate commanders whose divisions are a source of high levels of personnel complaints.

If a complaint is sustained and there is a recommendation for suspension or removal, the Chief of Police should be required to provide a written explanation containing the facts and reasons for any modification in the classification or the penalty. The Chief's written explanation should be submitted to the Inspector General.

In making classification determinations and adjudications, bureau chiefs and Boards of Rights should be permitted to consider evidence adduced in prior complaints that were classified sustained or not resolved, and the City Charter should be amended to so provide. These fact finders should have access to all of the evidence developed in the resolution of any prior relevant complaints, and should be permitted to give whatever weight to that evidence they deem appropriate.

If the fact finder is a Board of Rights, the Board may, in its discretion, consider evidence of such complaints, including the testimony of the prior complainant.

The City Charter should be amended to provide that, if a Board of Rights is convened, one of the three members should be a civilian representative from the Inspector General's office. This civilian representative will bring a detached perspective to the case and force a rigorous sifting and evaluation of the evidence. The other two Board members should be randomly selected from among qualified officers, without further selection by the charged officer as is now allowed.

Recommendation 4: Punishment

Because the Chief of Police is the sworn officer ultimately accountable for the Department, the Independent Commission believes that he or she must be able to mitigate discipline in appropriate cases, and also that significant disciplinary actions should be imposed by the Chief and not by subordinate officers. However, in instances where a Board of Rights has been convened, the Chief's power of mitigation should be subject to civilian review. The City Charter should be amended to give the Police Commission the power to reverse the Chief's decision to reduce a recommended penalty by the Board.

The Department should require training and counseling following every sustained complaint relating to excessive force (unless the officer is removed) and, where appropriate, following complaints that are unfounded or resolved. It is not enough to punish those who use excessive force, and hope that it does not happen again. The Department must take affirmative steps to ensure that the officer will modify his or her behavior.

With regard to supervisory personnel (including field training officers), the Department should have the authority to impose the punishment of demotion in rank, an option not presently available under the City Charter. When an officer is charged with improperly carrying out his or her supervisory responsibility, especially given the enhanced accountability the Commission recommends, suspension or removal may not be the best response. It may be more appropriate to relieve the officer of some or all of his or her managerial responsibility, that is, a demotion in rank. Such demotion should be imposed only after the Board of Rights procedure as with a suspension for more than 22 days or a removal.

The Department must make enforcement of its policy against the code of silence a high priority in discipline, training, and other areas. In doing so, it should actively and severely discipline those who violate Department policy by failing truthfully to report known instances of misconduct. Careful scrutiny should be given to cases where an officer corroborates the story of another officer during the investigation of a complaint, and where that complaint is sustained. Further, safeguards must be established to protect officers who break the code of silence from harassment or punishment by other officers or the Department itself.

Recommendation 5: Public Accountability

The Inspector General should audit the disciplinary system at least annually, and forward that detailed audit to the Police Commission for its review and approval. The results of this audit should be incorporated into the Chief of Police's performance review. The Chief of Police should be required to respond to this audit.

The approved annual disciplinary audit, redacted where the Police Commission believes necessary for personnel reasons, should be submitted to the Mayor, the City Council, and the public along with the Chief of Police's response.

In addition to publishing its detailed audit, the Police Commission should set aside a particular public meeting or meetings to review the audit and to take public comments.

NOTES TO CHAPTER NINE

1. Petterson, "Police Accountability and Civilian Oversight of Policing," in A. Goldsmith, ed., *Complaints Against the Police: The Trend to External Review*, p. 280 (Clarendon Press 1991) (forthcoming).

**Chapter Ten:
Structural Issues -- the Police Commission
and the Chief Of Police**

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The Police Commission—while given broad authority over the Department and its Chief—has neither the resources nor the real power to perform effective oversight and control

View of several present and former Police Commissioners

Chapter Ten: Structural Issues—the Police Commission and the Chief of Police

Much as the nation's military is under the control of civilians, as are police departments throughout the country, the Los Angeles City Charter contemplates that the quasi-military Police Department should be subject to citizen oversight and control. This oversight and control are to be exercised by the Police Commission, which the Charter designates as the "head" of the Department. In concept, the Police Commission is intended to function much like a corporate board of directors, setting policies for the Department and overseeing its operations in conjunction with the Chief of Police, who acts as a chief executive officer responsive to the direction and control of the Police Commission. In practice, the Police Commission's authority has proved illusory; a number of structural and operational constraints greatly weaken the Police Commission's power to hold the Chief accountable and therefore its ability to perform its management responsibilities, including effective oversight. As a result, real power and authority effectively reside in the Police Chief, which has caused various Police Commissions to have attempted to exercise

direction and control through strategies ranging from outright confrontation to simple acquiescence or even appeasement.

In this Chapter, we first review the structure and role of the Police Commission; next, we discuss the status and role of the Police Chief, with particular attention to the Chief's civil service status; and, finally, we make recommendations designed to restore a proper balance of power and authority between the Police Commission and the Chief of Police.

STATUS AND ROLE OF THE POLICE COMMISSION

Current City Charter Provisions

The Charter, which dates back to 1925, specifies that the Police Department shall be "under the control and management" of the five-member Board of Police Commissioners, which is designated the "head" of the Department and given the express authority to "supervise, control, regulate and manage" the Department. The Police Commission also has the important power to appoint, discipline, and remove the Chief of Police. The Chief is designated the general manager and chief administrative officer of the Department, with a broad range of his own Charter powers and duties, all of which -- except the initiation of disciplinary action against sworn officers -- are subject to instructions from the Police Commission.² Finally, the Police Commission grants permits to 56 different businesses and activities, including massage parlors,³ tow-truck operators, dance halls, and burglar alarm subscribers.

Police Commissioners are appointed and subject to removal by the Mayor, with the approval of a majority of the City Council.⁴ Police Commissioners are ostensibly appointed for five-year, staggered terms,⁵ but in practice, they have served at the pleasure of the Mayor and are usually replaced entirely when a new administration comes in. Since he took office in 1973, Mayor Bradley has appointed a total of 18 Police Commissioners, who have served for periods ranging from four months to 19 years.

The Police Commissioners elect a president and vice-president every July, for a one-year, renewable term.⁶ While the practice has varied, at least one recent Police Commission President held office for five years.

Police Commissioners serve on a part-time basis. The Charter requires that the Police Commission hold regular public meetings at least twice a month; in practice, it meets once a week. The only compensation Police Commissioners receive is \$50 for every meeting they attend.

Charter Limitations on the Police Commission's Power

Although the Charter assigns the Police Commission ultimate control over Police Department policies, it undercuts the Police Commission's ability to exercise that control by imposing two formidable barriers to the Police Commission's real power to hold the Chief accountable for enforcement of its policies.

First, as discussed below in the section on the status and role of the Chief, the Chief's civil service status protects him from serious disciplinary action or discharge by giving him a "substantial property right" in his job, and declaring that he cannot be suspended or removed except for "good and sufficient cause" based upon an act or omission occurring within the prior year.⁹ The Police Commission must establish such cause in a "full, fair and impartial hearing" before the Board of Civil Service Commissioners.¹⁰ Aside from the recent attempt to initiate proceedings against Chief Gates, no Police Commission has brought charges against any Police Chief since the Chief's office acquired civil service protection in 1937 -- except to issue reprimands that do not invoke the Charter's protection.

Second, the Police Commission's already attenuated control over the Police Department potentially has been weakened further by two recent shifts of power from the Police Commission to the City Council. On June 4, 1991, the voters of Los Angeles passed Charter Amendment 5, empowering the City Council to review and override the actions of the City's commissions -- including the Police Commission. This Charter amendment follows on the heels of the May 13, 1991 decision in *Gates v. Board of Police Commissioners*¹¹ (now on appeal), upholding the City Council's authority to settle Chief Gates' challenge to the Police Commission's order suspending him from active duty.

Historical Background¹²

The second (and current) charter for the City of Los Angeles was enacted in 1925, following a period of widespread corruption in City government in general and the Police Department in particular. The 1925 Charter restructured the membership and powers of the City's boards and commissions and gave the Mayor power to appoint and remove all commissioners (with City Council approval). Some historians have noted that the intent of the 1925 Charter was to entrust the administration of the City to full-time, professional managers under the supervision of citizen commissioners. Statements by some of the drafters of the Charter, while they should not be deemed conclusive, indicate that the drafters envisioned a "citizens' government" as distinct from a "politicians' government," with the commissions protecting the public against abuses of power. The balance of power between the Mayor, City Council, and commissions struck by the Charter has remained basically unchanged since 1925 -- although recent developments might have swung the balance back toward the City Council.¹³

The Police Chief's civil service status is grounded in Charter reforms of the 1930s enacted in response to political manipulation that then plagued the Police Department's internal governance and operations.¹⁴ In 1937, the voters gave the Chief the strong civil service job protection previously held only by lower level police officers -- a decision that has made Los Angeles one of the few major cities in the country in which the Chief of Police has the prospect of life tenure.¹⁵

Changing conditions in the latter half of this century have refocused at least some public concern away from corruption and toward the issue of accountability in the top ranks of city government. Since 1971, the City Council has approved four proposed Charter amendments to exempt top city managers from the civil service in order to give their appointing authorities more flexibility in hiring and discipline.¹⁶ Despite strong support for the amendments by the administrator of the City's civil service system, among others, each was defeated by a narrow majority of voters.

In testimony before the Independent Commission, a number of witnesses, including Chief Gates and former Chiefs Reddin and Davis, agreed that the Chief's civil service status provides independence from improper political pressure. Several witnesses, however, suggested more balanced ways to

achieve this independence than the Charter's present solution, which weakens the Chief's accountability by giving him, in effect, life tenure.

Police Commission Operations in Practice

Historical Overview

Since 1953, the provision of police services in Los Angeles has been governed by three Mayors, four Chiefs of Police, and 34 Police Commissioners whose periods of service on the Police Commission have ranged from two months to 20 years. While the Charter provisions governing the Police Commission have remained essentially unchanged since 1925, the approach of the Police Commission to its oversight responsibilities has varied considerably. During the late 1970s and early 1980s, the Police Commission focused on the Charter language giving it the power to control and manage the Police Department and aggressively attempted, with limited success, to implement the principle of citizen oversight. During most of its existence, however, the Police Commission has taken a far more passive role, essentially acting as a "booster" or "rubber stamp" for the Department. Thus, although the Charter gives the Police Commission broad authority over the Department, it provides no guarantee that there will be strong citizen oversight.

Police Commission Staff

The Police Commission's staff is headed by the Commanding Officer, Commission Operations, a sworn LAPD officer chosen by the Police Commissioners, who normally serves in that post for two to three years. In recent years this position has been filled by a Commander. The Commanding Officer's future transfer and promotion are to a substantial extent at the discretion of the Chief of Police, and he or she is part of the Chief's command structure as well as being answerable to the Police Commission. If there is a conflict between the Police Commission and the Chief, the Commanding Officer can be caught in the middle. One Commanding Officer noted that he had six bosses: the Police Commissioners and "the man with my future in his hands," the Chief of Police. In recent years, the Police Commission has gone so far as to require that all commanders apply for the Commission Operations position, out of fear that given a choice, none would apply.

Because the Police Commission depends heavily on the Commanding Officer to review information received from the Department, make recommendations, and spot problems, it also must rely on his willingness and ability to question and criticize his superior officers. As a result, the Commanding Officer's divided loyalties can cause problems for the Police Commission as well as for the Commanding Officer himself.

In addition to the Commanding Officer, the Police Commission's staff includes an executive officer and two analysts, all of whom are civilian employees. Both staff analysts are occupied virtually full-time on continuing assignments, so it is difficult for them to undertake special projects or investigations. The Police Commission also has a board secretary who is chosen by the Commissioners. Contrary to the terms of the Charter, however, the Department's chief accounting employee is not appointed by the Police Commission, but is selected by, and reports to, the Chief.

Finally, there is a line item in the City budget for the hiring of outside consultants by the Police Commission. From 1981-82 through 1987-88, the appropriation was \$79,000 per year; it fell to \$25,000 in 1988-89 and stands at \$27,500 in 1990-91. These funds have rarely been used, and have not been used at all since 1987.

Regular Police Commission Functions

The Police Commission meets weekly, on Tuesday afternoon. The public meeting is normally followed by an executive session. Among the functions handled regularly by the Police Commission at its weekly meetings are the following.

Discipline

The Police Commission receives summaries -- prepared by the Department -- of disciplinary actions against sworn officers and civilian employees involving charges of improper tactics, excessive force, discourtesy, or other significant misconduct carrying a suspension of five days or more. The Police Commission itself cannot impose discipline on sworn officers. By law discipline of sworn officers is reserved exclusively for the Chief (subject to Board of Rights procedures and other limits on his discretion). Accordingly, the summaries received by the Police Commission are advisory only.

Moreover, the summaries themselves do not encourage involvement by the Police Commission in discipline issues. They consist of a single, brief paragraph on each incident, describing the incident superficially and without any background detail. The incidents are not sorted by type, officer, or division, making it difficult for the Police Commission to spot trends or problem areas. The Police Commission does not have adequate time or resources to analyze the summaries and look for patterns.

The Police Commission only receives the summaries about once a month, and they are not current. The summary for the period ending December 7, 1990 -- which was not received by the Police Commission until March 11, 1991 -- included reports on complaints dating back as far as January 1990. In some instances the Police Commissioners do not learn of serious disciplinary matters until months, or even years, after the fact.

This system of reporting makes it impossible for the Police Commission to monitor systematically the discipline imposed by the Chief in use of force and other cases. A number of witnesses before the Independent Commission testified that the Department treats dishonesty and substance abuse among its officers more severely than excessive force. It is appropriate for the Police Commission, as the head of the Department, to establish the policy that excessive force should be treated no less seriously than other forms of misconduct. But if the Police Commission cannot monitor disciplinary decisions, then it has no effective way to ensure that its policies are followed.

*Use of force*¹⁷

The Police Commission adopted the current system for reviewing officer-involved shootings and certain other use of force cases after the controversy that followed the fatal shooting of Eulia Love by two police officers in 1979. Under this system, certain use of force incidents are examined by the Department's Use of Force Review Board and the Chief. The Chief's reports on these incidents are reviewed by the Police Commission's staff and the one Police Commissioner who serves as the use of force subcommittee, and are then presented to the Police Commission in its executive session.

The Police Commission can adopt the findings of the Chief as to whether an incident is "in policy" or "out of policy," overrule those findings, or request that the Chief reconsider his findings or that the Department investigate

the incident further. Because its resources are limited and it has no investigators of its own, the Police Commission normally must rely on the Department's internal investigation. The Police Commission's findings on these use of force cases are final, but the decision whether to impose discipline for use of force the Police Commission determines to be "out of policy" is made by the Chief alone.

One problem with this system is that there are no well-defined criteria that trigger the Police Commission's review. Currently, the Police Commission reviews all incidents involving discharge of a firearm; all in-custody deaths, and all deaths that resulted from, or were somehow involved with, law enforcement related activity. But it is unclear whether cases involving serious but non-fatal injuries inflicted by something other than a firearm -- which were intended to be covered by the Eulia Love report recommendations -- actually come before the Police Commission. Some members of the current Police Commission staff believe that if the Rodney King beating had not achieved notoriety through repeated broadcast of the Holliday videotape, the Police Commission probably would not have known about the incident at all. However, this view is disputed by a former Police Commissioner who was heavily involved in reviewing use of force cases.

Although the Police Commission does not participate directly in discipline of sworn officers, the Eulia Love report ordered the Chief to report his discipline recommendations to the Police Commission in serious use of force cases *before* imposing any discipline. This procedure was designed to promote a more efficient and consistent disciplinary process by allowing the Police Commission to play some role in the consideration of disciplinary issues in significant cases affecting the public interest, while still granting the Chief exclusive authority to impose discipline. This system, however, was never put into practice. Once the Police Commission has made its finding, it hears nothing more about a use of force case until after the disciplinary decision has already been made and implemented.

Other than reports on the use of force cases it reviews, the Police Commission regularly receives no other information concerning use of force. It has no access to personnel complaint forms or the use of force reports filed by officers. The Independent Commission's analysis of use of force problems contained in this Report was performed using data provided by the

Department. The Police Commission, as head of the Department, must have access to that data as well as the resources to analyze it. But some past and present Police Commissioners have testified that the Department's general practice is to make as little information as possible available to the Police Commission, and to comply with the Police Commission's information requests only after much delay and resistance. The Police Commission can enforce its requests only at the cost of provoking a confrontation with the Chief. Indeed, past Police Commissioners indicated that the Police Commission was able to obtain the discipline summaries themselves only after persistent requests and repeated objections from Chief Gates. Nor does the Police Commission have the resources to analyze what information it does obtain. As a result, the Police Commission is unable effectively to monitor the Department's use of force or to make policy recommendations.

Grievances

The Police Commission provides the final internal review for grievances of both sworn and civilian Department employees, who may appeal to the Police Commission if they are dissatisfied with the Chief's resolution of their grievance. Typically, the grievances that come before the Police Commission involve decisions not to promote the grievant. The Police Commission usually has from 15 to 20 grievances pending at any one time, and the staff analyst responsible for reviewing them is occupied with that task virtually full-time.

Promotions

Other than hearing grievances, the Police Commission's role in the promotion process is limited. One Police Commissioner sits on the interview panel for the Deputy Chief examination, a practice instituted in recent years to give the Police Commission more of a role in the Department's management decisions. The actual promotional decision, however, is made by the Chief.

Complaints

The Police Commission plays no role in the receipt, investigation, or resolution of complaints from the public. On occasion, the Police Commission receives complaints by telephone, letter, or personal appearance at a Police

Commission meeting. Because the Police Commission lacks the resources to investigate these complaints, they are simply referred to the Department. In cases brought to its attention at a public hearing, the Police Commission does occasionally ask the Chief to investigate and report the results.

Budget Oversight

Although the Police Commission is responsible for reviewing and approving the Department's annual budget, it has insufficient resources to participate meaningfully in the budget process. To the extent that past Police Commissions have made a significant contribution to the process, they have done so only when individual Police Commissioners were willing to devote substantial time to working with Department personnel on budget matters.

Intelligence

In 1984, the City Council, with the Police Commission's concurrence, entered into a consent decree settling a number of lawsuits that alleged illegal intelligence activities by the Department. As part of the consent decree, the Police Commission agreed to conduct "detailed periodic reviews" of those divisions of the Department charged with intelligence work. The guidelines adopted pursuant to the consent decree require that these reviews be annual; they are presently performed by the Police Commission staff analyst who is also responsible for grievances, along with the two Police Commissioners on the intelligence audit subcommittee and a representative from the City Attorney's office. The Police Commission staff told us that the review process is approximately one year behind, and one Police Commissioner on the intelligence audit subcommittee indicated that he is having difficulty obtaining access to some intelligence files, which the Department has told him have been transferred to the FBI.

The Police Commission's Permit Function

The City Charter and the Los Angeles Municipal Code give the Police Commission power to grant permits to 56 different types of businesses or activities, generally those the City Council has designated as areas of potential police concern, such as massage parlors and tow-truck operations.¹⁸ The Police Commission's permit function is handled by the Commission

Investigation Division (C.I.D.), a self-contained unit of the Police Commission staff consisting of an LAPD lieutenant and a staff of 47 (17 of whom are police officers). If C.I.D. recommends that a permit application be denied or an existing permit be suspended or revoked, the applicant or permittee can request a hearing before a Police Commission hearing examiner. If C.I.D. or the applicant/permittee disagrees with the hearing examiner's recommendation, the matter must be heard and decided by the Police Commission.

Most Police Commissioners and other witnesses have criticized the amount of time the Police Commission devotes to permit matters. Not only would the Police Commissioners' time be better spent reviewing policy issues, but also substantial portions of Police Commission meetings -- which represent the public's opportunity to participate in discussions of Department policy -- are consumed mainly with matters of only tangential public interest. Accordingly, most of the witnesses who testified before the Independent Commission on this subject recommended that the Police Commission's permit function be delegated or transferred to another body.

Police Commission Involvement in Policy Issues

During the early years of Chief Gates' tenure, the Police Commission took an active role in debating and deciding issues of Department policy -- often prompted by events of particular significance or notoriety. During the late 1980s, in contrast, the Police Commission was far more passive in its relationship with the Department.

Shooting Policy

In September 1977, the Police Commission adopted a policy restricting the circumstances under which officers could use deadly force or could draw or exhibit their firearms. Adoption of the shooting policy marked the beginning of a period during which the Police Commission attempted -- more assertively than at any time before or since -- actively to exercise its civilian oversight powers. This period, which ended in approximately 1984, was characterized by frequent battles between the Police Commission and the Chief over the adoption and implementation of new policies for the Department.

Eulia Love

On January 3, 1979, two officers fatally shot Eulia Love, an African-American woman, in a confrontation that received widespread publicity. Chief Gates found that the shooting was in policy and determined that no discipline should be imposed on the two officers. Following a public outcry, the Police Commission conducted its own investigation of the shooting. Because the Police Commission did not have staff available to conduct the investigation, it had to obtain special funds from the City Council in order to hire a team of outside investigators and consultants. In its report the Police Commission determined that the shooting was out of policy, but concluded that because the Chief had already decided no discipline was necessary, any disciplinary action would violate the officers' due process rights.

The Eulia Love report adopted significant reforms in the Department's procedures concerning use of force. However, some of these reforms -- for example, that the Police Commission employ special hearing officers, special counsel, and temporary investigative staff to investigate use of force incidents where necessary -- were never implemented. In particular, the report stated that the Police Commission required two additional full-time permanent staff members who would be hired directly by the Police Commission independently of the Department and the civil service system. This was never done. The report also stated that in serious use of force cases, the Chief should report any intended disciplinary action to the Police Commission before implementing it. Again, this procedure has not been followed. The Chief makes his disciplinary decision without informing or consulting the Police Commission.

The Eulia Love report generally was hailed as a sign that the Police Commission was reasserting civilian control over the Department. In fact, the Eulia Love incident illustrates both the potential and the deficiencies of Police Commission oversight of the Department. The Police Commission was able to draw on a widely-publicized shooting to improve to some extent the Department's handling of serious use of force cases and to reform use of force training. But it could not do so without requesting special funds for investigators and consultants. And once the policies were formulated, they could not be implemented unless the Department agreed to follow them. In those instances where the Department opted to follow a different course, there

was nothing the Police Commission could do short of forcing a major confrontation with Chief Gates -- a divisive step the Police Commission chose not to take.

Chokehold

The chokehold issue was brought before the Police Commission in the early 1980s by City Council members and concerned individuals who felt that the chokehold was being disproportionately applied in minority communities. The dispute was prompted by the deaths of up to 16 persons, mostly African-American, between 1975 and 1982 due to use of the chokehold. In May 1982, Chief Gates recommended that the Department abandon use of the "bar-arm" hold, the more dangerous of two chokeholds that the Department had been using. The Chief advocated continued use of the "modified carotid" chokehold. Instead, the Police Commission imposed a moratorium on both chokeholds, but eventually allowed the "modified carotid" hold to be used to counter a threat of serious injury or death. That policy is still in place today.

Public Disorder Intelligence Division

The early 1980s were marked by disturbing new revelations that the Department's Public Disorder Intelligence Division ("PDID") was engaged in improper intelligence activities, including keeping files on public figures and infiltrating political organizations. In 1983 and 1984, the Police Commission conducted an investigation into the PDID and concluded that improper practices within the division were the responsibility of "top sworn management" of the Department, "including past and present assistant chiefs and chiefs of police." Although the Police Commission decided in 1983 to abolish the PDID and replace it with the Anti-Terrorist Division, which is subject to stricter oversight by the Police Commission and the City Attorney's office, the Police Commission declined to take any disciplinary action in connection with the PDID.

Justice for Janitors

On June 15, 1990, approximately 100 police officers clashed with 400 striking janitors and their supporters (members of organized labor's nationwide

"Justice for Janitors" campaign) in Century City. As a result of this violent confrontation, 40 marchers were arrested and at least 16 were injured.

— On June 18, 1990, Mayor Bradley requested that the Police Commission investigate the incident. Because the Police Commission did not have an investigator on its staff who could be assigned this task, a Police Commissioner personally conducted the investigation with the assistance of the Commanding Officer. The Police Commission's report, issued on November 20, 1990, recommended that Department policy regarding labor disputes be expanded in certain respects and that Department personnel receive updated training on the handling of demonstrations. These policy changes reportedly are being implemented. As to charges that excessive force was used during the incident, the report concurred with certain criticisms made by the Department in its use of force review.

39th and Dalton

On August 1, 1988, 88 police officers were involved in a drug raid on four apartments in the 3900 block of Dalton in which extensive property damage was inflicted. In contrast to its approach to the Eulia Love shooting and the PDID, the Police Commission did not undertake any investigation of the raid despite widespread publicity and controversy. Indeed, the Police Commissioners were kept only marginally informed on the progress of the Department's own investigation. The 39th and Dalton raid, and the Police Commission's failure to investigate or exercise any oversight in the aftermath of the raid, prompted some -- including City Council members -- to express serious doubts about the Police Commission's effectiveness in providing citizen oversight of the Police Department.

The King Incident

The King beating, which is discussed in detail in Chapter I, occurred on March 3, 1991. Following the incident, the Police Commission began an investigation. On April 4, 1991, three Police Commissioners met with Chief Gates and placed him on inactive duty, effective immediately, pending the outcome of the Police Commission's investigation. This order was quickly overturned by the City Council and has resulted in extensive litigation.

On May 1, 1991, in the course of the litigation, an attorney for several civil rights organizations revealed that Commissioner Lomax had supplied him with a copy of a letter in which the City Attorney's office had given legal advice to the Police Commission, and which the Police Commission had claimed was protected by the attorney-client privilege. This disclosure prompted criticism from several City Council members and led Police Commission President Garcia to question whether the incident had damaged the Police Commission's credibility. In his subsequent opinion, Superior Court Judge Ronald Sohigian expressed the view that the incident did not "inspire uncritical confidence in the conduct of the members of the Board."¹⁹

On May 7, 1991, Police Commission President Garcia resigned, citing "significant questions over the perceived integrity of the Police Commission and the prospect of continued internecine warfare among members of [the City's] municipal government." He faulted the City Council for interjecting itself into Police Commission business, both by settling the Gates lawsuit and by refusing the Police Commission funds to investigate the management of the Department in the wake of the King beating. Garcia stated that it would be difficult for anyone to serve on the Police Commission in a meaningful capacity until the "rules of the game" with respect to citizen oversight of the Department were "straightened out."²⁰ In recent interviews, members of the City Council have told the Independent Commission that the Police Commission, as currently constituted, lacks credibility both because of its hasty action in placing Chief Gates on inactive duty and because of the disclosure of the City Attorney opinion.

STATUS AND ROLE OF THE CHIEF OF POLICE

Powers and Duties of the Chief

The Chief of Police is the general manager and chief administrative officer of the Police Department.²¹ His powers and duties are coextensive with the Police Department's mandate to enforce the law and maintain public order.²² He is responsible for instructing and managing the Department's sworn police officers (the Department currently includes approximately 8,450 sworn and deployed officers) and civilian employees (currently numbering 2,672).²³ His

regular duties include interpreting Police Commission policy directives and initiating procedural manuals for police officers.²⁴

The Chief is assisted by an executive staff composed mostly of police commanders and deputy chiefs. Chief Gates personally selects officers for promotion to these ranks. At present, the Police Department has seven deputy chiefs (two of whom, David Dotson and Robert Vernon, currently hold the higher pay grade position of Assistant Chief), and 17 police commanders. Although the Police Department's budget currently would support three assistant chiefs, the Chief exercises complete discretion in determining whether to fill some or all of these positions and, if so, whom to promote from among his deputy chiefs.

The Chief has power to control the conduct of the Department's police officers and civilian employees through his exclusive Charter authority to initiate discipline.²⁵ The Chief's control over the discipline ultimately administered is checked, however, by three legal constraints: (1) the Charter's civil service provisions, including the Board of Rights procedure governing suspension or discharge of sworn officers; (2) the right of sworn officers to an administrative appeal from any "punitive action" under the California Public Safety Officer's Procedural Bill of Rights Act (the "Police Officer's Bill of Rights");²⁶ and (3) the constitutional rights of all tenured civil service employees to procedural due process before suspension or discharge.²⁷

Although each of these legal constraints creates procedural and substantive hurdles for the Chief in enforcing disciplinary action, the most burdensome is the Charter's Board of Rights procedure. The Charter precludes the Chief from initiating discipline based upon conduct occurring more than one year earlier, and entitles an accused officer to a full hearing before a Board of Rights composed of three high ranking police officers.²⁸ The Board of Rights may find the officer not guilty of the misconduct charged and overturn the Chief's disciplinary order.²⁹ Even if the Board of Rights finds misconduct, it may reduce the Chief's prescribed penalty.³⁰

Selection and Appointment of the Chief

The Police Commission has exercised its Charter authority to appoint a Chief of Police four times since 1950, beginning with William Parker, the first LAPD Chief to hold office through successive mayoral administrations.

Following Chief Parker's death in 1966, the Police Commission appointed Tom Reddin, who served three years before leaving the Department for employment in the private sector. Ed Davis took office in 1969, announced his retirement in 1977, and departed in January 1978 to pursue a political career. In 1978, the Police Commission appointed Daryl Gates.

The Police Commission selects the Chief from among the top competitors in a civil service examination administered by the Personnel Department at the direction of the Civil Service Board.³¹ Within the Charter's parameters, the Civil Service Board is free to instruct the Personnel Department to recruit and test applicants for particular job vacancies in whatever manner the Board deems appropriate.

The 1977 civil service competition leading to Chief Gates' appointment was controversial. For the first time in history, the Civil Service Board opened the competition to applicants outside the LAPD despite stiff opposition, particularly from within the Police Department.³² Since 1977, the Civil Service Board routinely has authorized open competition for other top city manager positions. To facilitate open competition, the Personnel Department now has a division specializing in nationwide executive searches and recruitment.

The Civil Service Board commonly authorizes interview-only examinations for top management positions, including, most recently, the 1991 examination for the position of police deputy chief. The Civil Service Board, with guidance from the Personnel Department, exercises complete discretion in selecting interview panels. Interview panels for top management positions consist of respected community leaders, including professionals and academics in relevant fields.

Upon conclusion of a civil service examination, the candidates are scored and the Civil Service Board certifies those eligible for consideration. Outside candidates are severely disadvantaged in this process by a Charter provision that precludes certification of any outside applicant unless he or she scores higher than the highest scoring inside applicant boosted by seniority points.³³ Thus, if the top score (including seniority points) is earned by an inside candidate, then only insiders will be certified -- even if some have lower scores than some outside candidates.

The Civil Service Board ameliorated this limitation somewhat in 1986 when, with the Police Commission's support,³⁴ it amended the seniority rules to

reduce the credit allowed in competitions for management positions from 25 to 10 points per year, with an overall cap of 1.0 points. Candidates for the positions of police captain and above are subject to this cap.³⁵

Discipline and Removal of the Chief

As discussed previously in connection with limitations on the Police Commission's power to hold the Chief accountable, the Chief's civil service status requires the Police Commission to initiate a full scale adversary proceeding in order to suspend or remove him from office.³⁶ These protracted, cumbersome procedures are set forth in Section 202 of the Charter, which declares the Chief's job to be a "substantial property right" from which he cannot be suspended or removed except:

for good and sufficient cause shown upon a finding of "guilty" of the specific charge or charges assigned as cause or causes therefor after a full, fair and impartial hearing before the [Board of Civil Service Commissioners].³⁷

In order to suspend or remove the Chief, the Police Commission must charge him with misconduct in a sworn complaint setting out the facts supporting the charge.³⁸ No charge may be based upon conduct occurring more than one year earlier.³⁹ The Chief can require the Police Commission to prove its charges in a hearing before the Civil Service Board at which the Chief may cross-examine the witnesses against him.⁴⁰ If the Civil Service Board finds the Chief guilty as charged, it must prescribe a penalty of reprimand, suspension, or discharge, which the Police Commission may reduce, but not increase.⁴¹

At any phase of the proceedings against him, the Chief may seek a writ of mandamus in the superior court to remedy any perceived violation of the Charter's prerequisites, as Chief Gates did in challenging the Police Commission's attempt to place him on inactive duty. Further, because the Charter declares the Chief's job to be a "substantial property right," he may challenge the proceedings against him in state or federal court to prevent any violation of his constitutional, procedural due process rights.⁴² Finally, if a penalty is imposed at the conclusion of the Section 202 proceedings, the Chief may file suit in the superior court.⁴³

Even if the Police Commission were undaunted by the procedural hurdles to removing the Chief, the Charter offers little guidance on the substantive

grounds sufficient to support such action. A Charter provision that pre-dates the 1937 amendments giving the Chief civil service protection states the following grounds for removal of general managers:

[t]he board may issue instructions to the general manager of its department concerning his exercise of any of the powers conferred upon him by this charter. Failure on his part to comply with such instructions, or incompetency, dishonesty, discourtesy, or neglect of duty shall constitute adequate grounds for his removal by said board.⁴⁴

Although the City Attorney has opined that these grounds are not exclusive,⁴⁵ it is uncertain whether the Chief lawfully could be removed for the actions of others under his command or for lack of confidence in his management.⁴⁶

The Independent Commission has heard testimony from several witnesses who criticized the present management of the Police Department for, among other things, a lack of command accountability, communication, and clear direction at the highest levels. Yet, under civil service standards, it is questionable whether these management problems, if true, would constitute sufficient "good cause" for removing the Chief.

Political Activity of the Chief

The Police Chief's right to endorse candidates is protected by state law. The political activity of civil service employees cannot be limited unless federal law requires otherwise. In addition, the Police Officer's Bill of Rights provides that, except while on duty or in uniform,⁴⁷ the right of police officers to engage in political activity cannot be restricted.

Although the Chief has the legal right to make political endorsements while off-duty and out of uniform, Chief Gates' exercise of this right has caused some controversy. In 1984, several Police Commissioners criticized Chief Gates' endorsement of then District Attorney Robert Philiposian, who was running for reelection. At that time, one Police Commissioner expressed the view that the endorsement politicized the Department, damaged officer morale, and undermined public confidence in the Department's impartiality and objectivity.

Chief Gates' recent endorsement of City Council member Hal Bernson for reelection raised similar issues. A newspaper survey of eight other big city police chiefs conducted after the Bernson endorsement found that, regardless

of their legal right to do so, almost all of the chiefs believe that a police chief should refrain from making political endorsements under any circumstances.⁴⁸

In his testimony before the Independent Commission, Chief Gates agreed, saying that he had endorsed Council member Bernson because he was "angry" that the endorsement was "improper," and that the practice of making such endorsements "should be discouraged."

The Police Commission's Relationship With Chief Gates

Selection and Appointment of Chief Gates

Although the 1977 civil service competition for the Chief's job was open to outside applicants, the only candidates ultimately certified for the Police Commission's consideration were career LAPD officers. The Police Commission could not legally consider the competitor with the highest examination score -- an outsider, the Chief of Police of Santa Monica -- because Daryl Gates beat his score with the addition of 3.15 seniority points. Applying the Charter's former "rule of three,"⁴⁹ the Civil Service Board certified only the three top scoring inside candidates: Daryl Gates, Robert Vernon, and Charles Reese.

The careers of the three final contenders before the Police Commission were notably similar. Daryl Gates, 51, had served on the force for nearly 29 years, the last eight as an assistant chief.⁵⁰ Both Robert Vernon, 44, and Charles Reese, 50, had been LAPD officers for 23 years and had achieved the rank of deputy chief.

Upon his appointment, Chief Gates anticipated conflict with the Police Commission. At gatherings celebrating the new Chief, various Police Commissioners spoke forcefully of a need for change and improvement in the Department's flexibility and priorities.⁵¹ The new Chief, on the other hand, did not foresee immediate change in the Department and regarded the Police Commissioners as "not an easy group."⁵² Although Chief Gates said that he would "do his utmost to get along" with the Police Commissioners, he warned that "[s]ure I'm going to take issue with them, I've already told them that and they know that."⁵³

Annual Performance Review of Chief Gates

In 1986, the City Council adopted a Merit Pay Plan for General Managers⁵⁴ designed to link compensation to management performance. Under the Plan, the Police Chief is rated by the Police Commission, the Mayor, and an Executive Employee Relations Committee composed of selected City Council members and chaired by the Mayor. The Council uses these ratings to support its biennial decision on whether to adjust the Chief's salary.

Through a perfunctory and routine process, the Police Commission documents its assessment of the Chief's performance on a form provided by the Mayor's office. The Chief's staff drafts the Chief's performance goals and self-evaluation. The President of the Police Commission, occasionally with input from other Police Commissioners, assigns performance ratings. The form is returned to the Mayor's office and, presumably, a copy makes its way into the Chief's personnel file.

Former Police Commissioners concede that the Police Commission has not used this rating process to evaluate the Chief's performance critically and has given him high marks as a matter of course. From 1986 through 1990, the President of the Police Commission gave the Chief the highest possible rating for each category on the form -- "outstanding" or an equivalent. One Police Commissioner described the performance review as no more than "a feel good session" between the Chief and the Police Commission.

Despite the many differences of opinion publicly expressed between the Mayor and the Police Chief, the Mayor also has given the Chief high ratings in the salary review. The City Council has followed suit, awarding the Chief (and three other general managers) higher raises than were awarded to any other general managers for the period beginning January 1, 1991.⁵⁵

Discipline of Chief Gates

In the more than 13 years that Chief Gates has held office, the Police Commission twice has attempted to take formal disciplinary action against him, and once succeeded. The Police Commission's first action was its official reprimand of the Chief in June 1982 for insensitive remarks, specifically citing his comment that when the chokehold is applied to African-Americans "the veins or arteries do not open up as fast as they do in normal people."⁵⁶ One former Police Commissioner revealed that the Police Commission chose to

issue a reprimand in the belief that no disciplinary hearing or appeal would be required. The Police Commission's second action was its unsuccessful attempt on April 4, 1991, to place Chief Gates on inactive duty pending an investigation of potential charges against him arising out of the Rodney King incident.

THE LAPD'S RELATIONSHIP TO OTHER ENTITIES OF CITY GOVERNMENT

In the course of carrying out their responsibilities under the Charter, both the Police Commission and the Chief have varying degrees of interaction with the City's elected officials.

The Mayor

The Mayor has no authority over the Police Department or the Chief except by appointment of members of the Police Commission. Like previous mayors, Mayor Bradley, sometimes has appointed friends or political allies to the Police Commission; but he also has appointed persons who were neither. Many of Mayor Bradley's appointees have been people of prominence and stature, leaders in the business and legal communities. Several former Police Commissioners told the Independent Commission they received little direction or assistance from the Mayor, either at the time of their appointment or after; one told us he assumed he was appointed because the Mayor wanted a less confrontational Police Commission, but he never was told so directly. Although the Mayor's granting of free rein to his appointed Commissioners is commendable in one sense, his unwillingness over the years to exert more leadership using the inherent powers of his office has contributed to the Police Commission's ineffectiveness.

The Mayor for his part testified about his frustration with the Police Commission's and his own lack of real authority over the Department and the Chief, especially because the public nonetheless holds the Mayor accountable for the Police Department. In his view, if a Chief ignores direction from the Police Commission, "there is no way to rein him in," which is the reason Police Commissions have been ineffective.

A liaison from the Mayor's office attends Police Commission meetings and also interacts directly with the Chief; but here, too, the effectiveness of the

relationship with the Department depends on the voluntary cooperation of the Chief. The Mayor also participates in the biennial merit pay review of the Chief, but again -- like the Police Commission and the City Council -- he has not used the process to evaluate the Chief critically.

The City Council

The Charter does not assign the City Council particular oversight or control of the Police Department. The Council does, however, have a panoply of powers available by which can influence the administration of the Department, such as its control over litigation (which includes the power to settle all lawsuits against the City) and its new powers under Charter Amendment 5. The Council has been involved in approving many substantial settlements arising out of alleged police misconduct, in many instances apparently without extensive consideration. A more systematic review of this litigation might have prompted the Council to look more critically at the Police Department and consider adoption of corrective measures.

The Council also can influence the administration of the Department by exercise of certain other powers. First, the Council can exert control through the budget process by allocating to or withholding from the Department general funds. By line item detail the Council can specify programs being funded, numbers of officers assigned to programs, or equipment being purchased for various uses.

Second, the City Council formally reviews the Chief of Police in the course of its biennial determination of salary changes. As indicated above, the Council has not used this process to evaluate critically either the Chief or, through him, the Department.

Third, through the process of confirmation of the Mayor's appointments to and removals from the Police Commission, the City Council has an advise and consent role in the constituting of the Police Commission. Some members of the Council have expressed the view that the confirmation process has not involved sufficiently close scrutiny of Police Commission designees, and in light of the recent conflict between the Council and the Police Commission, far more careful scrutiny is likely in the future.

Fourth, the exercise of the traditional legislative power to conduct hearings and studies also provides a means for review of the Department. In fact, the

Human Resources and Labor Relations Committee and the Public Safety Committee of the Council each is in the process of developing recommendations that ultimately are expected to go before the full City Council for consideration.

Finally, Council offices maintain communications with members of the Department from police captains to the Chief of Police, covering such community issues as narcotics, vice, and other criminal activity appearing in their neighborhoods.

The City Attorney

The City Attorney serves as legal counsel to the City Council, the Police Commission, and the Chief.⁵⁷ The City Attorney must represent the City in all litigation in which it has an interest, and must represent officers of the City such as the Chief and the Police Commissioners when directed to do so by the City Council.⁵⁸ The City Attorney also serves as legal adviser to the Police Department and the Police Commission. It does not, however, because of potential conflicts with its role in defending the City in civil suits, handle criminal charges against police officers. All such matters are referred to the District Attorney.

Courts have held that the City Attorney's current varied responsibilities do not present a legal conflict of interest.⁵⁹ In practice, however, conflicts can sometimes develop. For example, the City Attorney advised the Police Commission as to the proper procedures for placing Chief Gates on inactive duty, and subsequently acted as counsel to the City Council in its successful attempt to rescind the Police Commission's order to that effect.

In addition, witnesses have told the Independent Commission that the Police Commission is insufficiently informed about civil litigation involving the Department. For example, the Police Commission did not learn of a recent multi-million-dollar settlement in a case involving a police shooting until after the settlement.

RECOMMENDATIONS

The Police Commission should exercise citizen oversight and control over the Police Department, while also functioning as a buffer against improper political influences. The existing Charter structure, however, no longer strikes a

proper balance between the desire to protect the Chief from corrupting political pressure and the need to retain a reasonable measure of public control of the policing function. The Police Commission -- while given broad authority over the Department and its Chief -- has neither the resources nor the real power to perform effective oversight and control. The Police Commission must be provided with adequate staff resources and the ability to hold the Police Chief accountable for following and implementing its policy directives. It cannot exercise its authority meaningfully when its powers to select a new Chief or discipline or remove a recalcitrant one are severely constrained by complex and burdensome civil service procedures.

The recommendations that follow are designed to remedy the existing imbalance. These recommendations must be viewed as an integrated whole to work properly. To achieve their intended effect, they must be taken together. To grant the Police Commission substantial additional staff, for example, would be largely for naught if the Police Chief remains overly insulated from accountability to the Police Commission and the public.

As discussed in Chapter 9 of this Report, we also recommend that the Police Commission be assigned a direct, major role in handling citizen complaints against police officers and employees. Citizens must believe they can lodge complaints that will be investigated and determined fairly, and steps must be taken to head off costly lawsuits against the Department.

Our recommendations to accomplish these objectives fall into three categories: (a) those dealing with the Police Commission itself; (b) those dealing with the Chief of Police; and (c) those specifically relating to citizen complaints, already discussed in Chapter 9. To the extent the Charter must be amended to implement any of these recommendations, we have so indicated. We also recommend that, in view of the importance of the Police Commission's oversight responsibilities and to avoid undermining its ability effectively to carry out its special role, Charter Amendment 5 be modified to exempt the Police Commission from its provisions. We note that under the reforms described below, the City Council will still retain an important role in oversight of the Police Department in that its approval will be required in order to remove the Chief of Police before the expiration of his term. Finally, we suggest that the Police Commission -- which under current law has no standing to sue -- be given

legal standing to seek judicial relief when necessary to carry out its oversight function.

Recommendation 1: The Police Commission

The Police Department should continue to be under the general oversight and control of a citizen Police Commission, responsible for setting overall Department policies and monitoring their implementation, and for reporting annually to the Mayor and the City Council on the state of the Department. The Police Commission should remain a five-member, part-time body. Police Commissioners should reflect the City's diversity, and be persons of stature and experience with the ability to make balanced, fair-minded judgments and to act constructively and decisively. Police Commissioners should serve a maximum of five years, with staggered terms; and no one should serve more than two consecutive years as President. Police Commissioners' compensation should be increased substantially to reflect the importance of the position and the significant time commitment required.

The Police Commission's independent staff should be increased and placed under the direction and control of a civilian Chief of Staff, a general manager-level employee selected by and reporting directly to the Police Commission and responsible for managing the Police Commission's oversight function. Most, if not all, of the additional staff should be civilian employees with expertise in areas most useful to the Police Commission, including management auditors, computer-systems data analysts, investigators with law enforcement experience, and attorneys.

The Police Commission's permit function should be reassigned to another body, either inside or outside the Police Department.

DISCUSSION OF RECOMMENDATION 1:

Citizen oversight

The people of Los Angeles want a strong, effective, corruption-free Police Department; but they also want this quasi-military organization to remain ultimately subject to citizen control, just like other police departments throughout the country and much as the nation's military is ultimately headed

by civilians. Although one mechanism for such control would be to make the Department, through the Chief, directly accountable to the Mayor or the City Council or both, the public historically has chosen to interpose a voluntary part-time group of citizens to buffer and constrain what has been viewed as the potentially corrupting influence of "politics" on the Department.

The citizenry also opted to place the police chief position under civil service, a status that has provided the Chief with substantial insulation from outside influences, but -- unfortunately -- insulation also from effective control by the Police Commission. It is to restore the intended balance of power between the Police Commission and Chief that we are recommending the combination of changes relating to the Police Commission itself, as well as to the civil service provisions affecting the Chief, discussed below.

Further, by requiring the Police Commission to report annually on the state of the Department, we create a mechanism whereby the Mayor, the City Council, and the public at large can judge the performance of the Department and its management. In this fashion, those responsible for the City's police services can discuss policies and practices in the open -- and with accountability.

Part-time Police Commissioners

A number of witnesses suggested that the Police Commission has too much responsibility to function effectively with part-time members, and thus either the entire Police Commission should serve full time (like the Board of Public Works), or at least the Police Commission's President should serve full time during his or her term as President. We are persuaded, however, that this approach would create more problems than it would solve and would risk diminishing the pool of talented persons able to serve on the Police Commission. Despite their part-time status, several Police Commissioners over the past two decades have devoted substantial time and energy to their Police Commission duties. Accordingly, we recommend that the Police Commissioners continue to serve part-time, with the understanding that a substantial time commitment is required. We also recommend that the important structural changes detailed below be adopted to make Police Commissioners more effective.

Qualifications

Whatever structure might exist, the Police Commission is only as strong and effective as its membership. Service on the Police Commission has two important components: first, to bring to the Police Commission various experiences and viewpoints representative of this diverse City; second, to develop and oversee policies of the Department, acting primarily through the Chief. It is imperative therefore that persons appointed to the Police Commission have the stature, experience and character to oversee the Department and command respect.

The Police Commission should be reasonably diverse in terms of race, ethnicity and gender. An overriding qualification for appointment should be a demonstrated ability to make balanced judgments. The Police Commission tends to act as a collegial body in developing policies and overseeing Department operations; both to achieve consensus among themselves and to relate to others in authority -- including the Chief, the Mayor and the City Council -- Police Commissioners need to be decisive but fair. Recklessness or insensitivity on the part of any Police Commissioner can undermine the effectiveness of that Commissioner and perhaps the entire Police Commission. Witnesses have emphasized that Police Commissioners are expected to be strong-willed people, given the nature and responsibilities of the position; but, equally, the only way Police Commissioners and the Police Commission itself can succeed in exercising authority with strength is to be perceived as acting diligently and fairly.

Tenure limits

The Charter already provides for five-year, staggered terms for Police Commissioners; but in practice mayors have altered both the sequencing and tenure of appointments to suit their respective agendas for governing the City. We believe mayors should have some flexibility in their appointments (which are in any event subject to City Council confirmation); but we have been persuaded by witnesses who believe that the Police Commission functions best if there is new leadership on a regular basis, and that a policy of a five-year maximum term is appropriate. Experience teaches that Police Commissioners bring a great deal of energy to the demanding requirements of the Police Commission, but that sheer pressures of time and other commitments tend to

erode a Police Commissioner's effectiveness over time. Similarly, a policy of a two-year term limit on the Presidency is designed to assure healthy turnover in this important position. Police Commissioners would continue to be appointed and subject to removal by the Mayor, with the City Council's concurrence.

In recommending term limits for both Police Commission and presidential tenure, we are mindful of the need for continuity, time to develop knowledge about the Department, and the desirability of getting the best from the talented persons who serve on the Police Commission. But we are equally concerned about Police Commissioners losing their objectivity and creativity.

Compensation

Although Police Commissioners serve part-time, the amount of time required to do the job adequately is substantial, typically involving many hours beyond the weekly half-day Tuesday meetings. Analogizing again to a corporate board of directors, we recommend that the Charter be amended to enable Police Commissioners to be compensated much like outside directors. Approximately \$1500 per month seems reasonable, and consistent with the high level of public trust and responsibility demanded by the position, and the special importance of the Police Commission's oversight role. We also emphasize that Police Commissioners should not only attend the Police Commission's weekly meetings, but keep fully abreast of Department affairs so as to discharge effectively their oversight responsibilities.

Chief of Staff

Witnesses have been unanimous that the Police Commission cannot discharge its functions without more staff support. Currently the Police Commission's five-member staff is headed by a sworn officer at the commander level. Implying no criticism of those who have held the position, we believe the Police Commission should have a Chief of Staff who is ultimately accountable to it, rather than the Chief of Police, as is the case with sworn personnel, and who will directly manage a Police Commission staff enhanced with personnel sufficient to make the Police Commission an effective oversight and policy making body. The need for such a Chief of Staff and support staff is driven by the part-time status of the Police Commissioners, by the need for independent oversight capability, and -- assuming citizen complaints are

brought under the Police Commission's jurisdiction -- by the requirements of that complaint process.

The Chief of Staff should be a general manager-level employee, exempt from civil service, but recruited and interviewed under the auspices of the City's Personnel Department in cooperation with the Police Commission. The Chief of Staff should be selected by and serve at the pleasure of the Police Commission. All other Police Commission staff would report to the Chief of Staff, including the Commander, who as a sworn officer would continue as an important liaison with the Department. (We recommend against reducing the Commander position to a lower rank until there has been sufficient experience with the chief-of-staff structure.)

Operationally, the Chief of Staff's responsibilities would include managing the Police Commission's agenda; helping to identify, articulate and oversee the implementation of policies; supervising staff review and analysis of Department data and reports (including detection of trends and identification of potential problems or weaknesses); conducting spot management audits of the Department as directed by the Police Commission; and acting as liaison with other City departments and officials (including the Mayor, City Council, and City Attorney's office). The Chief of Staff would be a source of information and historical perspective for the Commissioners, and would marshal resources for individual Police Commissioners carrying out subcommittee assignments, such as use of force reviews or budgeting, or for Commissioners who might be pursuing special projects.

The Chief of Staff would not have any operational authority within the Department itself.

Additional Staff Support

The Police Commission plainly needs additional resources to carry out its oversight and policy-making functions effectively. An example of a highly desirable staff capability, recommended by former Police Commissioners and Chief Gates and confirmed by the Independent Commission's own experience with the analytical resources made available to it, is an ability to use computers and develop software to gather and analyze data. Much of the information made available to the Police Commission comes in summary form, and over periods of time. Only by accumulating and tracking data can trends be

identified and analyzed. For example, had the Police Commission had the staff and other resources to initiate and evaluate inquiries into patterns of complaints and discipline (imposed or not), it might have detected a problem of excessive use of force by certain officers.

Another important staff capability is the ability to conduct spot management audits, comparable to the Chief's own Inspection and Control Section. The Police Commission should have experienced auditors, accountants, investigators (including former police officers from the LAPD or elsewhere), and one or more attorneys to enable the Police Commission to identify problem areas, formulate and verify compliance with Police Commission policies and directives, and carry out ongoing functions (such as intelligence audits) in a timely manner. The Police Commission would be particularly helped by the presence of one or more attorneys on its staff to assist in monitoring citizen complaints and civil litigation. Although the Police Commission and the Police Department would continue to be represented by the City Attorney, a staff attorney could provide independent advice to the Police Commission where necessary, thus ameliorating the problem of practical conflicts discussed above.

The precise number of additional staff should be determined after a more thorough analysis of required staff functions, but we anticipate at least 15 to 20 such positions will be needed (not including persons involved in the receipt of citizen complaints). Specifically, while it should be up to the Police Commission to determine its own staffing needs, it appears to us based on discussions with Police Commissioners and Police Commission staff that staffing requirements would include at least one personnel analyst to handle grievances; a systems specialist to computerize the Police Commission's operations; four to five staff members (including analysts, at least one investigator, and at least one attorney) to assist on use of force, discipline, intelligence, and budget issues, as well as special research projects; an adequate inspection and control staff; and appropriate clerical staff. These staff members would not be Department employees, but would be hired directly by the Police Commission. We also note that while it is vital that the Police Commission not be understaffed, care should also be exercised to avoid creating an overstaffed bureaucracy.

Additional staff also will be needed to assist the Police Commission in carrying out its recommended citizen complaint functions, which have been described in Chapter 9 of this Report. In particular, we recommend that the Police Commission staff include an Inspector General who would be responsible for overseeing the receipt of citizen complaints, monitoring the progress of complaints through the IAD investigation process, and auditing the results of IAD's investigations. The Inspector General would report to the Police Commission under the supervision of the Chief of Staff, and would have a small staff to assist in the performance of duties related to citizen complaints.

Permit Function

There is general agreement that the limited time of a part-time Police Commission would be better spent on matters other than processing and hearing appeals from the Department's grants and denials of permits. The Charter should be amended to move this function to a more appropriate body.

Recommendation 2: The Chief of Police

The Chief of Police, as the chief executive officer of the Department, should be charged with and directly accountable for managing the operations of the Department, setting and implementing goals and policies consistent with the general directions of the Police Commission and delivering effective police services to the community. The Chief, while needing to be more responsive to the Police Commission and the City's elected leadership, also must be protected against improper political influences, but by a system of checks and balances more in keeping with modern municipal government than the present outdated and cumbersome civil service mechanisms. Thus, the selection, tenure, discipline and removal of the Police Chief should be exempted from existing civil service provisions.

The Police Chief should be appointed by the Mayor with the advice and consent of a majority of the City Council. Candidates for Chief should be recruited, tested and ranked through a system of open competition administered by the City's Personnel Department in cooperation with the Police Commission. The Police Commission should select and submit the names of three recommended candidates in ranked order to the Mayor,

who would appoint a Chief from among the three but with the option to request one additional set of three names if the Mayor concluded the initial recommendations were unacceptable.

The Police Chief should serve a five-year term, renewable at the discretion of the Police Commission for one additional five-year term. There should be no property right in or to the position, nor any right to renewal; neither the Mayor nor the City Council should have authority to overrule the Police Commission's decision whether or not to renew the Chief for a second term. The Police Commission should perform a meaningful annual review of the Chief's performance and document its evaluation.

The Police Commission should have the authority to terminate the Chief prior to the expiration of the first or second five-year term, but the final decision to terminate should require the concurrence of the Mayor. The Chief thereafter may request a hearing before the City Council, which may in its discretion overrule the decision by a two-thirds vote.

The Independent Commission recommends that the Chief of Police not endorse candidates for public office.

DISCUSSION OF RECOMMENDATION 2:

Civil Service Status

Two themes emerge in discussions or testimony about the Los Angeles Police Department and its Chief of Police: First, the Department is free of the kinds of systemic corruption that have tarnished police departments in other major cities at various times and that characterized the LAPD before the Charter reforms of the 1930s. Second, because the Chief is selected and then protected in his position according to severe civil service constraints, Chiefs are in-bred and have little accountability to anyone outside the Department.

Elsewhere in this Report we have detailed our findings regarding the operations of the Department, its strengths, and its shortcomings. The Department is justly praised for its honesty; but many perceive the Department to have suffered a growing isolation from the public it serves. A primary cause of this isolation, and an accompanying appearance of insensitivity to the complex and changing dynamics of this diverse community, might well be the

over-protection afforded the Chief of Police by the Charter's civil service provisions. Intended to prevent political corruption and graft, these cumbersome restrictions have in practice muddled the Chief's accountability and defeated citizen control of the Department.

The negative consequences of the civil service status of the Chief are numerous. First, the selection process has effectively excluded competitors from outside the Department. Although the Department has bred talented officers who have risen through the ranks, there is no good reason to exclude from the pool of candidates top officers from other jurisdictions, or other qualified individuals.

Second, incumbent Chiefs are so insulated from discipline by the Police Commission that policy-making and oversight by the Police Commission has vacillated between confrontation and appeasement. A Chief who chooses not to cooperate can find many ways to stall or kill a Police Commission's initiatives short of overt insubordination. The civil service procedures are so elaborate and the grounds for serious discipline so general that they virtually require a major confrontation to justify invoking the process. Moreover, because charges can be based only on conduct occurring within the past year, the ability of the Police Commission to evaluate and take action to correct failures of leadership that emerge over time is severely hampered.

The practical result is that an incumbent Chief of Police becomes a Chief for life or until he or she decides to step aside. Indeed, in testimony before the Independent Commission, Chief Gates was candid in saying that when he became Chief in 1979, his own expectation was to remain for three to five years because "I thought that's going to be enough to be Chief of Police." He also told us that although he had intended to retire after the 1984 Olympics, the circumstances were never right and, like Chief Parker, "probably I've stayed longer than I should." Chief Gates cited his current controversy with the Police Commission as one circumstance impelling him to remain. In the private sector, allowing a chief executive officer having comparable responsibilities to become the sole arbiter of his own tenure would be to risk serious long-range consequences. Even in the public sector, specifically in other police departments, few chiefs of police enjoy the protected status afforded the Chief of the Los Angeles Police Department.

Third, in principle, any organization that has the same chief executive for too long risks stagnation, insensitivity, and the attrition of younger leaders who become frustrated with the lack of opportunity at the top.

It is true that the barriers created by civil service status have helped to protect the Chief against improper political or other corrupt influences. But those protections were never envisioned to be one-sided: the powers and authority of the Police Commission were to have brought balance to the management and control of the Department, offsetting the power the Chief derives by not being directly accountable to the Mayor or the City Council.

The need, therefore, is to find another way to achieve the desired balance, making the Chief accountable to the Police Commission (and ultimately to the citizens of Los Angeles through their elected representatives) without leaving the Chief or the Department unable to defend against corrupting pressures. We believe that in today's world, where so much of the public's business is subject to intensive scrutiny, the Charter can and should be amended to create a proper system of checks and balances without producing lifetime tenure for the Chief of Police.

Appointment and Selection

The selection process should be changed to increase the pool of available candidates and to increase the input of the Mayor and the City Council. In this way the City will be more likely to attract and hire the best talent in the country (which may, in fact, come from within the Department itself), and the City's elected representatives will have some influence over the direction of the Department and the quality of its leadership.

The Personnel Department, in cooperation with the Police Commission, should continue to manage the recruiting and testing functions in the selection process; the Police Commission should be consulted as to the composition of the interview panel. This will assure that potential candidates are selected impartially and fairly. The competition should be open to any candidate meeting the minimum qualifications (such as experience, education, references). No bonus points should be given to LAPD promotional candidates; if there is an advantage to coming from within the Department, that should reflect itself in such candidates' test or interview performances. The objective should be to provide the Police Commission with a list of six or more

candidates, in keeping with the spirit of the rule of "three whole scores," which would no longer be directly applicable.

The Police Commission would, in turn, interview the candidates, select the most qualified, and rank them in order of preference. The Police Commission would send the names of its top three candidates to the Mayor, who could pick the Chief from that list or one additional list of three if the Mayor found the first group unacceptable. We recommend the Mayor be given this flexibility and discretion in making the final decision, particularly because it is the Mayor who is expected to lead the City as a whole, and is accountable for doing so.

We also recommend the City Council be given the right to approve the Mayor's choice by majority vote, to bring the more focused perspective of the City's 15 districts. We expect that the collective wisdom of the Police Commission, the Mayor, and the Council, with accountability to the public, should produce a strong and capable leader, a Chief invested with respect and support generated by the nature of the selection process itself.

Term Limit

A one-time renewable term limit on the Chief's tenure accomplishes two objectives: First, the expectation will be that the Chief should serve at least a full five-year term, placing a burden on the Police Commission to justify earlier termination in ways that will withstand public scrutiny. For example, the Police Commission's annual review of the Chief's performance would presumably become more meaningful. Thus, some of the protections against corruption will be achieved simply by making the Police Commission (or the Mayor or City Council) explain why the Chief is being terminated prematurely. Indeed, this rationale was a principal justification for creating a 10-year term limit for the Director of the FBI, who serves at the pleasure of the President.

Second, a term limit permits the orderly infusion of new leadership at the top of the Department. By breaking the term into two five-year increments, we provide the Police Commission with flexibility not to renew the term of a Chief who in its judgment ought not remain as Chief for another five years. Although such a decision would inevitably be subject to public scrutiny, the Police Commission as head of the Department must have the power to change a Chief who does not have the Police Commission's confidence. Only thus is

there meaningful accountability to the citizen body charged with ultimate oversight and policy-making responsibilities.

— Unlike early termination, the renewal decision should be the Police Commission's alone, although the Police Commission should seek the counsel of the Mayor and the City Council as elected representatives of the people, as well as other sources. Having done so, the Police Commission's decision should be final and not subject to being overruled by the Mayor or the Council. If the decision is to renew, there would be no obligation to open the position to competition.

There is a strong consensus that 10 years as Chief is quite ample to master the Department, develop policies, and see them carried out, but not so long as to outstay one's creative energies and usefulness. (Indeed, former Chief Ed Davis told the Police Commission when he was appointed that seven years was his preferred tenure; Chief Gates testified to the Commission that he initially planned to stay for three to five years.) Even five years is sufficient to develop and implement meaningful policies and programs within the Department; and it is long enough to be attractive to candidates the City would want to compete for the job. Also, a five-year term would extend beyond the four-year term of the Mayor or a Council member, thus providing some measure of insulation to the Chief while not entirely hamstringing a new Mayor by burdening him with an unremovable Chief who is at odds with the Mayor's agenda (which, presumably, a majority of the voters had just approved).

Termination

In lieu of the complex and burdensome civil service procedures that now govern discipline and removal of the Chief, the protections inherent in our recommendations are more related to a legitimate political process that will better express the will of the people. Thus, in addition to the expectation that the Chief will serve at least a five-year term, any decision to remove the Chief before expiration of the first or second five-year term -- that is, other than a decision not to renew for a second term -- would have to garner the approval of the Mayor and would be subject to review by the City Council. If two-thirds of the Council disfavored early termination, the Police Commission's decision could be overruled.

In sum, the Police Commission would tend to buffer direct political assaults on the Chief by the Mayor or City Council because the Police Commission would have to initiate termination proceedings. The Mayor and the Council would check each other and the Police Commission. Only if all three entities coalesced could a Chief be fired before either five-year term ended. On the other hand, should the public believe these entities were unfairly ganging up on the Chief, both the Council and the Mayor are accountable to the voters at election time, and the Mayor is also normally viewed as accountable for the conduct of his Police Commissioners.

We note that under California law, a Chief who serves at the pleasure of his appointing authority nonetheless is entitled to an administrative appeal from any decision terminating his employment.⁶¹ We believe that the recommended procedures giving the Chief a right of appeal to the City Council would satisfy this entitlement. In addition, the Charter language describing the Chief's term limits must be drafted carefully to avoid any legal interpretation that the Chief has an implied property interest in the position.

The combination of term limit plus a somewhat easier process for removal of the Chief should work to make the Chief more responsive to the citizen Police Commission and the elected leadership of the City, but not so easily removed that he stands naked against corrupting pressures. Moreover, one cannot ignore the tremendous power a Chief enjoys simply by being the Chief of Police. In establishing a system of checks and balances, the power of the office itself is a weighty element.

Political Endorsements

Because the Chief's office is inherently powerful, it is unseemly for the Chief to use that position to influence the political process. It is particularly ironic to create a system to insulate the Chief from improper political pressure, and then have the Chief use that protected position to campaign on behalf of politicians who thereby become indebted to him. Such activity politicizes the Chief, and ultimately the Department. Chief Gates, in testimony before the Independent Commission, agreed, acknowledging that the public does not distinguish between the individual and the Chief of Police. Police chiefs in other major cities, former Chiefs Reddin and Davis, and other Los Angeles City department heads have refrained from making such endorsements as a matter

of policy. We recommend that the Chief of the Los Angeles Police Department exercise similar restraint.

NOTES TO CHAPTER TEN

- 1 City Charter sections 70(b), 77, 78
- 2 City Charter sections 79(a), 80
- 3 City Charter section 203; Municipal Code sections 103.00-103.314
- 4 City Charter section 73
- 5 City Charter section 72
- 6 City Charter section 74
- 7 City Charter section 74
- 8 City Charter section 71; Administrative Code section 4.61
- 9 City Charter sections 199, 202(1)
- 10 City Charter section 202(1)
- 11 Case No. BS 006 789 (L.A. Cty. Super. Ct. May 13, 1991)
- 12 See generally Fogelson, *The Fragmented Metropolis* (Harvard University Press, 1967); Kayden, *The Los Angeles Past as it Approaches the Future* (Claremont Graduate School, 1990); Woods, *The Progressives and the Police, Urban Reform and the Professionalization of the Los Angeles Police* (Ph.D. Dissertation, UCLA, 1973).
- 13 On April 19, 1991, the Los Angeles City Charter Study Group submitted recommendations to Mayor Bradley and the City Council regarding the scope of work, timetable, and budget and staffing requirements for a Charter revision study that would be conducted by a proposed Ad Hoc Commission on Charter Reform.
- 14 Woods, note 12 above, pp. 270-314.
- 15 A chart showing the governance structures of the police departments of 21 major cities in the United States is attached (Table 10-1). Only the Police Chiefs of Los Angeles, Cincinnati, Ohio and Columbus, Ohio serve for indefinite terms and cannot be removed without cause.
- 16 Only two of these proposals would have exempted the Police Chief from the civil service: Charter Amendment I (Nov. 3, 1970) and Proposition U (Nov. 6, 1984). Two other ballot measures would have relaxed the civil service requirements for discipline and termination of other city managers, but not the Police Chief: Proposition H (Nov. 4, 1980) and Proposition 4 (Nov. 12, 1983).
- 17 The Department generally defines a reportable use of force incident as one in which a Department employee uses a "non-lethal control device or any physical force" (other than a firm grip control) to compel a person to obey his directions; to overcome resistance by a suspect during an arrest or detention; or to defend any person from aggressive action by a suspect.
- 18 City Charter, section 203; Municipal Code, sections 103.00-103.314.
- 19 *Gates v. Board of Police Commissioners*, Order of May 13, 1991, at 42.
- 20 *Los Angeles Times*, May 8, 1991, p. A1.
- 21 City Charter, sections 79(a), 200.
- 22 City Charter, sections 199, 200.
- 23 City Charter, section 80(a).

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- Steve White, Esq., Founder, A Place For Us
- Michael Woo, Member, Los Angeles City Council
- Jo Ann Wysocki, President, Wilmington Homeowners
- Michael Zinzun, Coalition Against Police Abuse

Table 2A-3
List of Attendees - Independent Commission
Meetings with Clergy

Rev. Gregory J. Boyle, S.J., Dolores Mission Catholic Church
Rev. J. Jon Bruno, St. Athanasius and St. Paul Episcopal Churches
Fr. Charles D. Burns, SVD, St. John the Evangelist Catholic Church
Dr. Ignacio Castuera, Hollywood United Methodist Church
Rev. James Conn, United Methodist Church
Rev. Frederick W. Cook, Westchester United Methodist Church
Rev. Kathleen Cullinane, St. Mary's Church
Rev. John A. Dean, St. Paul's Episcopal Church
Rev. David K. Farley, Echo Park United Methodist Church
Rev. Janet Gaston-Petty, Wilshire United Methodist Church
Rabbi Laura Geller, Director, American Jewish Congress
Rev. Spencer C. Gibbs, First Presbyterian Church
Rev. Joseph L. Griffin, Good Shepherd Baptist Church
Rev. Allan Jones, Wilshire United Methodist Church
Rev. Philip J. Lance, St. Athanasius & St. Paul Episcopal Churches
Rev. K. Samuel Lee, Los Angeles Korean United Methodist Church
Rev. Connor Lynn, St. Mary
Fr. David O'Connell, St. Francis X. Cabrini Catholic Church
Fr. Dennis O'Neill, St. Thomas the Apostle Catholic Church
Rev. A. Kenneth J. Phillips, St. Phillips Episcopal Church
Fr. John Seymour, ST, Our Lady of Victory Catholic Church
Rev. Alan Scarfe, St. Barnabas Episcopal Church
Pastor Albert Starr, Ascension Lutheran Church

Table 2A-2
List of Witnesses - Independent Commission
Public Sessions

Dora Alicia Alarcon, President, Street Vendors Association
Lt. George Aliano, President Los Angeles Police Protective League
Vibiana Andrade, Regional Counsel, Mexican American Legal Defense & Education Fund (MALDEF)
Christopher Armen, Esq.
Danny Bakewell, President & CEO, Brotherhood Crusade
Quincy Beaver, California Democratic Counsel & Committee for Justice and a Civilian Review Board
Al Belmontez, Director, Mexican American Political Association (MAPA)
Gil Benjamin, Member of the Executive Board of Directors Granada Hills Chamber of Commerce
Humberto Bernabe, Southern California Organizing Committee
Linda Brewer, Mothers and Daughters Against Drug Abuse (MADD)
T. S. Chung, Korean American Coalition
Alan Clayton, Civil Rights Director for California League of United Latin American Citizens
Roger Coggan, Esq., Director, Legal Services, Los Angeles Gay & Lesbian Community Services Center
Ronald Coleman, Southern California Civil Rights Coalition
Lewis A. Custrini, Vice President - Communications, Merchants & Manufacturer Association
Michael Davis, Office of Representative Maxine Waters, Member of Congress
Jose DeSosa, President, NAACP San Fernando Valley Branch
Joseph Duff, President, Local Chapter NAACP
Howard Ekerling, Esq., LAPD Reserve Officer
Peggy Estrada, President, Citizens in Support of the Chief Strategy Center
Marvin Feldman, Past Chairman, LAPD Blue Ribbon Support Coalition
Ezola Foster, President, Black Americans for Family Values
E. Jean Gary, Esq., President, Black Women's Lawyers
Goefrey Taylor Gibbs, Esq., Board Member, John M. Langston Bar Association

Dermot Givens, President, Black Law Students Association, University of West
Los Angeles School of Law

Jorge Gonzalez, Mexican American Bar Association (MABA)

Karol Heppe, Esq., Executive Director, Police Misconduct Referral Service

Mary Lou Horte, Townkeepers Community Watch, Van Nuys

Anne Kamsvaag, Coalition for Humane Immigrant Rights of Los Angeles

Kate Kincaid, Labor Community Strategy Center

Stewart Kwoh, Esq., Executive Director, Asian Pacific Legal Center

Bill Lann Lee, Esq., Western Regional Counsel, NAACP Legal Defense Fund

Elsa Leyva, Mexican American Bar Association

Guadalupe Lorea, President, Committee for Peace in the Barrio

Jose Lozano, Publisher, *La Opinion*

Pastor James V. Lyles, President, San Fernando Valley Ministers Fellowship

David Lynn, Police Misconduct Lawyer Referral Service

John Mack, President, Los Angeles Urban League

Eric Mann, Labor Community Strategy Center

Michael A. McClure, Field Director, Youth Advocacy Program, Hollenbeck
Youth Center

Father David O'Connell, Southern California Organizing Committee

Patrick Patterson, NAACP Legal Defense Fund

R. Samuel Paz, Esq., Mexican American Bar Association (MABA)

Margaret Prescod, Black Coalition Fighting Back Serial Murders

Lea Purwin-D'Agostino, Esq., Citizens in Support of the Chief of Police

Patrick Ramsey, Labor Community Strategy Center

Ramona Ripston, Executive Director, ACLU Foundation

William Robertson, Secretary-Treasurer, AFL-CIO Public Employees Union

Antonio Rodriguez, Esq., East Los Angeles Police Abuse Complaint Center

Professor Gloria Romero, Member, Hispanic Advisory Council to the Los
Angeles Police Commission

Eric Rose, Citizens in Support of the Chief of Police (CISCOP)

Lou Santillan, President, El Sereno Community Coordinating Council

Lacy Shabazz, Malcolm X Grass Roots Committee

Arthur Silber, Esq., President, Lawyers for Human Rights

Geri Silva, Equal Rights Congress

Albert Ruvalcaba, Sergeant, La Ley
Robert Vernon, Assistant Chief, LAPD

Police Commission Personnel

Dan Garcia, former Police Commissioner
Robert Talcott, former Police Commissioner
Reva Tooley, former Police Commissioner
Sam Williams, Police Commissioner

City and County Officials

Sherman Block, Sheriff, LA County
Tom Bradley, Mayor
Jack Driscoll, General Manager, Personnel Department
James Hahn, City Attorney
Curt Livesay, Chief Deputy District Attorney
Ira Reiner, District Attorney
Jack White, Chief of District Attorney Investigators

Community and Organizational Leaders

Rev. Rafael J. Aragon, Presbyterian Church U.S.A.
Tom Barham, Police Misconduct Referral Service
Rt. Rev. Frederick H. Borsch, Bishop - Episcopal Diocese of Los Angeles
Johnny Cochran, Police Misconduct Referral Service
George Denny, Police Misconduct Referral Service
Karol Heppel, Police Misconduct Referral Service
Katherine Spillar, National Coordinator, Fund for the Feminist Majority
Rabbi Lennard R. Thal, Union of American Hebrew Congregations
Carol Watson, Police Misconduct Referral Service

Experts

Michael Armstrong, Esq., Counsel to Knapp Commission
Joann Belknap, Professor, Department of Criminal Justice, University of Cincinnati
Lee Brown, Commissioner, New York Police Department

-
- Ernest Curtsinger, Chief of Police, St. Petersburg, FL
 - Patrick Murphy, Former Commissioner, New York Police Department, now with
National Conference of Mayors, Washington, D.C.
 - Professor Lawrence Sherman, President, Crime Control Institute
 - Dr. Louis J. West, Professor of Psychiatry, UCLA School of Medicine
 - Hubert Williams, Current President of Police Foundation, Former Chief of Police
of Newark, New Jersey
 - James Q. Wilson, UCLA Professor of Sociology and Chairman of the Board of
Police Foundation

7. COMMUNICATION WITH THE PUBLIC

- Received and reviewed over 8,000 letters sent by members of the public to the LAPD and forwarded to the Independent Commission by Chief Gates.
- Received and reviewed over 200 letters from members of the public.
- Conducted approximately 100 telephonic interviews with individuals who phoned the Commission offices to comment on the LAPD.

Table 2A-1
List of Witnesses
Independent Commission - Executive Sessions

LAPD Personnel

Michael Bostic, Commander, LAPD
Jesse Brewer, Former Assistant Chief, LAPD
Jan Carlson, Captain, LAPD Internal Affairs
James Chambers, Commander, LAPD Personnel & Training Bureau
Ann Clark, LAPD Patrolman III (former training officer)
Robert Contreras, Detective, La Ley
Henderson Cooper, Detective, LAPD (former training officer)
Carlo Cudio, Commander, LAPD, Former Head of LAPD Personnel Division
Senator Ed Davis, Former Chief, LAPD
Rick Dinse, Commander, LAPD
Lyman Doster, LAPD Lt. II, President, Association of Black Law Enforcement

Executives

David Dotson, Assistant Chief, LAPD
Daryl Gates, Chief, LAPD
Dr. Robin Green, LAPD, Behavioral Science Services Section
Mitchell Grobeson, former LAPD officer
Garland Hardeman, LAPD Officer, Director, Oscar Joel Bryant Association
John Hunter, LAPD Detective
Kyle Jackson, Watch Commander, LAPD Wilshire Patrol Division
Paul Kim, Lieutenant, LAPD Wilshire Division
Tim King, Captain, LAPD Personnel Department
Mark Kroeker, Deputy Chief, LAPD Personnel & Training Bureau
Art Lopez, Commander, LAPD Training
Maurice Moore, Commander, LAPD
Fred Nichols, Captain, Training Expert - LAPD Academy
Emilio Perez, Sergeant, La Ley
William Rathburn, Chief, Dallas Police
and former Deputy Chief, LAPD
Tom Reddin, Former Chief, LAPD
Robert W. Riley, Captain, LAPD

APPENDIX II

Commission and Staff Activities

1. TIME CONTRIBUTED

- Attorneys serving as counsel to the Commission contributed more than 16,000 hours.
- Accountants and Statistical Consultants contributed more than 9,000 hours.

2. EXECUTIVE SESSIONS

- See list in accompanying Table 2A-1 for witnesses testifying in executive session

3. PUBLIC HEARINGS

- See list in accompanying Table 2A-2 for witnesses testifying in public hearings

4. INTERVIEWS

- Over 300 interviews with current and former LAPD officers
- Over 75 interviews with present and former City, County and other government officials
- Over 150 interviews with experts in the fields of policing, law enforcement, psychiatry and medicine.
- Over 65 interviews with community and religious leaders.
- Over 50 interviews with government and police department officials from other cities and states
- Over 25 interviews with LAPD civilian personnel
- Over 20 interviews with members of the clergy. See list in accompanying Table 2A-3

5. DOCUMENTS RECEIVED FROM LAPD

- 1,240 personnel complaint investigative files for 1987-1990
- Over 100,000 pages of computer-generated Mobile Digital Terminal (MDT) transcripts covering 182 days between November 1, 1989 and March 4, 1991

- Over 700 personnel packages of police officers
- IAD annual personnel complaint statistical reports for the period 1982-1990
- IAD Weekly Summaries of Adjudicated Complaints for the period 1986-1990
- Over 700 use of force reports involving jail personnel
- 40 officer involved shooting files
- Statistical data regarding the number, rank and deployment of women and minorities in the LAPD
- 1990 Coveted Positions Report
- Over 30 disability pension files and medical files
- 83 City Attorney case files
- LAPD K-9 Reports for 1988-1990
- Studies and reports regarding women and minorities in the LAPD
- LAPD Reports on 39th and Dalton
- Various manuals including the LAPD Manual, Board of Rights Manual, FTO Manual, Background Investigator Manual, recruitment manuals, various Department memoranda, and memoranda of understanding
- Materials concerning various programs including Operation Cul-de-sac, Operation Hammer, the Wellness Program, DARE, and the Footbeat Pilot Program
- Promotional materials and all materials provided to recruits by LAPD and the City Personnel Department

6. COMPUTER DATABASES OBTAINED FROM LAPD

- Personnel complaints database containing 20,852 records from 1986-1990
- Use of force database containing 14,904 records from January 1987 to March 1991
- Officer information database containing 8,250 records
- Officer-involved shooting database containing 825 records from 1986-1991
- K-9 database containing 6,509 records from 1988-1990

9. I HAVE RENEWED DISCUSSIONS WITH THE FEDERAL GOVERNMENT TO COMMIT A SIGNIFICANT AMOUNT OF RESOURCES TO IMPROVE THE TECHNOLOGY AVAILABLE TO THE POLICE IN OUR NATION. WE ARE ALL FAMILIAR WITH THE WISDOM OF PROVIDING THE STATE OF THE ART IN WEAPONS TO OUR MILITARY. I BELIEVE IT IS ABSOLUTELY MANDATORY TO MAKE A SIMILAR COMMITMENT TO PROVIDE MORE MODERN NON-LETHAL ALTERNATIVES TO SUPPLEMENT OR PERHAPS REPLACE THE CLUB AND THE PISTOL USED BY AMERICAN POLICE SINCE THE FOUNDING OF OUR COUNTRY.

10. THIS DEPARTMENT WILL FULLY COOPERATE WITH ANY OFFICIAL GROUP WHICH HAS BEEN AUTHORIZED TO INVESTIGATE OR AUDIT DEPARTMENT OPERATIONS. ADJUSTMENTS AND MODIFICATIONS TO POLICIES, PROCEDURES AND TRAINING FOR ANY FACET OF THE DEPARTMENT'S OPERATION WILL BE MADE AS THE NECESSITY FOR SUCH ACTION BECOMES APPARENT.

AS WE MOVE FORWARD ON A COURSE TO REESTABLISH COMMUNITY TRUST, THERE WILL OBVIOUSLY BE ADDITIONAL STEPS NECESSARY TO GUIDE US IN THAT JOURNEY. EACH AND EVERY NECESSARY STEP WILL BE TAKEN. AT THIS POINT IN TIME, THE TOP STAFF OF THIS DEPARTMENT MUST RETURN TO DEALING WITH THE MYRIAD OF DAY TO DAY ACTIVITIES INHERENT IN

RUNNING THIS DEPARTMENT AND MEETING THE CHALLENGE OF KEEPING PEOPLE SAFE FROM CRIME, VIOLENCE, NARCOTICS TRAFFICKING AND DISRUPTIONS TO THE PEACE AND FREEDOM OF OUR COMMUNITY. OF PARTICULAR INTEREST TO ME, ARE THOSE POLICE-COMMUNITY PARTNERSHIPS WHICH HAVE BEEN FORMED OVER SEVERAL YEARS WHICH MUST BE ALLOWED TO GET BACK TO IMPROVING THE QUALITY OF LIFE THROUGHOUT THE CITY OF LOS ANGELES.

INQUIRIES REGARDING THE INVESTIGATION OF THE FOOTHILL AREA INCIDENT SHOULD BE DIRECTED TO COMMANDER DINSE. INQUIRIES REGARDING THE PROGRESS OF THE REVIEW OF OUR USE OF FORCE TRAINING, POLICIES AND PROCEDURES SHOULD BE DIRECTED TO COMMANDER BOSTIC. ALL OTHER INQUIRIES SHOULD BE DIRECTED TO THE PRESS RELATIONS OFFICER OR HIS STAFF.

IMMEDIATE CONTROL AND MAKE ANY NECESSARY CORRECTIONS OVER FIELD SITUATIONS AS IS APPROPRIATE.

I HAVE DIRECTED THAT INSPECTION AND CONTROL SECTION OF MY OFFICE TAKE ON A MORE ACTIVE POSTURE IN CONDUCTING INTENSIVE REVIEWS OF THE DEPARTMENT'S OPERATIONS BY FOCUSING PARTICULARLY ON THE DUTY PERFORMANCE OF OFFICERS IN THE FIELD.

6. THE DEPARTMENT WILL STRENGTHEN ITS SYSTEM OF RANDOM MONITORING OF BOTH VOICE AND MOBILE DIGITAL TERMINAL COMMUNICATIONS TO DETECT AND FERRET OUT ANY UNPROFESSIONAL OR INAPPROPRIATE USE OF THE SYSTEM WHICH IS CURRENTLY PROHIBITED BY DEPARTMENT ORDER. WE WILL ALSO REINFORCE OUR EMPHASIS ON THE PROPER USE OF THESE SYSTEMS BY HOLDING VIOLATORS ACCOUNTABLE THROUGH THE SWIFT AND SURE APPLICATION OF DISCIPLINE.

7. A HOT-LINE TELEPHONE NUMBER WILL BE OPERATIONAL EFFECTIVE FRIDAY AFTERNOON, MARCH 29, 1991. THIS HOT-LINE TELEPHONE NUMBER FROM AREA CODES 213 OR 818 WILL BE (800) 339-6868. IT WILL BE STAFFED ON A 24-HOUR BASIS BY INTERNAL AFFAIRS DIVISION PERSONNEL.

THIS HOT LINE WILL SERVE TWO PURPOSES. FIRST, IT MAY BE USED BY ANY COMMUNITY MEMBER TO REPORT COMPLAINTS OF EXCESSIVE FORCE.

SECONDLY, THE HOT LINE IS AVAILABLE FOR USE BY ANY COMMUNITY MEMBER WITH A REQUEST FOR A DEPARTMENT REPRESENTATIVE TO APPEAR, DISCUSS AND LISTEN TO COMMUNITY CONCERNS. A DECENTRALIZED SPEAKERS' BUREAU WILL BE ESTABLISHED WITH EACH AREA STATION PROVIDING OFFICERS TO FULFILL THIS FUNCTION. MEANINGFUL, FACE-TO-FACE COMMUNICATION WITH COMMUNITY MEMBERS BY DEPARTMENT PERSONNEL IS CRUCIAL TO REESTABLISHING A BOND OF TRUST WITH THE COMMUNITY.

8. I HAVE ASKED OUR PLANNING AND RESEARCH DIVISION TO ARRANGE FOR QUARTERLY OPINION SURVEYS IN EACH OF OUR 18 AREAS. THE PURPOSE OF THIS POLLING WILL BE TO AFFORD THE PUBLIC AN OPPORTUNITY TO PROVIDE US FEEDBACK ON THEIR OPINIONS AND PRIORITIES PERTAINING TO THE POLICE FUNCTION IN THEIR NEIGHBORHOODS. TO ACCOMPLISH THIS TASK, WE WILL SEEK VOLUNTEER ASSISTANCE THROUGH A LOCAL UNIVERSITY OR COLLEGE IN CONDUCTING SUCH POLLS.

3. COMMANDER RICK DINSE HAS BEEN ASSIGNED AS MY PERSONAL, FULL-TIME REPRESENTATIVE FOR BOTH THE CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS. HE HAS BEEN OF GREAT ASSISTANCE TO ME BY KEEPING ME CURRENT ON BOTH INVESTIGATIONS AND FACILITATING THE COMMUNICATION OF MY INPUT AND INSIGHTS TO THOSE CONDUCTING THE INVESTIGATIONS. HE WILL ALSO ACT AS LIAISON BETWEEN THE DEPARTMENT AND THOSE AGENCIES ASSIGNED THE RESPONSIBILITY OF CONDUCTING OFFICIAL INVESTIGATIONS INTO THE DEPARTMENT. MY TOP PRIORITY HAS BEEN AND CONTINUES TO BE ENSURING THAT JUSTICE IS DONE AND THE FOOTHILL INCIDENT IS THOROUGHLY INVESTIGATED AND CULPABLE OFFICERS BE BROUGHT UP ON ALL APPROPRIATE CHARGES, WHETHER CRIMINAL, ADMINISTRATIVE, OR BOTH.

4. UNDER THE DIRECTION OF DR. MARTIN REISER, THE DEPARTMENT'S CHIEF PSYCHOLOGIST, BEHAVIORAL SCIENCES SECTION WILL PROFILE THE OFFICERS INVOLVED IN THE FOOTHILL AREA INCIDENT AS WELL AS OFFICERS WHO HAVE BEEN INVOLVED IN COMPLAINTS OF EXCESSIVE FORCE OR CIVIL ACTION RESULTING IN AWARDS. THIS PROFILING WILL BE DONE IN AN EFFORT TO IDENTIFY ANY AND ALL CONDITIONS THAT MAY BE INDICATIVE OF ATTITUDES AND BEHAVIOR PATTERNS ON THE PART OF

OFFICERS WHICH ARE PREDICTIVE OF TENDENCIES TO USE INAPPROPRIATE LEVELS OF FORCE AND TREAT PEOPLE WITH LESS THAN AN APPROPRIATE LEVEL OF DIGNITY AND RESPECT. DR. REISER WILL WORK IN CONJUNCTION WITH COMMANDER BOSTIC IN AN EFFORT TO TIE IN THE RESULTS OF HIS WORK WITH THAT OF COMMANDER BOSTIC'S GROUP IN ORDER TO CONDUCT AS THOROUGH AND IN-DEPTH AN ANALYSIS OF THESE TYPES OF SITUATIONS AS IS POSSIBLE. IDEALLY, THE ULTIMATE RESULT WILL BE THE SIGNIFICANT REDUCTION OF COMPLAINTS AND CIVIL LITIGATION ALLEGING EXCESSIVE FORCE.

5. THE DEVELOPMENT OF A HIGH RANKING, COMMAND DUTY OFFICER PROGRAM IS UNDERWAY. IN THIS PROGRAM A COMMAND OFFICER WILL BE ASSIGNED DURING NIGHT AND MORNING WATCH HOURS TO OVERSEE AND INSPECT FIELD OPERATIONS. THE DATES, TIMES AND AREAS OF THEIR ASSIGNMENTS WILL VARY AND BE UNANNOUNCED. THIS PROGRAM WILL INCREASE THE NUMBER OF COMMAND OFFICERS IN THE FIELD AND INCREASE THE LIKELIHOOD OF AN OFFICER COMING IN CONTACT WITH A COMMAND OFFICER IN THE FIELD DURING NON-BUSINESS HOURS. IT SHOULD BE NOTED THAT 38 PERCENT OF THE DEPARTMENT'S FIELD FORCE HAS THREE YEARS OR LESS TENURE WITH OUR DEPARTMENT. COMMAND DUTY OFFICERS WILL TAKE

OVERALL GOAL WILL BE TO REDUCE THE NUMBER OF INCIDENTS OF UNNECESSARY FORCE AND THE ATTENDANT LIABILITY SUFFERED BY THE CITY.

2. COMMANDER MIKE BOSTIC HAS BEEN ASSIGNED TO MY STAFF TO EXAMINE OUR USE OF FORCE POLICIES, PROCEDURES AND TRAINING, AND COMPARE THEM AGAINST ANY COMMONALITIES DISCOVERED IN REVIEWING USE OF FORCE INCIDENTS AND EXCESSIVE FORCE COMPLAINTS. HE WILL REVIEW SIMILAR TRAINING CONDUCTED BY OTHER DEPARTMENTS THROUGHOUT THE COUNTRY LOOKING FOR IDEAS, IMPROVEMENTS AND INNOVATIONS.

COMMANDER BOSTIC'S WORK WILL MESH AND COMPLEMENT THE WORK OF THE ARGUELLES PANEL AND THE PSYCHOLOGICAL STUDIES BEING CONDUCTED BY THE DEPARTMENT'S BEHAVIORAL SCIENCES SECTION.

COMMANDER BOSTIC WILL WORK CLOSELY WITH THE PROFESSIONAL ADVISORY COMMITTEE (PAC). THE PAC IS A GROUP OF DISTINGUISHED COMMUNITY MEMBERS WHO HAVE WORKED DILIGENTLY WITH TRAINING DIVISION STAFF AND WERE RESPONSIBLE FOR DESIGNING OUR HUMAN RELATIONS TRAINING AT THE POLICE ACADEMY AS WELL AS OUR HUMAN RELATIONS HANDBOOK. COMMANDER BOSTIC WILL RELY HEAVILY ON THE ADVICE AND EXPERTISE OF THE PAC IN

REVIEWING AND ANALYZING ISSUES INVOLVED IN USES OF
FORCE AND HUMAN RELATIONS.

PROFESSIONAL ADVISORY COMMITTEE

DR. ROSS CLAYTON, DEAN
SCHOOL OF PUBLIC ADMINISTRATION
UNIVERSITY OF SOUTHERN CALIFORNIA

GAIL ABARBANEL, DIRECTOR
RAPE TREATMENT CENTER
SANTA MONICA HOSPITAL

HOMER F. BROOME, JR.
MARVID ASSOCIATES, INC.

DR. NATHANIEL JACKSON
DEAN OF APPLIED ART DIVISION
EL CAMINO COLLEGE

ROBERT M. JONES
EXECUTIVE DIRECTOR
NATIONAL CONFERENCE OF CHRISTIANS AND JEWS

DR. ERNEST R. KAMM, CHAIRMAN
DEPT. OF CRIMINAL JUSTICE
AND SAFETY STUDIES
CALIFORNIA STATE UNIVERSITY, L. A.

PROF. HARRY KITANO
SCHOOL OF SOCIAL WELFARE
UNIVERSITY OF CALIFORNIA AT L.A.

DR. DIEGO VIGIL
DIRECTOR OF ETHNIC STUDIES
DEPARTMENT OF ANTHROPOLOGY
UNIVERSITY OF SOUTHERN CALIFORNIA

RICHARD A. WESTON
MAJOR CLIENTS AGENCY, INC.

Chief Gates' 10 Point Plan

MARCH 27, 1991

PRESS RELEASE

THE AFTERMATH OF THE RODNEY KING INCIDENT HAS BEEN AN EXCEEDINGLY DIFFICULT AND TRYING TIME. FEELINGS OF BETRAYAL AND SHOCK HAVE BEEN EXPERIENCED BY BOTH COMMUNITY MEMBERS AND DEPARTMENT PERSONNEL. THERE IS NO DOUBT FROM ANY QUARTER THAT A NUMBER OF THOSE OFFICERS INVOLVED IN THE KING INCIDENT MUST BE, AND WILL BE, BROUGHT BEFORE THE BARS OF THE CRIMINAL AND ADMINISTRATIVE JUSTICE. THERE IS UNANIMOUS CONSENSUS THAT THERE MUST BE A THOROUGH AND DILIGENT SEARCH FOR ANY UNDERLYING REASONS WHY THOSE OFFICERS ENGAGED IN SUCH LAWLESSNESS. WE MUST LOOK FOR ANY AND ALL CONDITIONS THAT MAY HAVE CONTRIBUTED TO THE DEVELOPMENT OF ATTITUDES AND PATTERNS OF BEHAVIOR THAT COULD HAVE LED TO THIS KIND OF GROSS MISCONDUCT. WE MUST DETERMINE WHY SUCH INDICATORS, IF THEY DID EXIST, WERE NOT DETECTED.

FLAWS THAT ARE FOUND IN ANY PART OF THE PROCESS THAT TRANSFORMS A CITIZEN INTO A POLICE OFFICER MUST BE CORRECTED. IMPROVED METHODS FOR INSTILLING IN OUR RECRUITS A REVERENCE FOR THE LAW AND A MORE COMPASSIONATE UNDERSTANDING AND APPRECIATION FOR THE CULTURAL DIVERSITY OF THE RESIDENTS WE SERVE MUST BE DEVELOPED.

THIS RESEARCH MUST BE CONDUCTED BY OBJECTIVE PERSONS WITH REQUISITE ABILITIES WHOSE PRIMARY CONCERN IS THE SAFETY AND THE BEST INTEREST OF THE PEOPLE OF LOS ANGELES AND THE POLICE OFFICERS WHO SERVE THEM.

TO ACCOMPLISH THESE THINGS, I HAVE EXPANDED THE PLAN I SUBMITTED TO THE BOARD OF POLICE COMMISSIONERS IN CORRESPONDENCE DATED MARCH 14, 1991, AND HAVE DIRECTED THAT THE FOLLOWING ACTIONS BE TAKEN FORTHWITH:

1. I HAVE ASKED RETIRED CALIFORNIA SUPREME COURT JUSTICE JOHN ARGUELLES TO FORM AND TO CHAIR A FIVE MEMBER PANEL OF INDIVIDUALS REPRESENTING A CROSS SECTION OF VARIOUS PROFESSIONS. DOCTOR JAMES ZUMBERGE, RETIRING PRESIDENT OF THE UNIVERSITY OF SOUTHERN CALIFORNIA, HAS AGREED TO SIT WITH JUSTICE ARGUELLES AS A MEMBER OF THE PANEL.

THIS PANEL, TO BE KNOWN AS THE ARGUELLES PANEL, WILL STUDY THE DEPARTMENT'S TRAINING AND PROCEDURE AS THEY RELATE TO THE USE OF FORCE. THEY WILL THEN EXAMINE ACTUAL FIELD INCIDENTS IN WHICH EXCESSIVE FORCE WAS USED. PARTICULARLY CASES THAT HAVE BEEN LITIGATED IN COURT, TO DETERMINE IF AND HOW OUR TRAINING AND CONTROL SYSTEMS CAN BE IMPROVED. THE

JOINT STATEMENT

BY

JUSTICE JOHN ARGUELLES AND WARREN CHRISTOPHER

Retired Supreme Court Justice John Arguelles and Warren Christopher said today that they will merge their efforts to study a broad spectrum of issues relating to the Los Angeles Police Department.

Justice Arguelles will become a member and Vice Chairman of the Independent Commission on the Police Department chaired by Christopher.

Justice Arguelles and Christopher said that Willie Barnes, Esq., 59, former Commissioner of Corporations of the State of California, and Richard M. Mosk, Esq., 52, a former staff member of the Warren Commission and a former judge of the Iran-U.S. Claims Tribunal at The Hague, will also become members of the Independent Commission. They had initially been approached to serve by Justice Arguelles.

James H. Zumberge, recently retired USC President, who had agreed to serve with Justice Arguelles, is withdrawing from the Commission in order to keep the Commission to a reasonable size, and in light of the fact that Dr. Robert Tranquada, Dean of the USC School of Medicine, is already serving.

Justice Arguelles and Christopher said that, "in order to maximize the Commission's contribution to the community, we must concentrate on making an objective and thorough study of the fundamental long-term issues without being drawn into the controversy over the tenure of Chief Gates."

"We will proceed on a fully independent basis, with funding and staffing from private sources," Justice Arguelles and Christopher said. "Our operations will be fully integrated, so as to enable us to proceed with maximum efficiency and without wasteful duplication."

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John Slaughter, president of Occidental College and former chancellor for University of Maryland, College Park, who has been involved with a wide-range of organizations such as the President's Commission on the National Collegiate Athletic Association and San Diego Urban League; and

Dr. Robert Tranquada, Dean of the University of Southern California School of Medicine.

This is a citizens' commission of the highest order. The Commission will report to the Mayor, to the Police Commission and, most important of all, to the public. An initial report will be filed in 60 to 90 days.

I expect that the quality of the Special Independent Commission's report will equal the quality of its membership. My hope is that it will recommend solutions that reflect a broad consensus and that will find broad acceptance throughout the entire community.

The Commission's work will be primarily prospective, focusing on needed changes to the department's methods of selecting, training, promoting and disciplining its officers. The Special Commission will not adjudicate individual complaints. That is the job of the Police Commission, the Chief and the LAPD. The Special Independent Commission may, however, consider particular cases in order to determine the existence of a pattern, practice or general condition. The Commission will also consider recommendations for possible charter amendments, new laws and steps that the Mayor, the City Council, the Police Commission or the Chief should take. Among the particular areas the Special Independent Commission will review are:

- (1) The proper role, staffing and resources of the Police Commission;
- (2) The proper role of the Office of Chief of Police, with an examination of the desirability of new City Charter provisions governing the appointment, disciplining and removal of the chief;
- (3) Recruitment, promotion, training and supervisory practices in the Department and suggestions for improvements;
- (4) The departmental disciplinary system, how it is working and what changes, if any, are needed;
- (5) The effectiveness of the present citizen-complaint system and of the current review process for such complaints;

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- (6) The impact of current department practices and procedures upon the investigation and prosecution by the District Attorney of allegations concerning the use of excessive force; and
- (7) The level of departmental responsiveness to community concerns and related questions of departmental accountability.

The Special Independent Commission's role will be separate and distinct from the ongoing role and responsibilities of the Police Commission. The Police Commission will continue to look retrospectively at the causes of the tragic Rodney King beating, the investigation of the beating, and the immediate steps that must be taken to prevent recurrences.

The Special Independent Commission must have adequate, independent funding to perform its critical tasks. I will work with Chairman Christopher to ensure that adequate private funds are raised.

The Commission must also have the power to determine the facts. The Special Independent Commission will draw its necessary legal authority from the powers delegated to the Mayor by the City Charter, including the Mayor's subpoena powers. The Police Commission has offered its full cooperation to the Special Independent Commission.

Three prominent individuals have already agreed to serve as Senior Advisors to the Special Independent Commission. They are:

Jesse Brewer, a 38-year veteran of the Los Angeles Police Department who retired in February of this year after rising to the rank of Deputy Chief of Police;

James Q. Wilson, a widely-published author on such subjects as crime, American government and politics and a professor at the John E. Anderson Graduate School of Management at UCLA, is considered one of the foremost experts on the challenges facing urban cities; and

Patrick Murphy, a former police commissioner with both the cities of New York and Detroit and president of the Police Foundation from 1973 to 1985, now serves as a consultant with the United States Conference of Mayors on crime issues.

Finally, I expect that the Special Commission will have a professional, independent staff. I have discussed that matter with Chairman Christopher, and the composition of the Commission staff will be announced shortly.



CITY OF LOS ANGELES
212 N. MAIN ST., LOS ANGELES, CALIFORNIA 90012
213 488-3311

OFFICE OF THE MAYOR

TOM BRADLEY
MAYOR

THE CHARGE
BY
MAYOR TOM BRADLEY
TO
THE SPECIAL INDEPENDENT COMMISSION
TO
REVIEW THE STRUCTURE AND OPERATION
OF
THE LOS ANGELES POLICE DEPARTMENT,
WITH THE COOPERATION AND ASSISTANCE OF THE
LOS ANGELES DISTRICT ATTORNEY'S OFFICE

The Los Angeles Police Department is facing a crisis of confidence. It has become the focus of national attention. The District Attorney has brought indictments against four LAPD officers, including a supervising sergeant. We can expect a series of investigations from other governmental sources, including the U.S. Department of Justice, various Congressional committees, and other state and local agencies. The media interest is unprecedented.

I remain confident in the ability and integrity of the large majority of men and women of LAPD who are out on the streets daily, doing the tough, dirty, and dangerous business of fighting crime. I intend to support our police department to the fullest. I was a police officer for twenty-one years, and I feel for the thousands of honorable men and women of the LAPD. They have watched helplessly in recent weeks as the

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LAPD's fine reputation has been damaged. My top priority is to restore the public's confidence in the cop on the street.

Nonetheless, we all know -- and the Rodney King beating has been a shocking and tragic reminder -- that we have problems in the department. These problems can and must be corrected.

The time has come for a reasoned, objective, thorough and constructive examination of the structure and operation of our Police Department. How can we improve it; how can we correct its faults; how can we increase its service, its efficiency, its fairness; how can we make it a model for the next century? All of us can unite in working toward this goal. We want the best possible Police Department, the finest in the nation. That has been our objective, and that is what we demand for the future.

I am not willing to leave this inquiry to others. To that end, I am today appointing a special Independent Commission, to be chaired by Warren Christopher and charged with the responsibility of conducting a full and fair examination of the structure and operation of the LAPD. Because I want it to reflect the views of all those interested in the crucial issues it will examine, I have appointed seven members representing the widest possible spectrum of interests. They are:

Warren Christopher, a former Deputy Attorney General and Deputy Secretary of State now serving as chairman of O'Melveny & Myers law firm, who also served as vice chairman of the McCone Commission that investigated the 1965 Watts Riots;

Roy Anderson, chairman emeritus, Lockheed Corporation and a member of the board of trustees of Stanford University;

Leo F. Estrada, associate professor at the Graduate School of Architecture and Urban Planning at UCLA, who served as a principal advisor during the recent redistricting of the Los Angeles County Board of Supervisors' districts;

Mickey Kantor, a partner of Manatt, Phelps & Phillips law firm since 1975, who is also a member of the Los Angeles Conservation Corps, California Commission on Campaign Financing, and the American Jewish Committee;

Andrea Sheridan Ordin, a former United States Attorney and chief assistant Attorney General for the State of California, now chief of litigation at the Los Angeles law firm of Pepper, Hamilton & Scheetz;

APPENDIX I

Mayor's Charge to the Independent Commission
on the Los Angeles Police Department

Joint Statement of Warren Christopher and
Justice John Arguelles -- April 4, 1991

The Ten-Point Plan Announced by
Chief of Police Daryl Gates

Although we have identified certain management problems in the LAPD and shortcomings in the oversight by the Police Commission, we have avoided personal criticism. In this implementation chapter, however, it is appropriate to address transitional issues in more specific terms.

Chief of Police Daryl Gates has been a Los Angeles police officer for 42 years, having risen through the ranks to his present position. He has achieved a noteworthy record of public service in a stressful and demanding profession. Under his leadership, the Department has maintained a national reputation for innovation, efficiency, and honesty. Chief Gates has already served 13 years as Chief of Police, three years longer than the maximum of two five-year terms that we have recommended for any future Chief. He told our Commission that having qualified for his maximum pension, it makes no sense from an economic standpoint to remain and that "probably I've stayed longer than I should." Next month he will turn 65, the age at which a transition in top leadership is traditional in many large enterprises. For reasons set forth in support of our recommendation that the Chief of Police be limited to two five-year terms, we believe that commencement of a transition in that office is now appropriate. We hope that Chief Gates will remain in office while his successor is being chosen, and we urge him to channel his energies during this period toward supporting and commencing the implementation of this Report's proposals.

6. We also believe that the interests of harmony and healing would be served if the Police Commission is now reconstituted with members not identified with the recent controversy involving the Chief of Police. Without assessing individual performance, we believe that the attainment of the goals of the Report would be facilitated by making a fresh start at the Police Commission. The Mayor should nominate new members in light of our recommendations on the composition and expanded duties of that body.

We close this chapter -- and this Report -- with comments on the general subject of leadership, whether it be past, present, or future.

Setting priorities will be a major task of new leadership. If the leaders of the Department and the Police Commission give priority to stopping the use of excessive force and curbing racism and bias, they

can make it happen. But they have to go beyond the announcement of formal goals. Their leadership on these issues must be comprehensive and constant, not isolated or sporadic. They must make their weight felt throughout the system -- from recruitment, through training, promotion, assignment, and discipline. More than any other factor, the attitude and actions of the LAPD's leadership and that of other City officials will determine whether the recommended reforms are achieved.

To make genuine progress on issues relating to excessive force, racism, and bias, leadership must avoid sending mixed signals. If the leaders are careless in their comments or equivocal in their commitments, some rank-and-file officers may find encouragement for their misconduct. Leniency in discipline or easy forgiveness when making assignments or promotions will be misread as condoning improper practices. UCLA psychiatrist Dr. L. J. West stressed in his statement to the Commission that "leaders should not tolerate failure in subordinates simply out of loyalty or a desire to be popular." The subject matter demands a high standard; there are no harmless errors.

In his new book, *Leadership*, John W. Gardner stresses:

One function that cannot be delegated is that of serving as symbol. That the leader is a symbol is a fact, not a matter of choice. The task is to take appropriate account of that reality and to use it well in the service of the group's goals.

In a quasi-military organization like a police force, the importance of symbolism is at its zenith. The task for the leadership of the LAPD is to recognize its symbolic role in dealing with the problems as identified in this Report, and bend its influence and energies to bringing the LAPD to a new level of excellence and esteem throughout the City.

Chapter Eleven: Implementation

This Report presents significant recommendations all across the spectrum of the operations and structure of the Los Angeles Police Department and related agencies. They are designed to address, from many perspectives, the grave problem of excessive use of force by a significant number of officers, as well as issues of racism and bias. These comprehensive and interdependent recommendations require immediate action.

The Commission is unanimously committed to the attainment of the entire set of reforms. Full implementation, however, will require action by the Mayor, the City Council, the Police Commission, the Police Department, and ultimately the voters. Up to now, the people of this City have been deeply disappointed by the failure of our governmental bodies and political leaders to cooperate in addressing the problems considered in this Report. It has not been the finest hour for City government. We are fully cognizant of the need to restore the credibility of our governmental institutions and to promote, through these

recommendations, the full restoration of community confidence in our Police Department, as well as our political institutions. Carrying out the recommendations in this Report is the first step.

To encourage action on the recommendations, the following steps should be taken:

1. The City Council should enact an ordinance paralleling the Federal Advisory Committee Act, which requires the President to make a report to Congress with regard to certain reports within one year of their submission. In this vein, the City Council should require a report with regard to the implementation of this Report at six month intervals from each of the following entities: the Mayor, the Human Resources and Labor Relations Committee of the Los Angeles City Council, the Police Commission, and the Police Department. Because the City Council has asserted a large measure of authority for the Police Department by its recent actions, it should at a minimum be prepared to enact an ordinance along these lines. Each of these entities should accept the discipline of considering the Report and indicating what actions have been taken to implement the applicable recommendations.

2. Community organizations should accept responsibility for assessing the Report and seeking to carry out those recommendations that come within their ambit of responsibility.

3. A committee of distinguished citizens should be organized to advocate and monitor enactment of the recommended reforms by the responsible entities, to consider initiative measures if those bodies do not act, and to support needed Charter amendments.

4. The Commission should reconvene six months following its Report to assess the implementation of its recommendations and to report to the public. Key members of the existing Commission staff should continue to monitor the situation and assist the Commission when it reconvenes. In the meantime, the Commission will be available to explain the background of the recommendations to appropriate public bodies.

5. From the outset, our Commission has said that its primary focus would be on structural and operational issues, rather than on an assessment of individual performance. We adhere to that view.

APPPOINTMENT, REMOVAL AND POWERS OF POLICE COMMISSIONS

APPPOINTMENT, REMOVAL AND POWERS OF POLICE COMMISSIONS

(Continued)

	Appointment Process	Removal Process	Principal Powers
Milwaukee, WI	all appointed by mayor for staggered 3 year terms, city council approval required	by mayor*	board rule making power, decisions subject to vetoance by common council, conducts hearings where chief recommends significant disciplinary action or upon filing of a complaint by a citizen
New York, NY	no commission		
Philadelphia, PA	no commission		
Phoenix, AZ	no commission		
San Antonio, TX	no commission		
San Diego, CA	no commission		
San Francisco, CA	all appointed by mayor for 4 year terms, board of supervisors approval not required ²	by mayor without cause or board of supervisors approval	sets policy in consultation with chief, oversight of citizen complaint review body, conducts hearings where chief recommends significant disciplinary action or upon appeal
San Jose, CA	no commission		
Washington D C	no commission		

* Section 42 10 of Wisconsin Statutes authorizing the fire and police commissions does not provide for removal of commissioners. The Executive Director of the Milwaukee Fire and Police Commission offered his view that in the absence of such provision and as this question has not been addressed the general assumption is that the mayor may remove for cause only, with the approval of the Common Council required.

² The functional equivalent to a city council for the City and County of San Francisco is the San Francisco Board of Supervisors.

24. Personnel Department Classification, Police Chief (Aug. 27, 1986).
25. City Charter, sections 80(a), 202.
26. Cal. Govt. Code, sections 3300-3311.
27. *Skelly v. State Personnel Board*, 15 Cal. 3d 194, 215 (1975).
28. City Charter, sections 202(1), 202(2).
29. City Charter, sections 202(1)-202(6).
30. City Charter, sections 202(12), 202(13). The disciplinary system is described more fully elsewhere in this Report.
31. City Charter, sections 100-109.
32. The decision to hold an open competition lies entirely in the discretion of the Civil Service Board, unless there are not enough promotional candidates to yield the minimum number of certifications required by the Charter.
33. City Charter, section 107.
34. Memorandum from the General Manager of the Personnel Department to the Board of Civil Service Commissioners (Aug. 13, 1986). See also *Los Angeles Times*, Aug. 29, 1983, Part II, p. 1 (reporting the conclusion of an advisory group to the Police Commission that the seniority rules should be amended because of the near impossibility of an outsider being selected for Police Chief).
35. Personnel Dept. Rule 410(a).
36. City Charter, sections 199, 202(1).
37. City Charter, section 199.
38. City Charter, sections 79(a), 202(3).
39. City Charter, section 202(1).
40. City Charter, section 202(7).
41. City Charter, section 202(13).
42. *Skelly v. State Personnel Board*, 15 Cal. 3d 194, 215 (1975).
43. Cal. Civ. Proc. Code, section 1094.5 (appeals from administrative determinations).
44. City Charter, section 79(a).
45. 11 Ops. City Att'y 222, 226 (1939).
46. See 4 McQuillin on Municipal Corporations, § 2.248C, at 396 (3d ed. 1985). Of course the Police Commission may exert pressure on the Chief through disciplinary action falling short of suspension or removal, such as a reprimand. Although Section 202 would not apply, the Commission may be constrained nevertheless by the Police Officer's Bill of Rights. That law entitles all police officers, including the Chief, to an administrative appeal from any "punitive action" by an employer, including a written reprimand. Cal. Govt. Code, sections 3303-3304.
47. Cal. Govt. Code, sections 3203, 3302(a).
48. The survey also found that the department heads of Los Angeles Harbor, Public Works, and Recreation and Parks departments, as well as the DWP, claim not to have issued any endorsements in mayoral or council races.

- 49 The "rule of three" limited the number of candidates that could be certified as eligible for any civil service vacancy to three. The 1983 Charter amendment increased the number to a minimum of six by adopting what is commonly referred to as the "rule of three whole scores." City Charter, section 109.
- 50 *Los Angeles Times*, Mar. 25, 1978, Part I, p. 1; Mar. 27, 1978, Part II, p. 8.
- 51 *Los Angeles Times*, Mar. 25, 1978, Part I, p. 17; Mar. 29, 1978, Part II, p. 1.
- 52 *Los Angeles Times*, Mar. 29, 1978, Part II, p. 1.
- 53 *Los Angeles Times*, Mar. 27, 1978, Part II, p. 1.
- 54 Los Angeles Ordinance Nos. 162,091-162,704, Administrative Code sections 4.320 *et seq.* (1986).
- 55 Los Angeles Ordinance No. 166,077, Administrative Code section 4.323.5 (1990).
- 56 Minutes of the regular meeting of the Board of Police Commissioners, June 1, 1982.
- 57 City Charter, section 42(3).
- 58 City Charter, section 42(2).
- 59 See *Ward v. Superior Court*, 70 Cal. App. 3d 23, 32-36 (1977); *Gates v. Board of Police Commissioners*.
- 60 *Gates v. Board of Police Commissioners*, Order of May 13, 1991, at 23-24.
- 61 See *Gray v. Gustine*, 224 Cal. App. 3d 621, 631 (1990).

TABLE 10-1

GOVERNANCE STRUCTURES - FIFTY ONE LARGEST CITIES IN U.S.¹
 APPOINTMENT AND REMOVAL OF POLICE CHIEFS²

	APPOINTMENT				REMOVAL				
	Mayor	City Manager/ Public Safety Director	Police Commission	W/ City Council Confirmation	Term (years)	Mayor	City Manager/ Public Safety Director	Police Commission	W/ City Council Confirmation
Baltimore, MD	X			yes	6	cause			no
Boston, MA	X			no	5	cause			no
Chicago, IL	X			yes	no	without cause			no
Cincinnati, OH ³		X		no	no		cause		no
Columbus, OH		X		no	no		cause		no
Dallas, TX		X		no	1		without cause		no
Detroit, MI	X			no	no	without cause			no
Houston, TX	X			yes	no	without cause			no
Indianapolis, IN		X		no	no	without cause			no
Jacksonville, FL	selected	official		no	4	(by city)			no
Los Angeles, CA			X	no	no		cause		no
Muskie, OH	X			yes	no	without cause			no
Wilmington, DE			X	no	7		cause		no
New York, NY	X			no	5	without cause ⁴			no
Philadelphia, PA	X			no	no	without cause			no
Phoenix, AZ		X		no	no		without cause		no
San Antonio, TX		X		no	no		without cause		no
San Diego, CA		X		yes	no		without cause		no
San Francisco, CA			X	no	no			without cause	no
San Jose, CA		X		yes	no		without cause		no
Washington, D.C.	X			yes	no	without cause			no

1 Based on 1980 Census data

2 The information reflected in this table was received via phone calls to the respective cities and verified against municipal and in some cases state statutory authority

3 Cincinnati has both a Safety Director and a City Manager, with each having a role in the appointment and removal process. The Safety Director makes a recommendation to the City Manager for the appointment of a Chief whose appointment is not subject to City Council confirmation. The Chief reports directly to and is removable for cause only by the Safety Director whose decision is subject to the approval of the City Manager. (The Safety Director is selected by the City Manager who in turn is selected by the City Council)

4 Under the New York City Charter, the police commissioner (chief) serves for a term of five years and is removable by the mayor or the governor, whenever in the judgment of the mayor or the governor the public interests shall so require. (Chap. 18, § 411, New York City Charter)

TABLE 10-1 (continued)

COMMUNITY STRUCTURE: MIDDLETOWN AND LAMONT CITIES IN 1990
 APPOINTMENT, REMOVAL AND FORMS OF POLICE COMMISSIONERS*

	Appointment Process	Removal Process	Principal Powers
Baltimore, MD	no commission		
Boston, MA	no commission		
Chicago, IL	all appointed by mayor for staggered 3-year terms; city council approval required	by mayor ^a	enforce policies/rules, conducts hearings where chief recommends significant disciplinary actions
Cincinnati, OH	no commission		
Columbus, OH	no commission		
Dallas, TX	no commission		
Detroit, MI	all appointed by mayor for staggered 3-year terms; city council approval required	by mayor without council or council approval	enforce policies/rules with mayor approval, typically investigates minor complaints only, has subpoena power
Durham, NC	no commission		
Indianapolis, IN	1 appointed by mayor and 2 elected by officers; 3 year terms; city council approval not required	by safety dir. without council or council approval	may exercise significant disciplinary action if chief separate complaint review process
Jacksonville, FL	no commission		
Los Angeles, CA	all appointed by mayor for staggered 3-year terms; city council approval required	by mayor with city council approval ^b	hears rules making power, decisions subject to vetoance by city council, no significant disciplinary role
Madison, WI	all appointed by mayor for staggered 3-year terms; city council approval required	by mayor ^c	acts as civil service board, conducts disciplinary hearing upon initial citizen complaint or appeal by citizens of departmental decision, no real managerial or administrative responsibilities
Memphis, TN	no commission		

* Based on 1990 Census data. This table also includes Madison, Wisconsin.

^a The information reflected in this table was received via phone calls to the respective cities and verified against municipal and in some cases state statutory authority.

^b The Chicago Municipal Code states that members of the Police Board are removable by the mayor "as provided by law" (Chicago Municipal Code § 2-21-810). The city's legal affairs office was unable to provide Commission staff with statutory provisions setting forth a removal process for Police Board members, indicating that the mayor's power to remove has not recently been challenged. The legal affairs office's unofficial view on this question, pending the results of research which had not been completed by the drafting of this report, was that the mayor may remove members of the Police Board without council and without approval by the City Council.

^c Sections 73 and 73.1 of the Los Angeles City Charter on removal of commissioners do not specify whether removal may only be had for cause.

^d Section 62.13 of Wisconsin Statutes authorizing police and fire commissions for cities in Madison's class does not provide for removal of commissioners. Legal counsel in the Madison Police and Fire Commission stated that the removal process has never been addressed. He further offered his view that the obligations created by the absence of statutory provision for removal may likely only be resolved by litigation.