

**POLICE AND THE USE OF DEADLY FORCE**

**HEARINGS**  
BEFORE THE  
**SUBCOMMITTEE ON CRIME**  
OF THE  
**COMMITTEE ON THE JUDICIARY**  
**HOUSE OF REPRESENTATIVES**  
NINETY-SIXTH CONGRESS  
SECOND SESSION  
ON  
**POLICE AND THE USE OF DEADLY FORCE**

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**CONTENTS**

HEARINGS HELD		Page
March 21, 1980.....		1
March 22, 1980.....		119
WITNESSES		
Alexander, S. Deacon, member of the National Alliance Against Racists and Political Oppression.....		181
Aliano, George, president, Police Protective League, Los Angeles, Calif.....		110
Prepared statement.....		107
Alleyne, Reginald, professor of law at the University of California Law School, Los Angeles.....		171
Prepared statement.....		174
Block, Sherman, undersheriff, Los Angeles Sheriff's Department.....		38
Cano, Gonzalo R., chairman of the Los Angeles Police Commission's Ad Hoc Mexican-American Citizens' Task Force.....		161
Prepared statement.....		159
Chapple, Charles, Coalition Against Police Abuse.....		133
Prepared statement.....		132
Cochran, Johnnie L., Jr., assistant district attorney, Los Angeles, Calif.....		103
Prepared statement.....		101
Fisk, James, retired deputy chief of police for community relations, Los Angeles, Calif.....		5
Gumbua, Dr. Shakika, chairperson of Black Women Today, Los Angeles, Calif.....		56
Hagberg, Peter N., investigator of the Berkeley Police Review Commission.....		152
Prepared statement.....		146
Harvey, Wesley, Los Angeles Police Department assistant chief.....		65
Prepared statement.....		63
Hata, Nadine I., Southern Vice Chairperson, California Advisory Committee, U.S. Commission on Civil Rights.....		79
Prepared statement.....		78
Hudson, Paul C., president of the Los Angeles Branch of the National Association for the Advancement of Colored People.....		171
Prepared statement.....		170
Jacinto, Alex, member of the Mexican-American Bar Association.....		163
Jackson, Michael.....		184
Kight, Morris, Director of the Study of Public Policy.....		180
McAlpin-Grant, Lola, member of the Police Commission's Steering Committee and Task Force Subcommittee.....		169
Prepared statement.....		167
Mack, John W., president, Los Angeles Urban League.....		35
Prepared statement.....		32
Ordin, Andrea Sheridan, U.S. attorney, Central District of California.....		60
Prepared statement.....		58
Pompa, Gilbert G., Director, Community Relations Service, U.S. Department of Justice.....		122
Prepared statement.....		119
Ripston, Ramona, executive director, American Civil Liberties Union of Southern California.....		91
Prepared statement.....		83
Uelmen, Gerald F., professor of law, Loyola Law School, Los Angeles, Calif.....		48
Prepared statement.....		46
Waters, Hon. Maxine, assemblywoman, 48th District, State of California.....		20
Prepared statement.....		18

(III)

IV

ADDITIONAL MATERIAL	Page
Pitchess, Hon. Peter J., sheriff, Los Angeles, prepared statement.....	36
APPENDIX	
Correspondence and statements relating to police and the use of deadly force.....	189

POLICE AND THE USE OF DEADLY FORCE

FRIDAY, MARCH 21, 1980

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CRIME,  
COMMITTEE ON THE JUDICIARY,  
*Los Angeles, Calif.*

The subcommittee met at 9:30 a.m., in the auditorium of the Health Services Administration Building, 313 North Figueroa Street; Hon. John Conyers, Jr. (chairman of the subcommittee), presiding.

Present: Representatives Conyers, Hawkins, and Lungren.

Staff present: Hayden Gregory, counsel; Steven Raiken, assistant counsel; and Deborah Owen, associate counsel.

Mr. CONYERS. The Subcommittee on Crime of the House Judiciary Committee will come to order for continued hearings on the subject of police and the use of deadly force.

Good morning. I am Congressman John Conyers, Jr., chairman of the subcommittee. With me are two very dear colleagues of mine, both from California: Congressman Gus Hawkins, Los Angeles; Congressman Dan Lungren of Long Beach, Calif., who represents the 34th Congressional District.

Because I am very pleased to be in the district of Gus Hawkins with whom I have worked for quite a number of years, particularly in connection with the full employment law, now popularly known as the Humphrey-Hawkins law, I will yield for any opening remarks he might choose to make.

Mr. HAWKINS. I thank you, Mr. Chairman.

I would like to take this opportunity to express my personal appreciation to you as chairman of the subcommittee and also to my distinguished colleague, Mr. Lungren, from Long Beach, who probably doesn't need a welcome because he is so close to the downtown Los Angeles area. But I wish certainly to acknowledge with appreciation the great contribution that you personally and your committee have made in connection with this subject.

We are not exempt from any of the criticisms that have been leveled, I think, across this country of ours, and I think that one of the best ways of addressing the problem is to have a very fair, objective, and impartial hearing of this nature by a committee that does not have its roots too interwoven with some of the problems.

It is for that reason that I look forward to sitting in on the hearing with you and to be of such assistance as I can.

My office for several years has been involved in relations with the Department of Justice in an attempt to document and to establish a pattern concerning police activities and law enforcement in general.

We have within any particular community two schools of thought. I think they are interwoven. On the one hand, we have those who believe there have been violations of basic human rights and that this has got to stop; then we have the other school of thought, a number of individuals who believe we don't have adequate police protection, and this includes a lot of homeowners, many of whom have formed block clubs as a means of identifying the problem and protecting their security.

This block-club movement is not a unique movement, but it is certainly one which I would suggest the subcommittee look into because these block clubs work very closely with law enforcement.

There is a problem, as I say, with those who feel on the one hand that the policeman is the enemy and those on the other hand who believe that the policeman is a friend.

So without, as I say, drawing my own personal conclusions with respect to many of these problems, I welcome you; and I hope to participate to the fullest extent possible with the subcommittee.

Thank you very much.

Mr. CONYERS. Thank you, Congressman Gus Hawkins. We are always happy to be in your district. You have welcomed me in the capacity of a subcommittee chairman many times before.

We have with us in terms of our staff, to my immediate right. Chief counsel, Hayden Gregory; assistant counsel, Steve Raikin at the far end of the table; associate counsel, Deborah Owen; attorney Phillip Brady, legislative assistant to Congressman Lungren, and Linda Hall, an able, hard-working member of the subcommittee staff.

Our witnesses this morning are Undersheriff Sherman Block, Los Angeles County Sheriff's Office; the Honorable James Fisk, police commissioner, Los Angeles County; Mr. Johnnie L. Cochran, assistant district attorney, Los Angeles County; the Honorable Maxine Waters, assemblywoman and whip for the assembly; and Mr. John Mack, director of the National Urban League.

I have had a number of requests from persons desiring to be witnesses. If anyone is interested in appearing, please indicate your desire to Steve Raikin so that we can work a schedule out to fit you into these hearings.

I'm going to make an initial statement and also yield to my colleague, Mr. Lungren, for any additional comments he may wish to make.

We are continuing hearings in this subcommittee, the Subcommittee on Crime, on police and the use of deadly force.

This is a problem which, if not growing in numbers of incidents of use of deadly force by and against law enforcement officers, is growing in the sense of increased public awareness and concern.

Statistics reveal that each year in the United States 100 to 125 law enforcement officers are killed by civilians, but about three times that many civilians are killed by police with a great disproportion of these numbers being members of minority groups.

National figures show that blacks are killed at about 10 times the rate of whites; however, since these national statistics do not distinguish between Anglos, Latinos, and categorizing them in one designation, the rate at which minority citizens are killed by police is probably 14 or 15 times the rate at which whites are killed.

These same statistics also tell us that officers involved in these fatalities are almost never prosecuted, and in the case of the few that are, are very rarely convicted.

Regardless of whether this is due to the fact that criminal wrongdoing is not involved or the fact that the criminal justice system is unwilling to prosecute, it still remains that criminal prosecution has not proven to be a meaningful intervention technique in these cases.

The Federal system is a matter of concern in these hearings, and we will be examining the laws and other remedies to determine what changes may be needed.

In this regard, we will be hearing testimony from the U.S. attorney from the middle district of California. So far as Federal involvement, other than through the criminal law, we will be hearing from the Community Relations Service, as well as the U.S. Commission on Civil Rights.

The question has arisen: Why Los Angeles?

This question is accompanied sometimes by the implication that we have prejudged Los Angeles or its law enforcement agencies, but that is not the case.

We view it that the people, the public officials of this area, have chosen Los Angeles.

For more than a year now, almost daily attention has been focused here on the problems that have been created by the use of deadly police force, and we have had comments from virtually all sectors of the community: Elected officials at all levels, police governing boards and administrators, from the public, and always local community people, organizations, and leaders as well.

In a recent application for Federal financial assistance to improve their own response to these problems, the office of the district attorney for Los Angeles County has taken particular note of this public concern, and I quote that office at this point:

During the calendar year 1978, the Los Angeles Police Department alone had 62 officer-involved shootings resulting in the death or injury of civilians. The Los Angeles County Sheriff's Department had 44 such shootings. Other Los Angeles County law enforcement agencies had approximately twenty additional shooting incidents.

That proposal in which they made application goes on to state that:

Forty of these 126 shootings were cases which, due to their facts, aroused a high public interest and concern. The public has become increasingly aware and concerned about the questions created by officer-involved shootings.

The same sentiment is echoed by the board of police commissioners, who themselves stated in a recent report, and I quote:

In the past, residents of south-central Los Angeles have been among the strongest supporters of the Los Angeles Police Department. They have consistently voted in favor of measures designed to increase officers' benefits and departmental resources, often by majorities far larger than those in other communities. Nonetheless, a serious conflict has been developing in the area of police-community relations.

This conflict is evidenced by a poll taken by the Los Angeles Times. In 1979, 52 percent of the blacks, 37 percent of the Hispanics, and almost one-quarter of the Anglos "disapproved of the way the Los Angeles Police Department was doing its job."

The figures were taken 4 months after the shooting of Eulia Love showed a "precipitous decline of 24 percent over a period of 18 months" of police support in the black community.

In this sense, then, Los Angeles has selected Los Angeles for these hearings.

You have been involved in an intensive and extensive effort of study, discussions, and debate.

Out of this process has come many specific changes in the handling of such incidents and many more proposals for further changes.

We are here, this subcommittee, on a factfinding mission to learn from your experience and your efforts and to hear the complaints that you have put before us and to understand what all the law enforcement agencies are contributing to help resolve this extremely difficult problem.

We are pleased to note that one of the Federal programs that our subcommittee authorizes and oversees, the Law Enforcement Assistance Administration, has recently provided financial assistance in two specific instances. One is a grant to the district attorney's office to facilitate a more expeditious examination of the incidents involving citizen fatalities.

The other is a major research grant to the University of California at Irvine to participate in the examination of the use of deadly force and to formulate concrete proposals to address the problem created thereby.

In view of this responsibility, our presence here is particularly timely because it permits us to look at this very difficult area and its impact on the Subcommittee on Crime.

Previously the subcommittee has held hearings in Houston, and we are very anxious to hear from a great list of witnesses, so long that we had to schedule a hearing today and partly tomorrow morning.

We appreciate all of the cooperation that has been given to us by many, many people in helping the subcommittee visit with you today.

I would like to yield to my distinguished colleague on the Judiciary Committee who has joined us for the hearing today, Congressman Dan Lungren.

Mr. LUNGREN. Thank you, Mr. Chairman.

I would like to join Congressman Hawkins in welcoming you to southern California.

As you stated earlier, my district includes Long Beach. In parts of my district, we have the privilege of being served by the Los Angeles County Sheriff's Office. I also have some personal knowledge of the work done by the Los Angeles Police Department.

Although I am not a member of the Subcommittee on Crime, I am a member of the Subcommittee on Criminal Justice and was asked by the Republican members of this subcommittee to attend this meeting so that there would be participation on both sides of the aisle.

I would like to say that I am looking forward to fair and impartial hearings and that I am encouraged to hear that the city of Los Angeles, the Los Angeles County Sheriff's Department, and the Los Angeles Police Department have not been prejudged.

I happen to believe that we are fortunate to have two outstanding law enforcement organizations in this area. I become more fervent in that belief as I talk with people from other parts of the country about

the differences in training, including continuing training, received by their police departments.

I am certain that everyone, no matter what his affiliation, who testifies here today is concerned about the deaths resulting from contact between members of the police department and members of the community. I hope that we will all be able to view this subject as dispassionately as possible in order to uncover the facts. Hopefully, these hearings will benefit not only this community, but the entire country.

I am most happy to be here, and I look forward to listening to the opinions and experiences of the various witnesses before us.

Mr. CONYERS. Thank you very much.

You made an important point.

These hearings go far beyond their impact on Los Angeles.

We will be in other cities, and, of course, there will be hearings in Washington because we recognize that we are faced with a national problem.

One of the police officers from Chicago is on national television this morning on this very same subject, Mr. Robinson of the Afro Police Officers Organization, who will, undoubtedly, be a witness before the subcommittee in later hearings.

We are going to ask Police Commissioner James Fisk to come forward and be our first witness today.

He's retired deputy chief of police for community relations and was appointed police commissioner in 1973 by Mayor Bradley.

He is now adjunct professor in political science at UCLA and is currently involved in the study of the use of deadly force.

He has a long and valued experience in law enforcement activities, and we believe he can very appropriately give us the setting and background in which to begin the hearing today.

Commissioner Fisk, it is a real pleasure to have you before the committee.

You may proceed in your own fashion.

#### TESTIMONY OF JAMES FISK, RETIRED DEPUTY CHIEF OF POLICE FOR COMMUNITY RELATIONS, LOS ANGELES, CALIF.

Mr. FISK. Thank you for the opportunity of being here and thank you for the carte blanche mandate charter.

Needless to say, those of us who are in law enforcement are concerned with the issue we are here to discuss.

I have a very personal interest in that issue and a professional interest as well.

I must say that when I became aware of the fact that you chose Los Angeles as your first site, I posed the question to your counsel, Mr. Gregory: Why Los Angeles? You have dealt with that in part.

I think I am going to respond to that in this way by saying: I think you chose well because in many respects southern California has been a model for professional law enforcement.

You will find, despite incidents that disturb all of us, that there's much to be learned from the way in which law enforcement is conducted in southern California in particular. So I would like very much to encourage you to translate incidents into issues.

We have a tragic incident in the *Eulia Love* case. What is the significance of that in terms of larger issues?

I'd like very much to deal with two or three things if you don't mind, and I will try to be fairly brief.

The first is in a sense an attempt at a clarification of what appears to be a very sharp public controversy between the chief of police and the police commission.

I'd like to give you what I think is some helpful interpretation of that.

A part of that controversy was to, in a sense, compel the chief of police to say publicly what he said privately. The organization very quickly after the *Eulia Love* incident internally came to the conclusion that there was much to be learned from that incident so we could prevent that from happening again.

This serves to dramatize the situation that affects law enforcement in many respects and tends to make it very difficult to learn the facts surrounding the shootings.

The police, in general, like many high-risk decisionmakers, such as surgeons, for example, believe that persons who are on the outside do not understand the nature of the decisions that they have to make. They are not likely to understand the risks that are involved and not likely to make allowances for error.

It seems to me one of the most important things that you can do as a committee is to help the public understand the nature of the decision to use deadly force, the risks that are involved, the adverse circumstances under which those decisions are made, and to indicate to law enforcement officers that we are sympathetic in that situation.

I think once that becomes apparent, we will encourage law enforcement officials to be more candid. I'm inclined to believe we might have more openness in our own situation if the police believed that there was an appreciation of the difficulty.

That's one observation I would make. It's easy to focus on incidents and the tragic nature of a given incident.

It's easy to focus on mistakes and occasionally on something that is even worse than a mistake.

But the important thing, it seems to me, is to be able to translate all these incidents into the broadly based issues that we have to deal with.

Now, if I were in your position looking at the problem, if I were looking at organizations to determine whether that organization dealt with a problem of deadly force appropriately, I'd want to look to see if that organization had a value statement, or policy statement, that dealt with the use of deadly force.

There are some large police departments that do not have a policy in regard to use of deadly force.

I would want to find what values the department tried to promulgate in this policy statement.

For example, in our policy statement in Los Angeles Police Department, we talk in terms of reverence for human life.

I'd want to find out if organizations talk in philosophical terms about the value of human life, not just at the policy level but the training level.

You'll find in that respect I think our department—I'll let the sheriff's department speak for itself, because I am not familiar with

their policy—but I suspect between our two policies, you are going to find models that will be useful to you as you judge organizations in other parts of the country.

I would look for one other characteristic of an organization, and I would ask the question:

What about that organization in the sense of accountability?

To what extent does that organization review the behavior of its personnel?

To what extent does it learn from experience?

Does it discipline its officers for mistakes of this sort?

Is it open?

Does it share the results of those investigations with the public?

The police have been moving toward an awareness of the need for openness and accountability, but it is very difficult for them to move in that direction when they believe that there are persons who are going to criticize them who are not sympathetic and understanding as to the nature of the problem.

So I would encourage you as you look about the country to develop in your final report some administrative model that you would look for in the ideal law enforcement agency.

I'd like to share with you one other insight into the *Eulia Love* case which will put the record into perspective.

Part of the discussion between the chief of police and the commission was to make a distinction between—or to emphasize the fact that decisionmaking is essentially a sequential process in which an officer moves from fact to fact, from one pivotal decision to another until he finally comes face to face with that final irrevocable decision to use deadly force.

The chief of police and the officers of our department were trying to make the point that when the final decision was made to use deadly force that those officers were, indeed, in fear of their lives.

[Audience shouting "No, no, no."]

Mr. FISK. The commission was trying to make the point that before the officers arrived at that particular decision there was a sequence of decisions. There, perhaps, were a series of alternatives.

If different alternatives had been selected, perhaps we would not have arrived at that final point of confrontation.

The Commission was trying to make the point that in the decision-making process, we should encourage officers to consider other kinds of alternatives.

That served to dramatize that particular point which really wasn't very well emphasized, served to dramatize a difference of opinion that in some respects wasn't a difference of opinion but a difference in focus of attention.

In learning from that *Eulia Love* case, we need to, in a sense, become more sophisticated in our decisionmaking. We need to give officers additional kinds of resources.

As an outgrowth of the *Eulia Love* case, we are developing some training and resources which will enable officers to have other kinds of alternatives available in a situation of that sort so that, hopefully, police officers will never come to the point where they feel they must use deadly force or at least reduce the number of cases in which they feel they come to the point requiring them to use deadly force.

Another observation I would make is that these decisions are made within a social context. I would suggest that one of the helpful books you, perhaps, could read is the book by Bailey and Mendelson entitled "Police and Minorities."

I think we need to realize that policemen do believe and have reason to believe that they're working in a more hostile atmosphere in minority communities than they are in dominant communities.

Cold statistics in Los Angeles will tell you that more policemen are assaulted in minority communities than in dominant communities.

VOICE. What do you think of rapists?

Mr. FISK. Here's what I want to say in connection with that: Whether his perceptions are valid perceptions or not, the policeman believes there's more hostility in minority communities than in dominant communities.

VOICE. Why?

Mr. CONYERS. Now, the Chair is attempting to be extremely indulgent. We realize that this is a very controversial subject matter, but I'm going to try to acknowledge everyone in this area who wants to be a witness. I'm going to ask that any demonstrations really be curbed because there will be no way of holding a serious hearing. I think every witness' statement is his own, and he or she is entitled to make them without having to acknowledge remarks or responses from the audience.

I would ask your indulgence so that the hearing itself is not made a mockery.

We are going to have other witnesses, but I think each witness is entitled to proceed unfettered and without any comment or reaction from those of us who are listening to his comments.

Mr. FISK. I think it is important to every witness that those persons who disagree with me have a chance to express themselves honestly, and I appreciate that.

Bailey and Mendelson, when they surveyed Denver, found that when policemen go into minority communities, they have a greater expectation of danger in those communities than they do in their own communities; and that's quite understandable.

I am not trying to assess that situation except to say that's a part of the process by which a policeman arrives at the decision to use deadly force. That can be modified, and you have people here today who will speak about how they offer support to the police.

What I'm trying to say in this statement of mine is: When you look at the decision to use deadly force in the total context of a very complex decision, a decision where frequently rationality almost cannot be the final factor in the making of a decision, at some point—and we would hope we could avoid reaching that point by developing better alternatives during the preliminary decisionmaking process—during some point rationale may not be the final factor in that decision.

So I'm grateful that there's an inquiry of this sort. I think it can be of great service to the community.

One of the facts of life is that the police represent society's effort to establish a safe community through the use of force and intimidation.

The police function is an intimidating function. It's intended to coerce people into complying with society's laws, to coerce those persons who won't otherwise comply. The nature of a police function is a coercive function. It cannot be otherwise.

Most of the impetus for orderly behavior comes from the individual himself, but for those who won't comply, the police provide an alternative.

So, in conclusion, I would like for you to realize that there are, perhaps, three things that determine a police officer's perception of his role, his operational code.

One is danger, real danger, anticipated danger. Sometimes the two don't coincide, but nevertheless a constant ingredient in the decision-making process is the fact that there is such a thing as danger in the mind of the policeman. This is compounded by the fact that the police officer has very substantial authority, and each of these is modified by the fact that in all of their functions, particularly that deal with the issue of deadly force, there is a great deal of uncertainty as to what the facts in the case actually are.

I would say in conclusion that you have a most worthwhile subject to consider that needs to be dealt with thoughtfully.

We need to build opportunity for communications so that we can discuss them in terms that produce some constructive results.

Mr. CONYERS. Thank you very much, Commissioner.

What is the relationship between the commission and the police department? How would you characterize that?

Mr. FISK. We are part of the police department. By law, we are the head of the department; we supervise and control the department. We appoint the chief of police, and by law, he works under our supervision.

Mr. CONYERS. In the case of the *Eulia Love* matter, is it not true the commission has engaged in extensive studies, a three-part study, that was done in connection with that case and the general subject of use of deadly force?

Mr. FISK. Yes.

It will be a four-part study by the time we complete it.

It is correct that we have dealt with the *Eulia Love* case and the broader implications of that, hoping to learn from that experience.

Mr. CONYERS. Am I not correct that there was some criticism by the commission of some of the police officers involved in the *Eulia Love* case?

Mr. FISK. We did not criticize the officers. We suggested that the decisionmaking process could have been improved upon.

Mr. CONYERS. In what way, specifically?

Mr. FISK. I would say that our major criticism dealt with the preliminary identification of alternatives.

Now, the minority report of the review board—I'd like to come back to that in just a moment—suggested that the police officers could have considered some other alternatives prior to the confrontation which in their mind produced the need for deadly force.

The chief's focus was, as he described it, on that final frame, that point at which they felt their security was threatened.

The commission's focus, as I see it, was to say: We think the entire decisionmaking process could have been a better process.

Mr. CONYERS. What does that translate to?

What could they have specifically done?

Mr. FISK. Let me give you an example:

The commission made the observation in effect that the officers immediately physically confronted *Eulia Love*. The minority re-

port published by the department suggested, for example, the officers need not have closed that distance between themselves and Eulia Love. The threat to which the officers felt they were responding was the threat of that knife.

The officers placed themselves in that point of confrontation. The minority report suggested, perhaps, they could have stood behind the door of the radio car. They could have let Eulia Love go back into her house. There were a series of alternatives the commission felt were not considered.

I'd like to emphasize the fact that the commission never dealt with the issue of deadly force.

We dealt with the preliminary decision. We never dealt with the issue of self-defense, let me say.

Mr. CONYERS. Let me ask you a much broader question that I have been trying to figure out how to put to you because we have had other witnesses at other times. We conducted a series of hearings on unemployment and crime, and a number of witnesses, Bill Nagel being one, pointed out the fact that racial discrimination in our society and the criminal justice system particularly has a great impact upon the conduct of many law enforcement officers and their relationship to blacks and other minorities and also in the amount of arrests, convictions, and incarceration that results in high rates of blacks and minorities being incarcerated. Have you examined this phenomenon as a professional law enforcement officer?

Mr. FISK. I am aware of some of the data to which you refer. I am aware of the fact that we have differences in opportunities.

I am aware of the fact that some persons can't compete economically as others.

I am aware of the fact that those persons are by and large in minority communities.

I haven't made any judgments in my own mind as to the relationship between those things and the commission's findings.

Mr. CONYERS. You must have thought about it.

Mr. FISK. Of course, I have thought about it.

Mr. CONYERS. I would be appreciative, Commissioner, to the extent you can, if you would give me your best candid views on this subject since we are not ever going to have a subcommittee hearing in Los Angeles again in which you will be the leadoff witness.

In a way, this is it, and these hearings will be printed up, and it is really important, regardless of whose opinion you may have heard or whether your views are constant with mine or any member of this subcommittee, that you tell us exactly what you feel about the subject, because I think it would be very important.

Mr. FISK. I don't need to be admonished to tell the truth as to how I feel.

Mr. CONYERS. I am trying to get you to say more.

Mr. FISK. Give me a chance.

I was in community relations for many years.

I was called a "nigger inspector" because I was in community relations.

So to tell me that I need to speak my convictions isn't something I need to be told.

But I'm puzzled by the complexity of the problem, and I don't have any simple answer to the question posed.

Now let me give you some of my reactions to the general issue.

There are some of those who would say that there is institutional racism in this department. Now, I haven't heard that term defined, and I'll make an attempt to give you what I see as my definition of it.

If you're talking about an organization which at the policy level consciously makes distinction between people and the way in which they treat those people if in the training level you train officers to treat people differently because of the color of their skin or economic status, if that is part of institutional racism, then we don't have institutional racism.

If you want to give me a different definition of some other aspect of the definition, I'll respond to that, but beginning at the commission level and dealing with the staff officers, there isn't institutional racism.

Now, there may not be the kind of sensitivity you would like to see among all the staff officers about these issues. I'm sure that is the case.

But at the same time you can talk in general terms about the society in which we live that none of us are really sensitive enough about these issues.

If you talk in terms of whether there is racism and prejudice and bias at the operational level, I'm sure there is at some point.

Mr. CONYERS. By the way, I am including national as well as local in this discussion.

My statistics are nationally derived in terms of the fact that many more minorities are processed through the criminal justice system, many more are arrested, many more are convicted, and many get longer sentences for the same crime. And many criminologists and students of law—not all of them—certainly, obviously, feel that because of the racial discrimination that is invidious in our society and is exacerbated in the criminal justice system it results in this very phenomenon that we are here to analyze.

In other words, that the racial problem impacted in the criminal justice system compounds our problems.

Would you see that as an important feature?

Mr. FISK. The police are the point of entry in the criminal justice system or process.

We determine, to a large extent, what happens in terms of volume of work and kind of work that is introduced into this system.

So I suppose that if there were prejudice, that would determine the nature of the load imposed upon the rest of the system, but I'm going to speak for my organization.

I'm not going to speak for anyone beyond my organization.

I do not believe that the color of a person's skin is a decisive factor in determining who we incarcerate.

Mr. CONYERS. Let me ask you this. There has been a problem here and across the country in major cities of the employment of blacks, and hasn't that been a major problem to which a great deal of attention has been given by many men in and out of the police department, the employment of blacks as police officers?

Mr. FISK. Yes, I think it's been a difficult problem, and we have not arrived at a solution to the problem in terms of employing minority people.



Mr. CONYERS. That's an indication of the problem that I have described to you, is it not?

Mr. FISK. Yes, that's one.

Mr. CONYERS. And the promotion of blacks within law enforcement has been a continuing problem even after their percentage has been increased.

That's been a problem, hasn't it?

Mr. FISK. It has been.

Mr. CONYERS. Where else?

Maybe it hasn't been in Los Angeles.

Let me go quickly. I want to give other people some time here.

I didn't realize you were going to be such an intriguing witness.

We could have scheduled you as the only witness this morning.

Mr. FISK. Let me say I'm not sparring or matching wits with you.

Mr. CONYERS. I really thought, Mr. Commissioner, with a career in human relations that we wouldn't come here acting like racial discrimination is something peculiar to Los Angeles or Washington or anywhere else.

[Applause.]

Mr. CONYERS. You spent your whole life in this subject matter, and your views are important to me.

It's not really terribly important whether you and I agree or not, but it would help me if we could deal as directly with these questions as possible because I have a number of people that really want to ask you probably other kinds of questions.

Mr. FISK. Let me say something at this point.

What you are doing in your questioning of me, you are trying to get me to become your mouthpiece and to echo your point of view.

Mr. CONYERS. I'm sorry you feel like that.

Let me just ask you the questions I have remaining because I have never had a witness that I could make them out as a mouthpiece.

Certainly not a police commissioner. That would be an insult to your intelligence that you become my mouthpiece.

First of all, it would add nothing to these hearings. I'm here to try to help put in the record and work toward a serious historical problem in America of which Los Angeles is just one city in which there is this difficulty. This city is not unique in this respect.

People are asking why we are not in Chicago or why we are not in Nashville, why we are not back in Washington, D.C., for that matter.

It isn't a matter of turning you into a spokesman for me or manipulating your views which I would respect regardless of whether they differ from mine.

I just want to correct you there.

I'm not trying to get you to speak my opinions and make you a mouthpiece.

I don't think I could do that.

I have a couple more questions. I don't really care to engage in what you think I am trying to do.

Mr. FISK. I wanted to say this. I think you have some deep, heart-felt convictions about the implications of the issue we are talking about. I do, too.

My convictions are personal convictions. They relate to the worthwhileness of every human being in the intrinsic dignity which he has

without regard for the color of his skin. I have trouble articulating all the dimensions of the problem, and that's why I seem to be sparring as far as you are concerned. But it doesn't come from any desire on my part that I don't have a heart-felt, deep personal conviction about the major issues we are talking about.

Mr. CONYERS. Let me ask you this question about the policy of using deadly force by the Los Angeles Police Department.

There is one, and it is, apparently, a good one.

How is it that in view of that we have so many incidents of police violence on civilians here?

Mr. FISK. Now, you need to examine the record in two respects: You need to consider several things in connection with that.

First, there's a trend line. We think that there are very significant things that have happened based upon data as evidenced by the data which reflects the change in policy of the police department. It reflects training efforts; it reflects many of these things that go on internally that don't get high visibility.

Then you need to examine the incident by incident. I have been doing that. I have been reading summaries of every single shooting in Los Angeles County for the last 3 years.

The trend is in the direction you would like to see. The trend is toward a reduction in the use of deadly force by police officers.

A very important trend that was published recently is the fact that because of the stimulus of the attention we directed toward the use of deadly force, we are developing alternatives.

For example, our department now has an instrument that if it had been available at the time of the *Eulia Love* case, we would not have used deadly force.

I have been encouraged and, perhaps, the minority community is not encouraged, but if you sit down and examine the trend, the emphasis, I would be encouraged.

Mr. CONYERS. Do you have data that you could submit?

Mr. FISK. I should say so.

Mr. CONYERS. Is it from your commission or somewhere else?

Mr. FISK. It's from our department, and it's been validated.

We will provide you with information of that sort. I'll send you a couple more reports, too.

As a matter of fact, I'm going to give you a report that has not yet been acted upon by the commission itself. It's a report the department is doing internally. It's a progress report relative to the direction contained in the report, the police commission report in the *Eulia Love* case.

Mr. CONYERS. Thank you very much.

Mr. FISK. I am encouraged personally by what is happening.

I would want you to believe our critics aren't the only ones that are concerned.

Mr. CONYERS. Let me recognize Congressman Dan Lungren.

Mr. LUNGREN. Thank you, Mr. Chairman.

Commissioner, you suggested there is a sequence of decisions, involving a number of alternatives, which takes place in a shooting case such as the *Eulia Love* case, before an officer is actually confronted with the question of self-defense or imminent danger to an innocent third party.

Obviously, that sequence takes place within a very short period of time. It is easy to look upon it with hindsight and conclude that you might have made a different decision.

In essence, the ultimate decision to shoot, and even the sequence of decisions you mentioned, are automatic or products of reflex. Given that fact, what should the department do to train the officer to make the right response?

In other words, in the department's training procedure, how is the officer confronted with these situations hypothetically? Furthermore, once the officer is on the job, in what way does the department attempt to increase his skill in this respect so that he is better able to anticipate problems and, perhaps, choose alternative courses of action that do not necessarily force him to defend himself with deadly force?

Mr. FISK. You are going to have the assistant chief here this afternoon or tomorrow who could give you a better answer to that question than I can.

I'll give you one thing that I am aware of, and that is: We do have a training device which deals with the issue of target discrimination so that in other split-second kinds of circumstances an officer will make a judgment as to whether he should shoot or not shoot. So we do have very explicit training that deals with that kind of crisis confrontation. Quite frankly, I think we would discover that numerically there are more shootings that do not result in a crisis confrontation. There are more incidents that don't burst upon an officer, giving him no option except to defend himself.

I think those are probably in the minority. So it seems to me we can do the most good in training our police officers if we help them deal with the preliminary decisionmaking process to enlarge their control over that preliminary period of time, to lengthen that period of time so that the events don't control them but, rather, they control the events.

Mr. LUNGREN. You mentioned earlier that we should attempt to make law enforcement officers aware of the sympathy that others have for all of the decisions that they are forced to make, not only those involving the use of deadly force.

As a practical matter, how do you think we can do that?

Mr. FISK. I'm not quite sure how we could do that.

I think that a report from your committee which would indicate your awareness of the nature of the decision and the circumstances confronting police officers when they make the decisions would do a great deal to encourage police officers, hopefully, to be more honest in their appraisal and self-examination and more open in communicating the results of what they find to the general public.

I draw an analogy between surgeons in the malpractice situation and police officers.

Surgeons today will not assume certain risks that they would previously because of the threat of malpractice.

I'm sure that police officers will go through some of the same process.

They are going to back off assuming risks that quite likely have social value in terms of establishing social control.

You don't know how to measure it.

I have a personal feeling that just in terms of neck preservation that police officers are much safer backing off and using deadly force only in terms of self-defense and in defense of others. That's just a device to preserve the neck of the policemen. I'm not sure how well it will serve society.

I do think there's a coercive role that the police perform, an intimidating role.

I don't know how that will affect them.

Mr. LUNGREN. Thank you for testifying. I understand this is an extremely difficult issue to discuss, both in terms of personal experience and in terms of your view on this matter for some time.

Mr. FISK. I'm in dead earnest as far as being concerned about that. I am not unique, and I don't want you to think because of our sparring here I don't share your concerns.

Mr. CONYERS. Thank you.

I'd like to recognize Congressman Gus Hawkins.

Mr. HAWKINS. Let me get away entirely from cases that may involve emotional feelings.

Some of us have very deep feelings about some of the events that have occurred in Los Angeles. Let me try to go through something which I believe may be a little more constructive in dealing with individual cases.

You have indicated how human errors are involved in decision-making in many fields, including the police department.

In view of that, there has been a tendency to try to place over such decision, objective review by an independent agency of some kind.

In the Los Angeles situation, apparently, the police commission is presumably that independent agency. It seems to me in trying to develop a model that can be used to prevent many of the cases, having recommended to several—at least three instances of police commissioners I have known, the individual involved that I personally have recommended under different administrations, these commissions have always reported to me that they were not, in fact, real commissions, that they were not heads of the department, and they were not in a position to actually employ enough staff of their own to review the actions of the chief, that the chief really came into the boardroom and in effect told them what presumably were the facts.

Now, I'm not referring to any particular chief. There have been several different chiefs. So it would appear to me that structurally therefore—and as a commissioner, I know I will get your frank evaluation of this—that we do not, in fact, enjoy a police commission that has the opportunity to ascertain the facts.

[Applause.]

Mr. HAWKINS. I'm not really trying to get that reaction.

What I am trying to suggest is: What ways can we strengthen that review that the public on the one hand sometime perceives the facts to be the facts which may not be true but who disbelieve many times the findings, being fully aware that the police commission itself is not, let's say, the three-member police commission that was full time or one which had sufficient staff to conduct individual investigations independent of the chief over whom they actually happen to be head, whether or not in some way we can make of the police commission the

type of really independent objective review board as well as the actual head of the department.

Now, I am wondering whether or not we could suggest some constructive movement in that direction so that we could believe that the police commission itself is sincere when findings are made, and we could accept that as the actual facts and not something that is discovered.

I am not trying to put these words in to suggest a finding.

I think you realize what I'm trying to do.

In other words, as the police commission, what ways would you believe that the police commission itself can be strengthened in its work to be independent of the chief and actually the head of that department and not at any time a figurehead for the chief?

Mr. FISK. You don't want to give me all the time I would like to take to respond to that, but you have quite probably struck at one of the central issues, and that's the issue of accountability.

How does an organization having the amount and kind of power that the police have be held accountable for their actions?

There are those—

Mr. HAWKINS. I say that in terms of being as fair to the policemen or to the police malpractice.

Mr. FISK. I understand that.

Part of the problem locally is that if you go back to the present era of law enforcement, you go back to reform administration which puts out the influences from the city, after that the department puts up a barrier to external kinds of influences, and they develop the stand that politicians are corrupters. Therefore, any elected official is a corrupter.

That's a broad phrase.

Commissioners are politicians, therefore, an unwholesome influence.

I think to an extent that attitude continues at the present time.

The unfortunate part of that is by adopting that stance, we can interpret that as saying that we are not going to be held accountable to the political system.

So this issue of accountability as I see it is a very simple consideration here.

The struggle of power between the chief of police and the commission in Los Angeles is worth a study. Without regard for the historical review of that, in many respects the *Eulia Love* case represented the commission's coming of age in terms of establishing itself as the head of the department.

The exercise of power doesn't mean it is pervasive in the sense we deal with all important issues. The nature of a commission is that we deal with the most important issues, and we have to sort out those issues that are most important. The use of deadly force is an appropriate focus. Some very important things have happened locally in the last several years.

You say we need more staff. At the moment we do not.

At the moment we need to be more discriminating in terms of the issues we get involved in.

We need to indirectly, because of the charter, have more influence upon the administration of discipline. We need to assure that, in

fact, cases are properly investigated so that we have the facts of the case.

Our department has a reporting process, incidentally, where we evaluate every single shooting. I would ask this question of other police departments:

Do you have an internal administrative review?

Now, going to the *Eulia Love* case, the final adjudication of every use of deadly force is the commission's decision and not just that of a committee for the department.

Now, it is very important that every part of the process of accountability function properly.

It is important that the D.A. function. It is important that the city attorney functions as well, but it is most important that every part of that process and every person in that process be compelled to function well.

An important part of administering the department is the discipline.

Tom Reddin made a statement some years ago. He said, "I don't want my neighbor spanking my baby."

I think if discipline is to be administered, it should be administered within the department, and the public have access to information about our administration of discipline and hold elected officials responsible who don't administer discipline properly.

But to make the administration of discipline an external matter, to make it subject to the politics of election and popularity contests would introduce an element that doesn't belong in the administration of discipline.

Perhaps, I am responding satisfactorily to your question, but I simply reemphasize that you touch upon one of the most critical issues, and that is the issue of accountability and openness on the part of public officials.

Mr. HAWKINS. Thank you, Mr. Chairman.

Mr. CONYERS. Thank you very much, Commissioner.

We very much appreciate your coming before the committee to give us your position on behalf of the commission and yourself, and we hope that you follow these hearings so that we can make the best impact on this matter.

Thank you again.

Our next witness is Assemblywoman Maxine Waters.

She wrote to the President of the United States in the beginning of this year about the subject which has brought us together.

I would not attempt to recapitulate her letter, but it was a letter that had a profound impact upon many people examining the question of police force.

We welcome Assemblywoman Maxine Waters who serves the 48th district, including south-central Los Angeles and South Gate.

She was elected to the assembly majority whip by her colleagues, was appointed by the speaker to the commission on the status of women, and recently has become a member of the assembly on the ways and means committee.

Her assignments have included, besides judicial, labor, employment, and consumer affairs matters.

We are very, very pleased to welcome you, Ms. Waters, and include any statement you may have in the record and also acknowledge your colleague Ellen Harris who joins, I'm sure, in your remarks that you will be making.

Welcome before the Subcommittee on Crime.

TESTIMONY OF MAXINE WATERS

INTRODUCTION

There has been a serious increase in civilian deaths caused by police shootings here in the City of Los Angeles and in other major cities throughout the country. In the past ten years, "over 6,000 men, women and children ranging in age from 10 to 81 were shot to death by policemen." (N.Y. Times 11-26-79) In 1976 our courts sentenced 233 people to death, but executed none, while policemen killed an estimated 590 people. (N.Y. Times) And when we examine the facts closer we find that an alarming disproportionate number of those victims were Black Americans; 45 percent of all people killed by policemen are Black, and in cities such as Chicago and Philadelphia, where the Black populations are sizeable, but still minorities, over 70 percent of the people killed are black. (N.Y.T.)

These police killings have aroused in the Black community, and the Chicano and white communities across the country, a deep-seated anger that has made the police themselves suspect when these incidents occur.

The situation has reached epidemic proportions creating tensions and a lack of trust and cooperation between local law enforcement agencies and the communities they are intended to serve.

In Los Angeles there have been numerous incidents of police shooting civilians. Many instances have included circumstances that were at best suspicious. The one factor that has remained constant in Los Angeles is that in all questionable situations the officer or officers involved have been completely absolved of any wrongdoing.

A few years ago, those of you in tune with Los Angeles Police/Community Relations will recall the infamous LAPD choke hold. It seems that several suspects while in custody required restraining. For that purpose, the Department during training taught its officers the choke hold.

The problem with the choke hold was that if not performed with great skill and caution, it can be fatal. After several deaths, the Department decided the choke hold had outlived its usefulness. I emphasize after the death of several innocent (innocent because they were yet to be charged) persons it was determined that the use of the choke hold should be discontinued.

I think it's also important that not one officer was ever disciplined for killing a suspect via the choke hold to my knowledge.

As far back as I care to remember, Los Angeles newspapers have been reporting the questionable shootings of armed, supposedly armed and unarmed civilians.

One of the early cases of a questionable shooting that comes to my mind was the case involving the Deadweiler Family. The *Deadweiler* case occurred in South Los Angeles in the mid-sixties.

The basics of the *Deadweiler* case are consistent with some of the basics of today's police shooting cases, an unarmed Black man dead, a Los Angeles police officer found innocent of any wrongdoing. The *Deadweiler* case made many of us familiar with the popular law enforcement term "Justifiable Homicide."

Some of the facts in the *Deadweiler* case were: Mr. Deadweiler's wife was in her 9th month of pregnancy. She began what later proved to be false labor pains. Emergency and ambulance service being what it was in South Los Angeles, Mr. Deadweiler elected to drive his wife to the hospital in the family car. Having read somewhere that a white flag tied to the antenna of the car signified emergency, Mr. Deadweiler tied a piece of white cloth to his antenna and proceeded to the hospital.

The *Deadweiler* car was spotted by Los Angeles police officers and summarily stopped for traffic violations. The officers approached the *Deadweiler* car with guns drawn. The officer approaching from the driver's side put his gun inside the *Deadweiler* car. From here the story gets foggy. Somehow the *Deadweiler* car lunged forward causing the officer to fire his service revolver at point blank range into Mr. *Deadweiler*, killing him on the spot.

After that, things got routine for those of us familiar with police shootings, "Justifiable Homicide."

In January of 1979, the City of Los Angeles was stunned by the tragic death of Mrs. Eulia Love. A name that has since taken its place as a symbol of police abuse in South Los Angeles.

The *Eulia Love* case will be heard over and over during the course of this hearing. There will be discussions of how the District Attorney, Police Shooting Review Team and finally, The Police Commission conducted exhaustive investigations into Mrs. Love's death. In fact, we even got a slight difference of opinion from the Commission investigation.

In the tradition of Los Angeles police shooting events, however, after all the reports, investigations, special committees, revised training procedures—we have the same bottom line—"Justifiable Homicide."

April 26 of 1979, while the *Eulia Love* controversy was in full gear, 15-year-old Carlos Washington made the fatal mistake of jumping over a fence in Sherman Oaks. He was in the words of family attorney Myrna Grayson, "sentenced to death by the Los Angeles Police Department."

Concurrent with the *Eulia Love* investigation, investigations were also conducted in the *Carlos Washington* case. After extensive review, guess what the bottom line was?

The balance of 1979 saw the emergence of many new groups and organizations speaking to the issue of public shootings. The Los Angeles Police Commission took a stand almost 180 degrees from its usual rubber stamp posture.

The Police Commission in an unprecedented, independent investigation found that the *Eulia Love* shooting violated police shooting policy. In many instances, the Commission Report contradicted the Department version.

Probably the most significant departure by the Commission was the establishment that rounds fired by Officers Hopson and O'Callaghan struck Mrs. Love while she lay on the ground.

While all this was going on, I think it's important to mention that outside the Department none of the investigators had the pleasure of discussing the matter with either Officer Hopson or O'Callaghan. To go one further, the notes taken by police investigators after the shooting were not available to any investigators. For the grand finale, legislation I introduced to correct the confidentiality portions of the law, AB 747 was vigorously opposed by the Department.

The *Eulia Love* case saw another new wrinkle. As I stated earlier, there was dispute between the investigation done by the Department and the Commission. Now it must be decided which version will be the official version, that will ultimately go into the officer's personnel file. This has caused a direct confrontation with our recalcitrant Chief of Police. This matter has been taken to court and to date the jury is still out.

As if this was not enough, almost one year to the day of the *Eulia Love* slaying, William Gavin, Jr. was gunned down by, this time, the Los Angeles County Sheriff's Department.

William Gavin a known mental patient, was gunned down by 10-15 deputies while attempting to stab one of the deputies, or so the story goes. The Sheriff conducted it's investigation into the Gavin shooting. And the conclusion?

Moving right on into 1980, Cederick Stewart was gunned down by, again, the County Sheriff's Department after making a sudden move while being handcuffed. With one handcuff in place, while laying on his stomach, Deputy Aduato fired a single round into the head of the 19 year old Stewart—point blank—killing him in full view of his mother and family.

There are many other cases of police abuse in Los Angeles. These represent some of the "highlights".

We cannot allow these incidents to continue. Our communities must never let police brutality and the "deadly use of force" become standard police practices in the Black community.

We recognize the need for effective police services, but we cannot feel secure when calling on police assistance may well end up causing unnecessary deaths.

We need a police force that can be sensitive to the needs and problems of our community. We need more Blacks on the police force. Of the 6,738 sworn personnel of the LAPD, 421 or 6.2% are black; whereas the population of Los Angeles is 21.5% black. (U.S.A. v. City of Los Angeles.) We need to revamp the regulations and testing procedures of the LAPD in order to remedy the disproportionate number of Blacks who have been institutionally discriminated against. There is no excuse for our uniformed police force to be 6.2% black in a city that is 21.5% Black.

In order for effective law enforcement, complete with public confidence, to return to our community, changes must occur within our present system. Among the things I support are:

1. a civilian Police Review Board;
2. greater exploration into non-lethal weaponry;
3. changing the L.A. City Charter Section 202 that grants the Chief of Police the sole authority to discipline officers;
4. more aggressive recruitment and hiring of women and minorities as police officers in ratios that approach their numbers in the population; and
5. a complete overhaul of the complaint process so that complaints are not taken by uniformed officers.

I feel that this would truly be a start at making the Los Angeles Police Department the finest in the nation.

**TESTIMONY OF ASSEMBLYWOMAN MAXINE WATERS, 48TH DISTRICT**

Ms. WATERS. Thank you very much, Mr. Chairman.

I'd just like to start out by saying that I am extremely pleased and delighted that the subcommittee is in Los Angeles today.

I have been very involved with talking with Members of Congress and including my own Congressman, Congressman Hawkins, and members of your staff and others about the serious problem that we are faced with in Los Angeles, and so I did encourage your visit here, and I am very pleased that we are, perhaps, going to be the leaders in shedding some light on the problem of police shootings and police shooting investigations in the city of Los Angeles.

I have been involved with the issue for a number of reasons. Aside from my very personal concerns about the value of human life, I represent, as you said, the 48th Assembly District which includes much of south central Los Angeles, the entire area of Watts and South Gate, and many of the shootings and contacts with citizens by the police are taking place in the area that I represent, so I have the opportunity to be involved with daily complaints from citizens in that assembly district about their contacts with the police department, and we are very much involved every time there is a shooting or killing in south central Los Angeles.

Our office is the recipient of complaints and actions in relationship to these shootings and killings. So I have done a number of things aside from the letter to the President of the United States that you mentioned in your introduction of me, where copies did go out to many of the Members of Congress, certainly to all of the members of the Congressional Black Caucus, and to many of the mayors of the cities of these United States. I've also been involved out of frustration about this problem, in silent protests and leading marches in front of the police building with over 300 women who were extremely concerned about the Eulia Love killing.

I have attempted to introduce several pieces of legislation, one last year that I discussed briefly in my testimony before you. I have other legislation that I am attempting to introduce now in this session, and some of that I will discuss in this testimony before you.

I hope today to be able to kind of give you a backdrop and an overview of what has been taking place in Los Angeles and, perhaps, relate that to what I think is going on in the rest of the country.

There has been a serious increase in civilian deaths caused by police

shootings here in the city of Los Angeles and in other major cities throughout the country.

In the past 10 years "over 6,000 men, women, and children ranging in age from 10 to 81 were shot to death by policemen." This was documented in the New York Times, November 26, 1979.

In 1976 our courts sentenced 233 people to death but executed none, while policemen killed an estimated 590 people. This, too, was documented in that same article. And when we examine the facts closer, we find that an alarming, disproportionate number of those victims were black Americans. Forty-five percent of all people killed by policemen are black, and in cities such as Chicago and Philadelphia, where the black populations are sizable, but still minorities, over 70 percent of the people killed are black. That, too, was documented in the New York Times.

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There will be discussions of how the district attorney, police shooting review team and, finally, the police commission conducted exhaustive investigations into Mrs. Love's death.

In fact, we even got a slight difference of opinion from the commission investigation.

In the tradition of Los Angeles Police shooting events, however, after all the reports, investigations, special committees, revised training procedures, we have the same bottom line: "justifiable homicide."

April 26, 1979, while the Eulia Love controversy was in full gear, 15-year-old Carlos Washington made the fatal mistake of jumping over a fence in Sherman Oaks. He was, in the words of family attorney Myrna Grayson, "sentenced to death by the Los Angeles Police Department."

Concurrent with the Eulia Love investigation, investigations were also conducted in the Carlos Washington case. After extensive review, you can guess what the bottom line was.

The balance of 1979 saw the emergence of many new groups and organizations speaking to the issue of police shootings. The Los Angeles Police Commission took a stand almost 180 degrees from its usual rubberstamp posture.

The police commission in an unprecedented, independent investigation found that the Eulia Love shooting violated police shooting policy. In many instances, the commission report contradicted the department version.

Probably the most significant departure by the commission was the establishment that rounds fired by Officers Hopson and O'Callaghan struck Mrs. Love while she lay on the ground.

While all this was going on, I think it's important to mention that outside the department, none of the investigators had the pleasure of discussing the matter with either Officer Hopson or O'Callaghan.

To go further, the notes taken by police investigators after the shooting were not available to any investigators. For the grand finale, legislation that I introduced to correct the confidentiality portions of

the law, AB 747, was vigorously opposed by the Los Angeles Police Department.

The Eulia Love case saw another new wrinkle.

As I stated earlier, there was dispute between the investigation done by the department and the commission. Now it must be decided which version will be the official version that will ultimately go into the officers' personnel file. This has caused a direct confrontation with our recalcitrant chief of police. This matter has been taken to court, and to date the jury is still out.

As if this was not enough, almost 1 year to the day of the Eulia Love slaying, William Gavin, Jr., was gunned down by—this time—the Los Angeles County Sheriff's Department.

William Gavin, a known mental patient, was gunned down by 10 to 15 deputies while attempting to stab one of the deputies, or so the story goes. The sheriff conducted the investigation into the Gavin shooting.

And the conclusion? None.

Moving right on into 1980, Cedric Stewart was gunned down by, again, the county sheriff's department, after making a sudden move while being handcuffed. With one handcuff in place, while lying on his stomach, Deputy Aduato fired a single round into the head of the 19-year-old Stewart, point blank, killing him in full view of his mother and family.

There are many other cases of police abuse in Los Angeles. These just represent some of the highlights.

We cannot allow these incidents to continue. Our communities must never let police brutality and the deadly use of force become standard police practices in the black community.

We recognize the need for effective police services, but we cannot feel secure when calling on police assistance may well end up causing unnecessary deaths.

We need a police force that can be sensitive to the needs and problems of our community. We need more blacks and minorities on the police force.

Of the 6,738 sworn personnel of the Los Angeles Police Department, 421 or 6.2 percent are black.

We need to revamp the regulations and testing procedures of the Los Angeles Police Department in order to remedy the disproportionate number of blacks who have been institutionally discriminated against.

There is no excuse for our uniformed police department to be 6.2 percent black in a city that is 21.5 percent black.

In order for effective law enforcement, complete with public confidence, to return to our community, changes must occur within our present system.

Among the many things I support are:

A civilian police review board. Even though I haven't always endorsed initiative processes, I have endorsed an initiative that is currently being considered to establish a police review board.

I would also like to support greater exploration into nonlethal weaponry.

In addition, changing the Los Angeles City Charter section 202 that grants the chief of police the sole authority to discipline officers would be important.

I think we need more aggressive recruitment and hiring of women and minorities as police officers in ratios that approach their numbers in the population.

I also believe a complete overhaul of the complaint process so that complaints are not taken by uniformed officers would be helpful.

I feel that this would truly be a start at making the Los Angeles Police Department the finest in the Nation, as they claim to be.

Mr. Chairman, and members, I'd like to just conclude by saying that the letter that I drafted to the President of the United States asking for the establishment of what I called at that time a black ribbon commission was a letter and an action that I felt forced to take because of my frustration with trying to deal and communicate with the Los Angeles Police Department, police commission, the city council of Los Angeles, the State legislature, and even the Justice Department.

It seems to me that there is a lack of willingness on the part of most of the elected officials and others who have decisionmaking powers to confront law enforcement agencies about their actions.

I believe in addition to the problems that we have here in Los Angeles again, that this is increasing, becoming a national problem, and so attention directed from that level, the Presidency and Congress, is necessary to get a handle on what is taking place and see if there can be action that would help to curb these killings by police throughout the country.

Thank you very much for allowing me this opportunity to come before you this morning.

Mr. CONYERS. We thank you because you were more visible in Washington in persuading the subcommittee to come here than, perhaps, any other person in the country. We recognize that this is a national problem as well as a local problem, and your testimony spoke very eloquently to that point.

What of the problem or possibility of cut off of legal funds from those agencies in which discriminatory practices are going on in which there have been funds that can be cut off? What is the situation here in Los Angeles?

Ms. WATERS. I believe, Mr. Chairman—and I cannot absolutely be certain about this—I believe that that kind of discussion did take place around the discussion of discrimination in the police department. A suit was brought against the Los Angeles Police Department by the Public Interest Law Firm which has won a decision that directed the Los Angeles Police Department to establish separate lists of women and blacks in order to integrate the department.

The chief of police responded to that suit by saying he did not believe that they should be directed to do that and that he would have trouble implementing such a policy and has basically been granted a delay because of his representation that he would not be able to carry forward and graduate officers and complete the training in a timely fashion.

But just let me say I am of the opinion that if we take a look at this area of cutting off funding from Washington to police departments, such as the one in Los Angeles, that it would possibly go a long way in helping to correct some of the things that we are trying to direct attention to now.

Mr. CONYERS. It is my understanding that because of hiring practices the Los Angeles Police Department has had their LEAA funds cut off.

Ms. WATERS. I don't know, and someone else may be able to testify, but I don't think it has happened yet.

It was my understanding that there was a threat that that would be done. I don't know if the funds have absolutely been discontinued at this time.

Mr. CONYERS. What about the prosecution of officers and the civil liability of municipal organizations for police wrongdoing?

Do you have any idea of the number of suits or the success of lawsuits in this direction?

Ms. WATERS. Let me just say that there has been literally nothing done in the prosecution of officers who have been involved in shootings and killings.

There have been a number of complaints, and one court case that I vaguely recall was where a citizen was awarded as a result of wrongdoing by the police department. That happened here in Los Angeles.

I don't have the details of that, but very little overall has been done in either of those areas.

Mr. CONYERS. Is this a matter of long standing in this area, this whole question of community-police relations?

I would like you to put that in some kind of historical and contemporaneous context.

Ms. WATERS. I think, Mr. Chairman, the best way to quickly put it in historical perspective is to point your attention to the McCone Commission that was in Los Angeles following the insurrection in South Central Los Angeles that identified that there was a definite problem of police-community relations and that this was part of what helped to trigger the anger and the insurrection in South Central Los Angeles and directed their attention to that particular point and indicated that unless something was done very positively in that area, it would worsen.

This goes back quite a long way.

I think that the problems are getting worse and that we have not seen any attempt by the Los Angeles Police Department or the county or anybody else to really deal with that issue of growing tension between the citizens of particularly South Central and East Los Angeles and the police department.

Mr. CONYERS. My final question is whether or not the local police force here, as in some places of the country, have indicated a growing political situation where there has been an impact upon the relationship between the community and the police?

In some places it is difficult to improve community-police relations.

Ms. WATERS. I definitely think so.

Prior to being elected in Sacramento, I was chief deputy to a local city council member, and I had the opportunity to witness firsthand the very sophisticated and strong operating political lobbying efforts of the Los Angeles Police Department and, Mr. Chairman, let me just summarize that by saying they really do have their act together in relationship to contributions that are made to elected officials in relationship to the time that they depend on lobbying efforts, in relationship to really being involved in the political process.

We witness that also at the State level. [Applause.]

On the bill that I spoke to you about, AB 747, they openly came into committee and to my office and said they were going to kill the bill because they said they had the clout to do it, and kill the bill they did.

Since that time I have been visited by members of the Los Angeles Police lobby who threatened that if I carried forth with my anti-police-department bills, as they termed them, they would run ads in my district urging people to vote against me because they termed me antipolice.

I welcome them to do that in South Central Los Angeles, particularly in Watts. [Applause.]

Let me say that I have introduced a number of bills in Sacramento. This is the sixth one. That's going to, of course, cause me quite a few difficulties with the Los Angeles Police Department and some other law enforcement agencies.

One bill that I introduced would mandate citizen review boards in the entire State of California, and that is a bold effort that probably will go down to defeat, but I think again I can use that as a platform and a forum to create the discussion that is so necessary to again get at this problem. At the least, we might be able to get some kind of efforts toward better citizens participation with law enforcement agencies.

But, politically, the police department is strong. They are very well organized.

The Los Angeles City Police lobby is paid for out of city funds. The mayor has attempted to deal with that problem and threatened to hold up the budget last time, but in the final analysis did not have the clout to do that.

I have introduced a bill that would make it impossible for lobbyists from the Los Angeles Police Department to be paid for with city funds, and that, too, will probably go down to defeat; but, again, I will continue to do that because I think their political influence is so strong that they are winning victories in our local city council and our legislature, and they don't need to have to sit down and talk with the community when they can do that.

One final point: In this City of Los Angeles, as a result of the Eulia Love killing, the commission did help to establish a citizens advisory kind of unit. They have been in the process of discussing the use of a new, hollow bullet, I believe, and they made themselves very clear that they do not feel that that's the kind of weaponry that should be used. And I am told—and I will check this out because I have not seen it on my side of the house yet—I am told that possibly the Los Angeles City Police and their lobbyists might be coming to Sacramento to win the case if they lose getting support for it here in the city of Los Angeles. That's indicative of the kind of in-running that I see happening as a result of the political clout of the Los Angeles Police Department in particular.

So I guess I have said a lot to basically say their political influence directly goes against their being able to be involved with citizens in the community.

Mr. CONYERS. Mr. Lungren?

Mr. LUNGREN. Ms. Waters, I do not intend to engage in a sparring match with you, but some of the statements that you have made give me great concern.

First, you say that there has been a serious increase in the number of civilian deaths caused by police shootings in Los Angeles and other major cities, yet my information indicates just the opposite. In 1977, there were 32 deaths resulting from police action; in 1978, there were 20; and in 1979, there were 14. These figures indicate a reduction of more than 50 percent in just 2 years.

In view of that success, how can we possibly give encouragement to individuals on the police force who are attempting to deal with this problem, if elected officials make statements that there has been a serious increase in civilian deaths even though that does not appear to be the case?

Ms. WATERS. Mr. Lungren, I respect your question and what appears to be a discrepancy in the numbers of killings that have taken place.

As you sit here these 2 days, you are going to hear a lot of numbers thrown around.

The numbers that I investigated, I believe, certainly to be true.

Mr. LUNGREN. Can you tell me the source of that figure?

Ms. WATERS. I believe in the city of Los Angeles I have a number in the last year of close to 69 deaths.

Mr. LUNGREN. Can you tell me where you got that?

Ms. WATERS. We have figures that we have come up with based upon some documentation by the Los Angeles Police Department, some information based on the D.A.'s report when he requested the dollars from LEAA, and some kinds of community bulletins that have been put out.

Mr. LUNGREN. Is the discrepancy that large?

Sixty-nine versus 14 in 1979?

Ms. WATERS. Let me tell you what one of the problems is.

One of the problems happens to be with numbers and how many deaths have really taken place.

We really don't have a good system for documenting all of the deaths that really take place.

One of the things that we believe is that there are many deaths that we never really know about, and until we get a system—

Mr. LUNGREN. Let me interrupt you for a second.

Mr. Chairman, if this hearing is going to be held for the purpose of taking evidence and testimony in order to try to answer questions that have been raised, I hope it will be conducted in a manner conducive to achieving that purpose. Demonstrations from the audience, on one side or the other, do not lend themselves to the objective of gathering information.

I realize that you have been indulging the audience thus far because this is a very complex and controversial issue. However, I would beg the Chair to please advise the audience that their persistence in staging these demonstrations will make it very difficult, if not impossible, to have continued participation in these hearings by all members of this panel.

Mr. CONYERS. I think my colleague is correct, and I think it impairs the validity of the hearing.

We know this is an emotional subject. I would ask the cooperation of everyone here to restrain from any comments or indications of opposition or support to any of the statements made by any of the witnesses.



Mr. LUNGREN. Thank you, Mr. Chairman.

I am concerned, as I think all of us are concerned, about the question of whether particular shootings are justified. But I wonder, as someone who has been involved in the criminal justice system on the side of defendants, frankly, whether the fact that a decision is made that it was justifiable homicide is an indication that, in fact, it was not. Should we criticize because, in effect, we have not convicted enough people? I never heard that position raised on the side of people concerned about civil liberties, from the defense bar or, frankly, even from members of the prosecution.

Don't you think it causes us some trouble if we criticize the investigations generally because individual decisions have been made that certain homicides were justifiable?

Ms. WATERS. Congressman, I respectfully disagree with that altogether, and let me tell you why.

It appears to me that when there are witness reports and a growing force in the community about continued determinations of justifiable homicide, that they have to be looked at a bit closer.

We have people in our community who are witnessing these incidents who are saying that they don't believe them to be justifiable homicide.

We have heads of groups and organizations that increasingly are coming out against these killings, and I do not think it is unreasonable to question whether or not, in the face of all this concern, these killings can be continually ruled justifiable homicide and be satisfied with that.

I think it's very reasonable to question the continued rumors of justifiable homicide.

Mr. LUNGREN. I think there is a big difference between the question of whether the department has perfected itself to the point where their officers are trained to avoid situations where they feel it is necessary to fire, and whether a particular officer is justified in shooting.

In other words, Commissioner Fisk believes that they are attempting to educate the officers to realize that there is a series of preliminary options open to them. As a result, they may consider retreat, where, in the past, they have not perhaps considered that alternative. Thus, they do not place themselves in a situation where their lives are truly in danger.

It appears to me that an officer with special training may have decided to make a particular move which ultimately led him into a position of defending himself. However, in retrospect, after outsiders have reviewed a number of cases, they decide that this is not what we want our officers to do.

It is easy for us to say in retrospect that these officers were wrong, although they were following accepted procedures at that time, which were later perfected.

Some of the training procedures that we have been discussing certainly have been improved in the 14 years since Mr. Deadweiler's case, which took place in 1966. Therefore, it is imperative that we distinguish between two things: First, the ongoing effort within the police department to improve their techniques and the decisionmaking process, particularly through training, and second, that an officer with only the benefit of training available at that time made a decision to defend himself.

Ms. WATERS. I think I understand what you are getting at, and let me say this:

I believe in good training programs, and we have been told by the Los Angeles Police Department that they are doing work in this area, that they have perfected some of their training programs.

I believe a couple of things: I believe, based on the information that we have been getting, that some officers despite the training are not doing any better, that they are acting almost diametrically differently than they have been trained to do.

This came out in the *Eulia Love* case, as a matter of fact.

The police commission report basically said that officers have not followed police shooting practices. That's No. 1.

Mr. LUNGREN. As I understand the commissioner, he was talking about preliminary steps leading up to the decision.

Ms. WATERS. But that's the same thing, Mr. Congressman, and let me tell you why:

What the commissioner described to you was that they had officers on the scene who could have approached the scene a lot differently, and that's part of their police training. They did not approach that particular scene as they have been trained to approach that particular scene.

So, basically, they were in violation of the training that they had already received. So we have that on the one hand.

On the other hand, we find that the Los Angeles Police Department continues to tell us about its very, very good training programs, Mr. Congressman.

I only say to you that the proof of the pudding is in the eating.

If, in fact, they are getting this good training and they have sophisticated programs, then we need not have as many mistakes or killings as we are witnessing.

Mr. LUNGREN. The statistics I cited earlier suggest that substantial improvements have been made.

Ms. WATERS. Yours are quite different from even Mr. Van de Kamp's.

Statistics were cited to you in the opening of this hearing.

Mr. LUNGREN. I was not talking about shooting incidents, but about deaths resulting from such incidents.

Ms. WATERS. I think you will find that there are discrepancies, and you will hear a number of numbers.

One of the things we need to do is develop a better system of documenting and tracing what is happening in relationship to shootings and killings by law enforcement agencies.

Mr. LUNGREN. Would your views be altered if you were shown documentation concerning the 50-percent decrease in shooting deaths by officers in Los Angeles that has taken place?

Ms. WATERS. It would certainly surprise me, Mr. Lungren, but let me say to you that any police killing that appears to be unnecessary and unwarranted, even if it is one, it is too many. And while, certainly, I would be pleased to hear statistics and data that would prove many people wrong and indicate that there has been a significant decrease, those of us who live in areas like south central Los Angeles and east Los Angeles and Watts believe that there are still too many and that the police can do a better job of, No. 1, apprehending people who appear to be acting up.

And let me point out to you that a number of killings have been people with emotional disturbances who appear to have mental episodes, and these are people who are easily taken care of and restrained. If they're in mental institutions, they are not shot and/or killed in mental institutions where they have episodes.

They are, in fact, handled by people who understand that they are having problems.

We believe that too many of these killings basically are of people who cannot help themselves by the way they are acting, and if the police were more sensitive and better trained and more willing to take a second look, they would not occur at all.

Mr. LUNGREN. I think we can all agree, perhaps, even though we may have different perspectives, on certain approaches to training, selection, and other factors. For instance, we would all like to increase the opportunities for the safe use of nonlethal force by police officers. Nevertheless, I note that you commented on the purported problems that have arisen occasionally in connection with the so-called "choke hold."

As I understand it, the "choke hold" was originally developed as a nonlethal means of incapacitating someone for a short period of time. Unfortunately, some problems have arisen and some deaths may even have resulted. I mention this to demonstrate that there are no nice, easy, perfect solutions, despite good intentions. In short, every solution may create a difficulty in itself.

I read in the paper yesterday that the sheriff's department is experimenting with the use of nets on long poles and other nonlethal devices. There may be situations in the future when even those seemingly harmless methods result in death unintentionally.

Let me conclude this discussion with one thought. I hope that we will work together to solve this difficult problem. Furthermore, I fervently hope that we can proceed without the polarization that I sense slightly at this point between community groups and the Los Angeles police and sheriff's departments.

I think that this would be a tragic approach, for either side.

Ms. WATERS. I think you are correct, and I appreciate your understanding of the dangers of polarization. I suppose that's why this issue is so vitally important to me. I, too, would like to have avoided that.

I think we are there at this point, Mr. Lungren, and I think that unless some very decisive actions are taken to address this problem, it will cause us all great and difficult problems that will be impossible to solve.

Mr. CONYERS. Congressman Gus Hawkins.

Mr. HAWKINS. Mr. Chairman, I don't have a question, but I would like to make a brief statement.

First, may I underscore the credibility of the witness Assemblywoman Waters, and I think that she has documented many of the cases that she referred to; and I would like to at least indicate that in discussions with the Department of Justice that many of these cases are now being considered by the Department.

I'm not sure of the exact number that is currently under investigation, but I know that it is in excess of 20, and I would suggest that I'd be very pleased to make available to the committee my own particular

file in this matter with respect to references being made with the Department of Justice.

I only want to express some degree of regret that it has been found necessary not only by Assemblywoman Waters but many others to appeal to Washington on these matters which I consider to be much better settled on the local level if they could be.

That, again, I think underscores the feeling that a real, well-structured civilian review board would be both fair to those who make allegations as well as to police officers.

If the letter that has been referred to drafted by Assemblywoman Waters to the President is not in the file, I would suggest that it be included in the file. I have also, in response to her request, addressed a letter in support of her request to the President, and I would make it available for the file in this respect.

I think in essence and what is being suggested here is that there is sufficient documentation.

At least the Department of Justice has seen fit to look more thoroughly into these complaints that have been registered in Washington, and that a much better and more satisfactory method of trying to dispose of the cases certainly needs to be sought by this and other committees.

The present system is completely unsatisfactory. Nobody seems to be satisfied.

The police officers are dissatisfied with the findings, and the public is thoroughly disgusted. It seems to me that you are on the proper track, and I certainly think the efforts of Assemblywoman Waters may help to urge the committee in forward progress on looking more thoroughly into this matter.

I am very pleased that she's one of my assembly representatives.

Mr. CONYERS. We will take into consideration and accept the documents that will be forthcoming.

Assemblywoman Waters, we want to thank you for the extremely courageous and difficult fight that you wage in this area.

It is not an easy area. It is complex in terms of legal and social implications, and this subcommittee is going to join in with you and Congressman Hawkins and those organizations of which we know there are many from our continued correspondence with our colleagues from the Judiciary Committee whose interest in this matter was great enough to bring them together to join us, for which we are grateful.

We think that we are not going to solve it quickly, but our presence here joining your concerns over the years and the many, many others indicate that, perhaps, we are going to be able to sort out and prioritize some of the possible solutions and then begin to work on them one by one.

On behalf of the committee, we are in your debt for bringing forcefully and articulately as you have these many issues to our attention.

Thank you.

We now call on executive director of the Los Angeles Urban League, Mr. John Mack, who is active and has been enormously so in this area.

He's active in several organizations, recipient of numerous awards and honors for outstanding community service.

Mr. Mack has prepared a statement which, without objection, will be entered into the record, and we will invite you to proceed in your own way.

TESTIMONY BY JOHN W. MACK, PRESIDENT, LOS ANGELES URBAN LEAGUE

Mr. Chairman and committee members. I am John W. Mack president of the Los Angeles Urban League. Thank you for inviting me to present testimony to your distinguished committee concerning the crucial issue of police-community relations, with special emphasis on police use of deadly force.

The Los Angeles Urban League is one of 117 local affiliates of the National Urban League—a private, non-profit, nonpartisan organization working to secure equal opportunities for blacks and all other discriminated against citizens. The L.A. Urban League concentrates primarily upon the implementation of a variety of job training, job placement and educational programs.

However, the Urban League also serves as a strong advocate for equality in all areas of human life—including law enforcement. In addition to its vigorous pursuit of equality for blacks, the League is greatly concerned about the preservation of all human life—whether it be the police officer or sheriff's deputy, who risks his or her life daily in the line of duty; or the citizen on the streets of south central or any other part of Los Angeles—who is encountering an officer of the law. Both the citizen and police officer have a right to life, liberty and the pursuit of happiness.

In this connection, the Urban League and I have been deeply saddened by the deaths which have occurred both on the part of citizens and law enforcement officers.

However, my testimony will deal with police-community relations and the use of deadly force from the viewpoint of the Urban League's constituency i.e. primarily the black community.

The relationship between the Los Angeles police, the county sheriff's department and the black community has reached an extremely tense, hostile and potentially volatile state during the past year. There exists a tremendous ambivalence on the part of many blacks toward the Los Angeles police department. There is an overwhelming number of blacks who desire a strong police department to protect our families and other loved ones from the serious physical danger that exists in every section of the city of Los Angeles. We want our spouses, children, neighbors, friends and co-workers to live, work and play in a peaceful, safe community. We recognize that an effective police department is essential to the achievement of this overall objective.

However, a series of police and sheriff involved shootings in the black community, during the past year have created great concern on the part of many of the urban league's constituents. Some feel as if they are practice targets for some police officers and sheriff's deputies.

There have been a large number of officer involved shootings resulting in loss of citizens' lives. However, the Eulia Love shooting is perhaps the best known. Despite vindication by the Los Angeles police chief and the district attorney; this shooting was representative of the ongoing use of needless excessive force. The majority of community blacks reject the Los Angeles police chief's position that the shooting was justifiable; the Los Angeles police commission conducted an extensive investigation and concluded that it was an improper shooting. Nevertheless, the commission did not reverse chief Gates' findings—it did decide upon some progressive reforms, which if implemented, can improve relations and perhaps reduce the use of excessive deadly force.

During the year 1979, a total of 59 persons were shot by LA police officers resulting in 14 deaths. A disproportionate number of the persons were blacks. recently, Cedric Steward was shot and killed by Los Angeles sheriff deputies after being apprehended, forced onto his stomach; face down and allegedly handcuffed. He was shot in the back.

The Eulia Love and Cedric Steward shootings, perhaps more than any others have outraged the Los Angeles black community and other citizens of goodwill. This has created a serious credibility gap between law enforcement agencies and the black community. The relationship is very uptight.

In its May 25th, 1979 edition, the Los Angeles Times published the results of a survey it conducted concerning police-community relations between the Los Angeles police department and the public with some interesting results: the

Times survey revealed that "the Los Angeles police department has suffered a serious decline in public support during the last year and a half, especially among blacks. Citizens are particularly critical of the department for "pushing people around" and "not answering calls quickly." On the other hand, the police generally score well for "helping citizens" and "holding down crime."

According to the Times survey, three out of the five black, hispanic and anglo citizens interviewed concluded that the two police men who shot Mrs. Eulia Love to death after she threatened them with a knife used "police brutality." Only one in seven felt the officers used "proper force." The survey revealed the following responses among blacks, hispanic and anglos:

[In percent]

	Blacks	Hispanics	Anglos
Approve.....	30	45	62
Disapprove.....	52	37	22
No opinion.....	18	18	16

Regarding the policemen's killing of Mrs. Love, the following question was asked "from everything you're heard or read, would you say the police officers used proper force to protect themselves, or would you say this was a case of 'police brutality'?"

According to the Times, "eight of 10 blacks surveyed considered it police brutality. So did two-thirds of the Hispanics and half of the anglos." The citizens were also asked by the Times whether they thought the police were "tougher on blacks, tougher on whites or treat blacks and whites the same." The response was as follows:

[In percent]

	Citywide	Blacks	Hispanics	Anglos
Tougher on blacks.....	46	62	42	41
Same.....	38	23	40	44
Tougher on whites.....	2	0	3	2
Not sure.....	14	15	15	13

It was absolutely incredible and incomprehensible that Police Chief Gates and his department recently recommended to the police commission use by the department of the "hollow point" bullet—ostensibly for the purpose of more efficiently killing people, with one round, rather than requiring additional rounds—during this very tense period between the department and the black community.

It is encouraging that the commission postponed, indefinitely, consideration of this bullet—at the urging of The Gathering, a group of influential black clergymen, the police commission steering committee (of which I am a member) and others. A number of us urged that the commission not give any consideration to additional lethal weapons and approaches; unless and/or until equal or greater consideration be given to nonlethal methods and weapons for utilization in the apprehension of suspects. In this connection, a number of us are gratified to see that the police department is currently experimenting with a grabber and kubo, recently employed with success in the apprehension of a 19 year old young man with a sharp dagger. Hopefully, this experiment, will have continued success and will be instituted by the department on a permanent basis. It is important to note that the police department probably would not have taken this beginning step, had it not been for the continuing community pressure by The Gathering, the NAACP, the Coalition Against Police Abuse, the Urban League, the police commission, the commission's steering committee and other groups.

I have presented the problem as accurately as possible from the perspective of one major segment of the Los Angeles Community. Even though, there has been an emphasis on the relationship between the Los Angeles Police Department and the Urban League's constituency; very similar problems exist and are on the rise with the sheriff's department.

Because of the focus of your committee's hearings, I have not addressed the serious underrepresentation of blacks, other minorities and women with the Los Angeles Police Department. Suffice it to say that this is a major problem; so serious that the department is under court order to correct it.

Problems of this magnitude require comprehensive, far reaching solutions. I do not pretend to have all of the answers. However, the following recommendations are presented for serious consideration:

1. A single uniform national shooting policy for all law enforcement agencies, similar to the FBI's shooting policy.

2. Tighter federal and state legislation making it more feasible for police officers guilty of unnecessary shootings such as Eulia Love and Cedric Steward to be dealt with. Built into such procedures would be a philosophy of greater involvement by external federal agencies such as the U.S. Justice Department and Federal Civil Rights Enforcement Agencies.

3. Congressional consideration should be given to identifying ways and means of encouraging and, if necessary, pressuring police department, police commissions and local governmental entities to establish if need be and effectively enforce disciplinary policies that will make it clear that those officers, who after receiving a fair hearing—found guilty of unnecessary and excessive use of deadly force will suffer serious consequences, including termination by the Police Department and sent to jail. Those officers who may be tempted to become trigger happy—especially in the ghetto must be made to understand the value of human life, even among the poor and the minority citizen. They must be made to understand that they will receive more than a slap on the wrist, if they unnecessarily take a human life. They must understand that the badge is not a license to kill. They must be made to understand that they do a disservice to their fellow officers, who are performing a sincere and noble service to all. In this connection, the Los Angeles Police Commission reports growing out of the Eulia Love shooting represent a major step in the right direction, if effectively implemented. The commission's second report delineated an excellent investigatory and adjudicatory procedure in relation to the use of force incidents by the police department.

4. I recommend that your subcommittee consider methods for stimulating local police and sheriff's departments to establish citizens complaint procedures that encourage citizens with legitimate complaints to come forward. Given past negative encounters that many blacks have experienced, there frequently is an apprehension about even walking into a police precinct—out of fear that they be kept there—and they may be petrified over the idea of complaining concerning police abuse or mistreatment. Such complaint procedures need to be opened to greater public scrutiny; so that the guilty officers may be punished and baseless allegations can be revealed for what they are. As long as a cloak of secrecy is maintained, a credibility gap will continue.

5. It is urged that your subcommittee consider congressional funding of police departments and/or outside training specialists who submit proposals for innovative training programs designed to provide officers with the necessary training to protect themselves, when threatened and respond appropriately to life endangering situations; but to also focus on better human relations and race relations. Departments should be urged to utilize both internal and external resources, such as September and Associates of Seattle, Washington.

6. Congressional consideration should be given to establishing programs and resources that will encourage police departments to develop improved methods, techniques and weapons emphasizing the utilization of nonlethal approaches in the apprehension of suspects, believed to be dangerous; such as the LAPD Grabber & Kubo pilot project. Only these should be more than experiments. Pressure should be applied to weapon manufacturers to provide alternatives along these lines.

Finally, the LA Police Commission—responding to pressure mainly from a number of leaders and organizations in the black community and the Los Angeles City Council—is to be commended for their action resulting in the comprehensive study and reports as first steps. They offer hope for some answers, provided the commission vigorously implements the various procedures and policies it adopted and not allow the reports to gather dust. As a member of the Commission Steering Committee and the experimental community relations task force; I am and will continue to participate actively with my colleagues in search of recommendations that will be translated into better police-community relations; and an environment in which all citizens and the police can live in a less violent and safer community.

## TESTIMONY OF JOHN W. MACK, PRESIDENT, LOS ANGELES URBAN LEAGUE

Mr. MACK. Thank you Chairman Conyers and members of the committee.

I will, with your indulgence, read the written statement.

I am, as you have indicated, president of the Los Angeles Urban League, and I am also co-chairperson of the Los Angeles Leadership Coalition.

I would like to express my sincere appreciation to you and to your committee for inviting me to testify before your very distinguished committee concerning the crucial issue of police-community relations with special emphasis on police use of deadly force.

Mr. CONYERS. Mr. Mack, we are running into an impossible time situation.

I was wondering, since we are going to incorporate your entire statement, could you present your recommendations and summaries, and then if there are any questions, we will be able to proceed from there?

And then I hope you will be able to return tomorrow.

Mr. MACK. Thank you.

Mr. Chairman, I want to assure you we will continue working very vigorously to do everything we can to resolve this very serious problem.

Mr. CONYERS. You have presented an extensive list of recommendations that involves not only the Federal but the State and local authorities and citizens as well. I appreciate the work of the National Urban League here.

This is an incredibly difficult and enormous and long-term problem.

It is not something that a subcommittee can excise with a hearing or two or three. What we are doing is pledging to review very carefully these recommendations and hope that we can maybe prioritize the ones that we can handle and move as many people to support your organization's activity, Mr. Mack, because I know of your long-term dedication.

You have been before our various committees whenever we come to the west coast. It's very good of you to give this excellent testimony here today.

I now defer to my colleague, Mr. Lungren.

Mr. LUNGREN. I would like to also thank you for coming to testify.

Since we are pressed for time I will not ask any questions.

Let me respond to some of the recommendations you made.

I think that basically the Judiciary Committee and this subcommittee have the ability to deal with local police problems to the extent that there is LEAA funding and grants can be directed in certain ways to, perhaps, facilitate projects such as the Los Angeles County district attorney's program. I really wonder whether it would be practical to have a national uniform shooting policy. I do not know what that would mean in terms of interpretation elsewhere, although there is no doubt that we ought to have a recognition regarding human life. As a stated policy of the Los Angeles Police Department, you

should only be allowed to fire your weapon in self-defense, or some other instance of imminent danger.

I think you will find the Judiciary Committee concerned about the direction which LEAA ought to be taking and the types of programs for which there will be continued funding in the next few years.

To that extent, I think we can provide a service.

Again, I would like to thank you for appearing here and appreciate the fact that we will have the benefit of your entire statement.

Mr. CONYERS. Please, feel free, you or your representatives, to monitor the rest of this hearing, Mr. Mack, today and tomorrow.

We know you will have additional comments to witnesses' reactions. Thank you for coming.

Mr. CONYERS. Our next witness representing Sheriff Peter Pitchess is Undersheriff Sherman Block.

Mr. Block has been second in command of the largest sheriff's department in the country since 1975.

He is also appointed by the California attorney general to the State task force to combat organization crime, and has served on the Technical Advisory Committee of the California Youth Authority. He is past president of Los Angeles County Peace Officers Association, and is involved in numerous other legal and professional organizations.

We welcome you, Undersheriff Block, on behalf of your agency, and we will incorporate, without objection, the entirety of the prepared statement, and you may proceed in your own way.

PREPARED STATEMENT OF PETER J. PITCHESS, SHERIFF, LOS ANGELES COUNTY

Before we can intelligently discuss police-community relations, it is essential, I believe, to first identify the participants. Who are the police? Who is the community?

While it is difficult to try and measure the typical police recruit against some pre-established standard, there appears to be somewhat of a composite that can be drawn of the typical person entering law enforcement in southern California.

The person will most probably be a male, in his middle twenties, have a slightly higher than average intelligence; he has most likely worked at some ordinary job before choosing a career as a professional law enforcement officer. He probably will come from a low to middle income working-class family, and has been raised under the theory that hard work and dedication to duty remain the surest means through which to achieve success.

Contrary to the typical movie and television depiction of an average law enforcement officer, rather than being adventurous and devil-may-care, he is very much interested in things such as security and stability. This average officer will probably be more stable and less prone to violence than other persons in the community who were raised and educated as he was.

Most likely the average police officer is a cautious and conservative man, both in his politics and his moral nature, and he desires a stable and secure environment. He is basically a committed, decent, law-abiding person who enjoys living in a society in which people have respect for the law and legitimate authority.

Through his academy training, the new officer is further inculcated with values and beliefs of a strong, idealistic nature, in that he has taken on the responsibility for enforcement of the law and the protection of the people in the community he has sworn to serve. He is trained and he is encouraged to go into the community to do the job that is expected of him and to get along with the people—people who, all too frequently these days, can't seem to get along with each other.

The officer in the community must function in an environment where there exists among many of the people a gross over-building of expectations as to the manner in which conflicts and problems are to be dealt with. Too many people have come to expect that everything is attainable and that there is a simple, neat, and fair solution to even the most complicated problems.

Today's law enforcement officer finds that an exaggerated sense of entitlement among some community members will many times lead to a self-fulfillment of expectations through crime. All too often he will encounter a rejection of legitimate authority and an increase in violence.

Permit me to cite a few statistics of violence in Los Angeles County covering the last two years: Criminal homicide, up 25 percent; Forcible rape, up 16 percent; Armed robbery, up 20 percent; Aggravated assault, up 10 percent.

With such increased violence in our community, the law enforcement officer wonders why is it so difficult to recognize that violent confrontations between law enforcement and violence-prone individuals may also increase in our community.

However, in spite of the staggering increase in criminal violence in our community, the incidents involving use of deadly force by deputy sheriffs decreased dramatically during calendar year 1979 when compared with 1978, 1977, or 1976. I wish I could report a comparable decrease in deadly force directed toward deputy sheriffs, but the facts are otherwise. During these same four years, as many deputy sheriffs were murdered while performing their duties as were in the preceding 16 years.

In the year 1979, Los Angeles County deputy sheriffs wounded 22 persons and killed 11 in tactical shooting situations. During that same period we effected 113,000 arrests, handled 257,000 cases, maintained a daily average inmate population of 9,000 within our county jail system, handled over ¼ million bookings within that system, and transported upwards of 150,000 persons charged with crimes to courts around the county.

Consider also, if you will, that for the calendar year 1979 there were a total of 223 complaints registered with the department alleging unnecessary or excessive force, one complaint for each 500 plus arrests made.

These figures hardly support any allegations of wanton brutality.

Along with the other factors that I have indicated, consideration must be given to the impact that phencyclidine has had on the level of violence in our communities. The horror stories related to phencyclidine, or PCP, are so bizarre as to defy belief, but they are factual.

Unlike other drugs of abuse, PCP causes an unusual strength capability, primarily because persons under the influence may be totally insensitive to pain. Their behavior is erratic and unpredictable and the violence potential is extreme. During the past 24 months, three deputy sheriffs have been murdered in PCP related incidents. In none of these instances were the murdered deputies' killers subjected to deadly force when taken into custody, a fact that further belies any allegations of wanton brutality by deputy sheriffs.

Our personnel are trained to utilize that force which is necessary to overcome a life threatening situation.

How much force is utilized is dictated by the factors of the situation at hand.

Aside from the technical skills necessary for the proper handling and maintenance of firearms, our training is designed to develop attitudes that will minimize the drawing and firing of the sidearm. Deputies are instilled with the understanding that the sidearm is a deadly weapon and is to be drawn and fired only in situations requiring the use of deadly force to overcome a threat of death or great bodily injury. The sidearm is never to be drawn and fired unless the concerned deputy is prepared to justify the use of deadly force and to accept the full moral and legal consequences of taking a human life.

Contrary to what some people might like you to believe, the weight of the sidearm is the heaviest burden that a law enforcement officer must carry. Perhaps the two greatest fears that a law enforcement officer must live with are:

1. The threat to his personal safety and the resultant impact on his family.
2. The fact that he may someday be forced to kill another human and the resultant impact of that action.

The men and women engaging in the performance of their law enforcement duties are constantly on the spot. As the most visible representatives of government, they are many times the target of persons who believe that they have been wronged by government and its processes. Many times frustrations, real or imagined, result in an acting out for the purpose of having the involved officer "take the message back to city hall."

In addition, many law enforcement confrontations are with persons whose personalities and character traits have been molded by an exposure to a lifetime of systemic and institutional failures—the family, school, church, justice system, mental health system, jobs, etc. If and when such a confrontation requires the concerned officer to utilize deadly force, all of these past failures are somehow

forgotten or ignored, as are the immediate actions of the person that precipitated the situation resulting in their death or injury.

The officer who pulls the trigger seems to somehow, by his action, excuse the failures of all others and to assume a burden of guilt for everyone else.

This burden is not only unfair, but is far too great for any person to bear and is capable of breaking even the strongest spirit among us.

If nothing else, let us be fair in evaluating these incidents. Even the cop on the street is entitled to the presumption of innocence available to all others, including the most sinister and violent criminals in our society.

The influence of the media must certainly be considered, especially in light of the growing pressure on them brought about by the "rating wars" and the show business approach to the news. There is a never-ending battle to capture and hold audiences and nothing does that better than drama and sensationalism.

The very nature of police work places us regularly in highly charged, emotional situations wherein the lives and safety of people may be directly involved and where victims and families are usually under great strain. The media senses the emotional charge in the air, and conveying it to their audience is their bread and butter. Logic is sometimes overwhelmed by emotion and some things tend to be exaggerated out of proportion. While the media is free to move on to the next story, we may be still dealing with the fallout from last week or last month's story.

And finally, who is the community that we must serve?

Is the community the most vocal element in the policing area?

Is the community the political and economic power base in the policing area?

Is the community the dominant ethnic or racial strain in the policing area?

Community, no matter how we define it, will react positively to police activity that tends to protect its interests and negatively to police activity that appears to be either a nuisance or a real intrusion on their perception of personal freedom.

There are those who advocate an ever-increasing police presence and an ever-intensifying use of enforcement.

There are, at the same time, those who are routinely critical of the police and in almost any given instance would prefer that the police did just the opposite of what they may have done.

Fortunately, the mass of community attitudes lies somewhere between those extremes and, in our opinion, is the legitimate force that supersedes all other powers in today's society. That is the community we are trying to serve, without regard to age, race, sex, religion, or ethnic origin.

Sometimes we make perceptual errors and sometimes a department member may engage in an act of willful administrative or criminal misconduct. We deal with those situations promptly and objectively.

By any reasonable standard of law enforcement performance, the dedicated men and women who are the Los Angeles County Sheriff's Department are responsive to the community and continue to do an outstanding job.

#### TESTIMONY OF UNDERSHERIFF SHERMAN BLOCK, LOS ANGELES SHERIFF'S DEPARTMENT

Mr. BLOCK. Thank you, Mr. Chairman.

I'd like to, first of all, add to the biographical comment you made just to indicate what my tenure in the sheriff's department is. I am starting my 25th year and I started out in a radio car. I have worked in all of the communities of Los Angeles County, including South Central and East Los Angeles for a number of years in the field and am well aware of all that goes on during the normal course of law enforcement activity.

I will try and skip through the prepared comments that I submitted to try and touch on those things that I believe are most important.

In your letter of invitation, it indicated that the discussion was to deal with police-community relations with particular emphasis on the confrontation situations or the use of deadly force.

So I believe it is essential that we start from the point of:

Who is a policeman and where does he come from?

In Los Angeles County we recruit from the community. The people that we recruit are very representative ethnically, racially, and economically of the community. The people that we recruit are basic, decent, law-abiding people who enjoy living in a society in which people have a respect for the law and legitimate authority.

There have been a number of comments about affirmative-action-type situations, makeup of the department.

I can say that we are probably a leader, first of all, in the use of women in law enforcement positions and, perhaps, there are more ladies in the sheriff's department than any law enforcement agency in the entire United States.

As far as the assignment of and use of minorities, long before it was a practice or accepted for the integration of local law enforcement, my partner in working the Lenox area was black, a black deputy sheriff in 1956. We are going back almost 25 years where our department has been fully integrated.

One of the first actions of Sheriff Pitchess when he became the undersheriff in 1953 was the integration of the county jail and the elimination of a practice of segregating inmates in the county jail on the basis of race or such consideration.

I just cite that to make you aware of the history of the attitude that has existed and continues to exist between the Los Angeles County Sheriff's Department.

When this young officer comes into our department—and, unfortunately, you talk about funding, we went through an exercise in California called proposition 13. One of the impacts that it has had was a significant reduction in funding for the Los Angeles County Sheriff's Department along with other public agencies.

I would say that you gentlemen may be in a position to alleviate that problem somewhat since a great deal of the dollars were saved by the people as a result of proposition 13. We talk about a windfall profit tax, that has found its way back to Washington in the form of increased income tax revenue which has been removed from the public coffers of California.

Mr. CONYERS. Have you heard about the President's new plan about balancing the budget?

Mr. BLOCK. I have just heard discussion, yes.

Mr. CONYERS. It may cost us about \$14 billion.

So if you are waiting for help from Washington, my colleagues in California are here and will break the news gently to you.

Mr. BLOCK. I think another factor that must be considered is that traditionally the Los Angeles County Sheriff's Department opens for filing 1 day a year. On that 1 day we receive approximately 8,000 applications for the sheriff's department. We dropped about 75 percent in the number of applicants that are available, and we are hoping that this does not indicate any future problems in attracting qualified people to law enforcement.

Some of the things that our people, as they go through the academy, are inculcated with are additional values and beliefs to supplement those they come in with, and those values and beliefs that we attempt to inculcate are that they have taken on a very grave responsibility for the enforcement of law and for the protection of all people within our community.

Our people are trained, and they are encouraged to go forth into the community to do the best possible job they can, to make every effort to get along with the people in the community, and all too frequently today we are finding that people have difficulty in getting along with each other.

I think some of the statements that were made here today about a shooting policy like the FBI's—I don't know how much street activity the FBI engages in, how many disputes they handle, how many violent encounters they have, but there is no simple solution. I submit that police/community relations, that violent confrontations between police and the community is a very complicated problem, one that certainly has been addressed and acknowledged but one that is not going to be resolved with any simplistic answer.

Mr. CONYERS. Do you have one strong recommendation as to how we can go about reducing police violence?

Mr. BLOCK. When you talk about reducing police violence, we had a meeting in the sheriff's office about a month ago with ministers representing The Gathering. We had a very productive meeting. I believe, and one of the comments that was made is that much of the violence that is being directed toward law enforcement officers is a reactive violence that is the result of either violence by the law enforcement officer in anticipation of violence by a law enforcement officer predicated upon past experience. I asked the question as to how they can then explain the tremendous increase in violence directed against schoolteachers in our community. I submit that we are living in a very violent time. We are not living specifically in a violent community.

I think that violence among people is an increasing phenomenon around the world, and let me give you some local statistics.

For the last 2 years in Los Angeles County, criminal homicides up 25 percent; forced rape up 15 percent; armed robbery up 20 percent; aggravated assault up 10 percent. And I submit that with such a staggering increase in violence throughout our community, why is it so difficult to expect that there may be an increase in violent confrontations between the law enforcement officers on the streets and violence for individuals?

I will say that in spite of increase in violence in the community, the incidents involving use of deadly force by the Los Angeles County Sheriff's Department during calendar year 1979 decreased dramatically when compared with 1978, 1977, or 1976.

I would like to say that there was a comparable decrease in deadly force directed against deputy sheriffs during those same years.

The truth is that during the 4 years I just mentioned there were as many deputy sheriffs murdered in carrying out their responsibilities to the community as there had been in the previous 16 years.

I think that if we are going to talk about violent confrontations, you have to consider the fact that we, as a law enforcement agency, effected 113,000 arrests in 1979, handled 257,000 cases, and maintained an average daily inmate population of 9,000 in our county jail.

There are about one-quarter of a million people booked through our jail system annually. We transport upwards of 150,000 people a year around this country from jail to the various courts.

I think all those things have to be considered in the total context of what is happening with the community.

I think we also have to consider the impact of a phenomena that has occurred in the community. I think we certainly have to consider the impact that has a level of violence in the community.

We are talking about PCP. The horror stories related to Phencyclidine are so bizarre as to defy belief. Unlike other drugs of abuse, PCP causes an unusual strength capability primarily because persons under the influence may be totally insensitive to pain. Their behavior is erratic and unpredictable, and the violence potential is extreme.

During the past 24 months, three deputy sheriffs have been murdered in PCP-related incidents.

In none of these instances were the murdered deputies' killers subjected to deadly force when taken into custody. I believe that is a fact that further belies any allegations of wanton brutality by deputy sheriffs.

Our personnel are trained to utilize that force which is necessary to overcome a life-threatening situation.

Aside from the technical skills necessary for the proper handling and maintaining of firearms, our training is designed to develop attitudes that will minimize the drawing and firing of the sidearm.

Deputies are instilled with the understanding that the sidearm is a deadly weapon and is to be drawn and fired only in situations requiring the use of deadly force to overcome a threat of death or great bodily injury.

I think another thing that is very important, in light of some of the comments, that we talk about training. As part of the training program, a concept that is referred to as officer's survival includes that an officer's survival training is not just what is required to survive in the context of not getting killed or seriously injured, but that training is trying to instill in people survival and what it means in the context of liability, psychological trauma, and all of the things that may occur—the legal consequences of drawing a firearm and firing that firearm.

We sincerely believe that is as much a part of the officer's survival in the total context, as the survival on the streets, preventing death or very serious injury.

The weight of a sidearm is, perhaps, the heaviest burden that a law enforcement officer must carry. I know from personal experience over the years that the two greatest fears that a law enforcement officer has are, No. 1, the threat to his personal safety and the resultant impact on his loved ones and family.

And, second, the fact that he may some day be forced to take the life of a human being, and the result and impact of that fact.

I think it is also important, because you gentlemen represent a body within our governmental structure, that the men and women who are on the streets engaging in the performance of law enforcement activity are constantly on the spot because they are the most visible representatives of government, and they are many times the target of persons who believe that they have been wronged by government and its processes.

Many times frustrations, real or imagined, result in an acting out for the purpose of having the involved officer "take the message back to city hall," so to speak.

In addition, many law enforcement confrontations are with per-

sons whose personalities and character traits have been molded by an exposure to a lifetime of systemic and institutional failures: the family, school, church, justice system, mental health system, jobs. We can go on ad infinitum.

If and when such a confrontation requires the concerned officers to utilize deadly force, all of these past failures are somehow forgotten or ignored, as are the immediate actions of the person that precipitated this situation, resulting in their death or injury.

I submit that for the officer who bears the entire burden of all of these failures, a lifetime of failures, as a result of that single act, is unfairly burdened and one that is capable of breaking even the strongest spirit.

I believe that we have to be fair in investigating these incidents in the context that I believe even the officer on the street is entitled to a presumption of innocence available to all others in our society, including the most sinister and violent criminals in our society.

I would like to touch on one area, and that is the influence of the media and how that must be considered in the light of the growing pressure that has been brought by rating wars and today's show-business approach to the news.

There is a never-ending battle to capture and hold audiences, and nothing does that better than drama and sensationalism.

The very nature of police work places us regularly in highly-charged, emotional situations wherein the lives and safety of people may be directly involved and where victims and families are usually under great strain.

The media senses the emotional charge in the air and conveying it to their audience is their bread and butter.

Logic is sometimes overwhelmed by emotion, and some things tend to be exaggerated out of proportion.

While the media is free to move on to the next story, we may still be dealing with the fallout from last week's or last month's story.

And, finally, I would like to say a few things about the community—and who is the community?

Is the community the most political and economic power base in the policing area?

Is the community the dominant ethnic or racial strain in the policing area?

No matter how we define the community, we find that it will react positively to any police activity that tends to protect its interests, and negatively, to police activity that appears to be either a nuisance or a real intrusion on their perception of personal freedom.

We have people at two extremes. We have those advocating a greater police presence, greater use of arrest and police powers. We have those who tend to be critical, regardless of what we do.

I submit that the mass of the community attitude lies somewhere in between those extremes, and, in our opinion, that is the legitimate force that supersedes all other powers in today's society; and that is the community we are attempting to serve without regard to age, race, sex, religion, or ethnic origin.

I believe that by any reasonable standard of law enforcement performance, the Los Angeles County Sheriff's Department is doing an outstanding job.

Mr. CONYERS. I suppose you would.

Mr. BLOCK. The Los Angeles County Sheriff's Department comes out very high.

I think that one other thing is important; that is that very recently—I believe I have the date here—on March 2, 1980, the Los Angeles Times took a survey, and they listed seven groups of professionals and asked people to select one or two they most respected.

Fifty-three percent cited ministers.

Forty-one percent cited peace officers.

And 7 percent cited elected officeholders. I just throw that out.

Mr. CONYERS. Are you excluding my colleagues?

Mr. BLOCK. I am just repeating.

I believe that it is very easy to sit in judgment and to talk about the inability of law enforcement to police themselves.

I believe that there has yet to be a valid showing that the existing review process that exists at all levels has not been doing an effective job.

But, with all respect, Congressman Conyers, I submit that the Congress of the United States, considering the charade that the Ethics Committee of both Houses have been engaged in dealing with betrayals of trust and misconduct by Members of Congress, hardly puts the Congress in a position to talk about civilian review of police.

Mr. CONYERS. The Ethics Committee is not here in Los Angeles today.

Mr. BLOCK. I understand that.

Mr. CONYERS. Some of us may have to agree with your views, but it would not take the jurisdiction of this subcommittee away from the responsibilities that bring us to Los Angeles.

Would you agree?

Mr. BLOCK. I agree.

And I also believe that it would be impossible for any person, no matter how qualified, to administer any complex organization stripped of the authority and the responsibility for dealing with personnel matters within that organization and for dealing with those persons who do not conform consistent with policy, established procedures, or the law.

I do not believe that a law enforcement agency in this county could function stripped of that authority.

Mr. CONYERS. Let me ask you this:

How many officers have ever been punished on the Los Angeles Sheriff's force for using improper violence?

Mr. BLOCK. Let's cite one in the black community, a deputy by the name of Schaefer who—

Mr. CONYERS. We just need the numbers right now.

Mr. BLOCK. I would like to cite the kind of process of a shooting that occurred of a burglary suspect who was armed and where the shooting was found to be justified. After a full investigation, the facts did not ring true with the homicide investigators in the Los Angeles County Sheriff's Department.

Mr. CONYERS. What I'm trying to do is get an idea of the numbers.

Mr. BLOCK. We have had four prosecutions, I believe, in the last 12 or 18 months by the district attorney's office.

Mr. CONYERS. And you would be willing to submit those?



Mr. BLOCK. The district attorney, I'm sure, will be submitting them. Mr. Cochran is responsible for them; his office carried out those prosecutions.

I would suggest that they would be appropriately submitted by him.

Mr. CONYERS. All right.

I have other questions, but our time is running out.

We are trying to get other witnesses on, who like yourself, are in the hearing.

But thank you very much for your testimony.

Mr. Lungren?

Mr. LUNGREN. Thank you.

I noticed a report in yesterday's paper of a demonstration by the sheriff's department of new and experimental nonlethal weapons and techniques.

Can you give us a little background on how these methods were developed and when they are to be implemented on a permanent basis, if not at the present time?

Has the development of techniques and weapons of this nature been a continuing effort, or has it been prompted by anything within the recent past?

Mr. BLOCK. The task force to develop and study less lethal weapons, which was chaired by members of the district attorney's office at the time, came into being right after the Watts riot situation, in that it was determined that the machines available to law enforcement, primarily the firearm, was an inadequate response to the kind of situations we are probably now going to be facing, which was the possibility of amassing people in situations where you had to try and gain control.

The kind of weapons that were experimented with and tested were many.

Everything from bean bags, wooden bullets, rubber bullets, and a variety of restraining devices. The Taser gun was first tested 5 or 6 or 7 years ago, so this has been an ongoing process. I would be less than truthful if I did not say that recent events, recent expressions from the community did not—well, "accelerate" is not the word, but certainly a greater amplification to the need. Again, we demonstrated those things which we believe are close to an operational capability, and that was primarily the net, in conjunction with the dry chemical fire extinguisher spray, and the pole and chain device which was designed to quickly immobilize and take a person down.

We have a whole range, and I submitted to the committee copies of news reports on those things.

But I would like to ask one thing:

LEAA will soon be receiving a letter, if they have not already, requesting that Los Angeles County Sheriff's Department be permitted to set up a national testing and evaluation program for less lethal weaponry, to receive information throughout the world, and to translate to law enforcement agencies throughout the United States those findings that we make that may be of beneficial interest in that area.

Mr. CONYERS. We have noted in the past Sheriff Pitchess' deep concern about gun control matters.

He, as a matter of fact, testified before various subcommittees, and

we, of course, hope that he will take that concern, as your proposed grant indicates, into other directions of use of nonlethal violence by law enforcement officers to be a very important step forward.

Mr. BLOCK. In fact, the position that the sheriff took was an unpopular position in the context of his law enforcement associates around the United States.

Mr. LUNGREN. You touched lightly on the question of PCP. Could you elaborate somewhat on the problems that this creates for officers on the street, including the possible increase in confrontation situations caused by the spreading use of this drug? My question is prompted by a recent hearing we had on this during which we heard testimony that, for one reason or another, PCP problems are concentrated in a few areas in the country. Washington, D.C., is one such area, but the problem is primarily concentrated in southern California.

I am not sure if all of us in Congress have an adequate appreciation for this problem and all of its ramifications.

Mr. BLOCK. To begin with, PCP was thrust upon us when someone discovered the relative ease with which PCP can be manufactured, that it did not require the smuggling of the drug or any of its ingredients from foreign countries, that all of the ingredients were readily available for purchase through any number of those outlets that supply chemical ingredients for laboratories, and that this material could be machined in a garage, a kitchen, or a bathroom, whatever, or a hotel room.

So, No. 1, the ease with which it could be manufactured caused an almost instantaneous introduction to the community of PCP. Of course, because of the high profit margin that was available and because of the low cost and the tremendous acceptance among especially young people of utilizing drugs, there was a real push to sell and encourage people to utilize the drug.

We knew little about it. The medical profession knew little about it, other than the fact that it had been discontinued as a very promising anesthetic because of the bizarre, unpredictable results that it affected on patients. When it hit the streets, people utilizing PCP became involved in very bizarre, erratic behavior, behavior that caused them to inflict very traumatic and almost unbelievable injuries on persons.

One case: An individual ran through a department store wielding an axe. Individuals inflicted great personal injury upon themselves because of an absence, a virtual absence, of pain. The result was that in many of these encounters, a person would prove to be unarmed, but unless you understood the potential of PCP and the violence capability of the individual under the influence, you could not understand where there were occasions when extreme force and even deadly force were utilized.

In many cases it took 6 or 8 or 10 law enforcement personnel to subdue an individual person.

We had a radio car in which a 5-foot-7, 145-pound barefoot individual in the back of the car, secured all but his feet, was capable of kicking with such force that the outer metal on the doors would not close but actually creased to the point where the paint peeled off.

That takes a tremendous amount of force, but more important, it takes an absence of pain for an individual to engage in that force.

So PCP has been a tremendous factor in the increase in violent con-

frontations not only between police officers in the community but violent confrontations within the community of all kinds.

Mr. LUNGREN. We are operating under time constraints so I will not pursue that much further. However, I am extremely interested in this subject as it relates to our discussion of violence by and against the police. It seems to me that this is an ingredient that was not significant until recent years, and I suspect it will necessitate a great deal of training to enable officers to respond to these situations safely for all parties. As you say, these individuals may be unarmed, but they have a tremendous potential for violence. I think that this is an area that warrants a great deal of inspection and study.

Mr. BLOCK. While the incidence of PCP manufactured within the community has decreased because of the hazards involved—a number of explosions, the greater sophistication of peace officers on patrol to identify by odor—the incidence of PCP used and the amount of PCP coming into the community has not diminished one bit. It's being produced in more rural areas, and it's coming back to the same market; and the problem is still there, and it is not abated at all.

Mr. CONYERS. Congressman Gus Hawkins?

Mr. HAWKINS. No questions.

Mr. CONYERS. Thank you very much.

We appreciate your coming.

Give our regards to the sheriff.

Our next witness is a professor of law at Loyola Law School, Prof. Gerald Uelmen, who has been with us all morning.

We appreciate your patience and forbearance.

He is a former U.S. attorney and presently serves on the board of governors as a California attorney.

We welcome your discussion about the possibility of Federal avenues in the way of dealing more specifically with this problem.

We appreciate your continued concern about this matter and look forward to your testimony.

STATEMENT OF GERALD F. UELMEN, PROFESSOR OF LAW, LOYOLA LAW SCHOOL,  
LOS ANGELES, CALIFORNIA

My interest in the problems being addressed by the Subcommittee dates back to 1972, when I undertook a study of variations in police policy regarding the use of deadly force among the fifty police agencies operating in Los Angeles County. ("Varieties of Police Policy: A Study of Police Policy Regarding the Use of Deadly Force in Los Angeles County," 6 Loy.L.Rev. 1 (1973)). The study revealed great disparity in Los Angeles County, ranging from Departments which imposed no restrictions beyond the provisions of our penal code which declare "open season" on fleeing felons, to Departments limiting use of deadly force to self-defense or defense of another, and everything in between. The study also documented that those departments with less restrictive policies had a higher rate of shooting incidents. I concluded that there appeared to be no explanation for this disparity other than the differences in personal philosophy of the fifty police chiefs who propound the policy of their departments, and these differences created some serious problems of urgent concern:

"Diversity of policy also has serious consequences in terms of the efficiency with which police agencies can operate. Training of new recruits as to the kind of judgment they should exercise in the use of their weapons cannot be done on a systematic basis in the confines of present training programs, used by different departments with differing policies regarding the use of deadly force. Joint operations pursuant to mutual assistance pacts may also find officers working together to apprehend a felon, even though those officers are governed by widely divergent policies as to when deadly force should be used to capture that felon. Confusion, however, is not simply the product of diversity among police depart-

ments. Even within the same department, this survey revealed wide disparity in the interpretation of policy. This disparity, it is suggested, is the inevitable product of vagueness and ambiguity in the policies promulgated by many departments. While vagueness may be desired by those police administrators who regard policy as a flexible standard which gives them maximum maneuverability to back up their officers, it cannot be tolerated if policy is to function as a means of controlling discretion.

"On one point, the police administrators interviewed were almost unanimous in agreement; there is little justification for different cities in the same county, or even in the same state to have different policies regarding the use of deadly force by police officers. A fleeing burglar is neither more nor less dangerous because he happens to be in Azusa rather than Downey. Whether a fleeing juvenile felony suspect should be shot or allowed to escape should not depend upon whether he is in El Monte or El Segundo."

In the ensuing eight years, I have closely followed developments in this area, and have grown increasingly pessimistic that local authorities have either the capacity or the will to deal with the problem in a meaningful way. With regularity, the problem is only addressed in the public clamor over a widely publicized incident: Jimmie Rodgers; the Mexican Nationals; Ronald Burkhalter; now Eulia Love; and next year we'll add another name to the litany. These incidents usually end with a few cosmetic changes in policy, and the matter is laid to rest until the next incident comes along. No one seriously addresses the need for uniform application and enforcement of shooting policy through disciplinary measures which are impartial and public. At present, discipline is left in the hands of each officer's own department, which creates an obvious conflict of interest. Superior officers, and even Police Commissions, are looking over one shoulder to see what effect their decision will have on department "morale," and looking over the other shoulder at what effect their decision might have on prospective civil liability for damages. They need not concern themselves with the public looking over their shoulder, because the disciplinary proceedings are conducted in secret, out of public scrutiny.

Nor is the answer usually to be found in a criminal prosecution of the offending officer. While a criminal prosecution is the appropriate forum to proceed against police officers who willfully disregard the law, it is simply the place to discipline those who exercised poor judgment.

Criminal prosecution requires proof beyond a reasonable doubt that the officer's conduct was not justifiable. Where the justification asserted is self-defense, as in the Love case, this means a jury would have to unanimously agree that the officers' belief that they needed to defend themselves against the use of deadly force was clearly unreasonable. The jury would be instructed that they must acquit if they have a reasonable doubt whether a reasonable person, under similar circumstances, would believe the use of deadly force was necessary. As Justice Holmes once observed, "Detached reflection cannot be demanded in the presence of an uplifted knife." The jury would be left with only two options: convicting the officer of homicide or an outright acquittal. Thus, criminal prosecution is too blunt an instrument to effectively deal with most cases of police shootings. Moreover, only those police shootings with tragic consequences are prosecutable as homicides. Where the officer's aim is as bad as his judgment, criminal liability cannot be imposed. The procedural protections peculiar to criminal proceedings also present obstacles. We are now being regularly treated to the sorry spectacle of police officers refusing to cooperate in a District Attorney's investigation of a shooting on grounds of the Fifth Amendment privilege against self-incrimination.

Thus, it appears that neither internal disciplinary procedures, nor prosecution by local officials, offer much hope of a meaningful solution. Looking for action at the state level, however, is an even greater exercise in futility. While we have a state-wide agency entrusted with some responsibility to set standards for the training of police officers (The California Commission on Peace Officers Standards and Training), it has no authority to license police officers or exercise disciplinary authority over them. State authorities are apparently more concerned about setting standards for cosmetologists, embalmers, dry cleaners and jockeys than they are with the professional competence of police officers.

This means that many shooting incidents are dealt with in a meaningful way only in the context of a private suit for damages. Most of these cases have been brought in our state courts, where they have been hospitably received. Within the past year, our State Supreme Court held that violation of a police department shooting policy creates a presumption of negligence, rendering the officer

and the city liable for damages unless they present rebutting evidence that the officer's conduct was reasonable. (*Peterson v. Long Beach*, 155 Cal. Rptr. 360, May 16, 1979). This decision may have a serious negative impact, however, by encouraging police departments not to adopt restrictive shooting policies, for fear of subjecting themselves and their officers to unnecessary civil liability. Nor has our Supreme Court's repeated failure to clarify the ambiguous Penal Code provisions governing use of deadly force by police officers helped the situation.

The enactment of the Civil Rights Improvements Act, Senate Bill 1983, could have a significant impact, by permitting the federal courts to impose a constitutional minimum which police shooting policy must meet, and giving local police departments the incentive to promulgate and enforce meaningful policy limitations.

Pursuant to the decision of the United States Supreme Court in *Monell v. Department of Social Services of the City of New York*, 436 U.S. 658 (1978), a city can already be held liable in damages where its policy permits a violation of a suspect's constitutional rights, even though the individual officer is not liable because he acted in good faith reliance upon the policy. This may provide a tactical advantage for a federal suit, since it permits imposition of liability directly against the city without requiring that the individual officer be found liable as in a state action for wrongful death. At least one federal court has already upheld this theory in a suit arising out of the police shooting of a young burglary suspect with hollow point bullets. In *Garner v. Memphis Police Department*, 600 F.2d 52 (June 1, 1979), the Sixth Circuit Court of Appeals held that even though the case had to be dismissed against the individual officers, the city might still be held liable if its policy of shooting any fleeing felony suspect, and using hollow-point bullets violated the protections of the Fourth, Sixth, Eighth and Fourteenth Amendments.

S. 1983 would go beyond *Monell* by imposing liability upon a city even if it had no policy, if the officers conduct was directed or encouraged by a supervisory officer, or a supervisory officer failed to halt such conduct after it previously occurred. In addition, it would insure that the city cannot hide behind the immunity of its individual officers based on their good faith, a question which *Monell* left open. But the most important provisions, in terms of encouraging police departments to promulgate and enforce meaningful policy, are the provisions imposing joint and several liability upon Supervisory officers having command responsibility, and the authority vested in the Court to direct a governmental entity to adopt whatever disciplinary or other remedial measures are necessary to prevent the recurrence of the conduct. These provisions will provide a significant means to hold police departments and their Chiefs accountable for their failure to promulgate and enforce meaningful departmental policy.

It should be recognized that enactment of S. 1983 may, in one fell swoop, shift the litigation of most civil cases arising from police shootings out of the state courts and into the federal courts, especially since a state wrongful death claim can be joined to the federal claim under section (d) (3). Perhaps this is the kind of situation where Chief Justice Burger's suggestion of a "Judicial Impact Statement" might be appropriate. But that cost must be balanced against what there is to be gained. In the face of continuing failure on the part of local and state authorities to deal with the control of police use of deadly force in a consistent and meaningful way, the federal courts may offer the only remedy that can really make a difference.

**TESTIMONY OF GERALD F. UELMEN, PROFESSOR OF LAW, LOYOLA  
LAW SCHOOL, LOS ANGELES, CALIF.**

Mr. UELMEN. Thank you.

My interest in the problems being addressed by the subcommittee dates back to 1972 when I undertook a study of variations in police policy regarding the use of deadly force among the 50 police agencies operating in Los Angeles County.

The study revealed great disparity in Los Angeles County, ranging from departments which imposed no restrictions beyond the provisions of our Penal Code, which declare open season on fleeing felons, to departments limiting use of deadly force to self-defense or defense of another and everything in between.

The study also recommended that those departments with less restrictive policies had a higher rate of shooting incidents.

I concluded that there appeared to be no explanation for this disparity, other than the differences in personal philosophy of the 50 police chiefs who propound the policy of their departments, and these differences created some serious problems of urgent concern.

Mr. CONYERS. Do you feel that there should be a uniform policy?

Mr. UELMEN. Yes; I do.

I don't think there's any justification for each department to have a different policy.

But I'm more concerned with the problem of accountability; that is, my own judgment is that policy is less reflective of the philosophy of a particular police department than the question of accountability.

To what extent is the policy enforced?

To what extent does the department back up its policy by meaningful and impartial enforcement or disciplinary procedures?

And here I am much more pessimistic that we will ever find the answer in terms of each department enforcing its own policy because of the built-in conflict of interest.

The police department that is enforcing its own policy is looking over one shoulder at the prospect of civil liability and is looking over the other shoulder at the problem of morale of the department, how that will be affected by whatever action they take. And then, of course, there also is the concern with the public reaction, but since these proceedings are not held in public, the officers don't really have to worry about looking over their shoulder at the public.

The third problem is the growing lack of public confidence, the extent to which the problem is continually being addressed only in the context of public clamor over a widely publicized incident, such as Eulia Love, and it seems each year we have a new one to hold more hearings about and talk about, and the changes that these are producing are essentially cosmetic changes. No one is really coming to grips with coming up with a means of dealing with these incidents that will give us uniform, consistent results, that will be conducted impartially by people who don't have an ax to grind in terms of how it comes out, and that will be open to public inspection to increase public confidence in the results.

I'd like to briefly address each of the three means by which we currently deal with these incidents in terms of their shortcomings: The internal disciplinary procedure of the individual departments, the criminal prosecution, and the civil suit for damages.

I have touched on what I think is the major problem with internal discipline, and that is the built-in conflict of interest.

I think there is a real need to divorce the process of litigating the discipline of the police officer from the department that employs that police officer.

For many years I have advocated putting that on the State level.

For example, every profession, such as lawyers, accountants, even embalmers, even jockeys of horses are licensed by the State, and the State enforces a minimum level of competence through an administrative procedure by which that license can be revoked.

Yet even though we entrust police officers with life-and-death authority and power, they are not licensed by the State.

There's no control by the State over their authority beyond the individual department that employs them.

I think setting up a statewide administrative body to license police officers and review their competence in particular incidents would give us a means of separating disciplinary power from the individual police department that employs the officer.

Now, with respect to the use of criminal prosecution to control this problem, the difficulty with criminal prosecution, of course, is that it requires proof beyond a reasonable doubt that the officers' conduct was not justifiable.

When you have a case such as Eulia Love, where the justification asserted is self-defense, that means a jury is going to have to determine beyond a reasonable doubt that the officers were not in reasonable fear of their life.

As Justice Holmes once observed, detached reflection cannot be demanded in the face of an uplifted knife.

That's a fine principle with respect to criminal liability, and that's exactly the problem. We are dealing only with the question of willfulness in the context of criminal prosecution, and we can't deal with the incident where it's the officer's judgment that is in question, not his willfulness.

And where the officer's aim is as bad as his judgment and homicide doesn't result, of course, the case never ends up in a criminal prosecution.

So criminal prosecution is really dealing with the tip of the iceberg.

All of the procedural protections—for example, we are being treated now with increasing frequency to the spectacle of officers being investigated by the district attorney's office and invoking their privilege against self-incrimination, declining to make any statement to the district attorney's investigators.

All of these procedural protections get in the way as well.

The final arena in which these issues are frequently litigated is in the context of a private suit for damages, and here in California most of those cases have been prosecuted in our State courts where they have received a rather hospitable reception.

For example, just within the past year our State supreme court here in California held that a violation of a police department shooting policy creates a presumption of negligence and puts the burden on the officer and the city to prove that the conduct was reasonable if the policy has been violated.

Now, that may have a serious negative impact in terms of discouraging departments from formulating policy for fear that it will create civil liability that might not otherwise exist.

And, additionally, we have a problem with our State laws with respect to the use of deadly force being very ambiguous and unsettled. So I looked very carefully at the bill that is currently pending in Congress, Senate bill 1983, the Civil Rights Improvement Act, to see what impact this might have on litigation of civil causes of action against police officers and police departments. And I found that this bill would have a significant impact permitting the Federal courts to impose a constitutional minimum which police shooting policy would have to meet, and, in addition, it would give local police departments the incentive to promulgate and enforce meaningful policy limitations.

There was a significant decision that came down from the U.S. Supreme Court in the past year that already expands upon the possibility of the city being held liable even though the individual officer is found to have acted in good faith because he was in compliance with then-existing policy. And recent decisions coming down from the Federal courts have been utilizing this possibility in the context of police shooting cases.

For example, there is a case in Memphis where the Sixth Circuit Court of Appeals held that the Memphis Police Department and the city of Memphis could be held liable if its shooting policy did not meet a constitutional minimum, and if its policy of allowing the use of hollow-point bullets deprived suspects of constitutional rights.

So there's progress being made in this area. Senate bill 1983 would certainly go far beyond this by giving the Federal court the authority to impose liability on supervisory personnel and compel individual cities or departments to formulate policies or to institute meaningful disciplinary procedures.

But I think it has to be recognized that one result of this bill would probably be a shifting of all of the civil litigation of police shooting incidents out of the State courts into the Federal courts.

That may have a significant impact on the Federal judicial system, but that may be a price we will have to pay in order to deal with the continuing failure of local and State officials to come to grips with this problem.

Mr. CONYERS. Would it, Professor, increase the liability of city and county jurisdictions?

Mr. UELMEN. Yes, it would.

Mr. CONYERS. Would that, perhaps, be helpful in enforcing rules regarding use of police force?

Mr. UELMEN. Yes, it would.

More than the liability I think would be the power given to the courts under the bill to compel cities and departments to take corrective actions.

The problem with civil liability is that you are just putting a band-aid on one particular incident, but this would expand the scope of litigation to compel some sort of preventive action to keep these things from happening again.

Mr. CONYERS. What about the Federal provision that requires proof that the defendant intended to violate the civil rights of the victim which frustrates a lot of Federal prosecutions since it is very difficult to prove beyond a reasonable doubt that a law enforcement officer has specific intent at the time of a shooting incident?

Mr. UELMEN. I would hesitate to recommend a change in terms of the criminal liability under the Civil Rights Act.

I was just addressing the question of civil liability. I hesitate to suggest imposing criminal liability in the absence of the question of willfulness. I think it should be there to deal with those incidents where there's willful conduct on the part of police officers, but to start imposing criminal punishment on the basis of strict liability or mere negligence I think would be going a step further than we really want to go.

Mr. CONYERS. Gross negligence begins to get a little bit further over that line?

Mr. UELMAN. Yes, of course, gross negligence renders the officer liable under our existing homicide laws.

Mr. CONYERS. What about the impact of racial discrimination in our cities?

We have had very little discussion about this today from many of the law enforcement witnesses which would indicate a couple of things.

One, that if you don't take this reality into consideration, this whole discussion sort of becomes academic. It becomes a defense of your particular shop or branch versus the world—a very understood view of which we have quite a bit. We can start off from the latter reality that racial discrimination is an operative force in the United States and in the world, and certainly in the United States where it is derived from the immediate situation of a system of slavery, the vestiges of which are still in historical context not that far away.

There are a lot of people living lives that are directly a result of this tremendous system that existed in the United States legally for so long.

Now, that is my view. Taken into consideration when we discuss the problems of the criminal justice system, we are apt to come up with very skewed results because we may be eliminating the one largest social consideration that rationalizes much of the conduct and misconduct that goes on. This is my statement, not yours.

Mr. UELMAN. Frankly, I don't see how anybody can reasonably dispute that statement.

To the extent that racism affects all of our institutions, law enforcement is the one institution that is really on the cutting edge in terms of relationship with minority communities, and that is where the effects of racism are going to be most strikingly felt.

Mr. CONYERS. I heard testimony from a witness on the subject of unemployment and crime, another huge social connection that is very rarely made. We were able to have the former Attorney General support the Humphrey-Hawkins law because he was the first Attorney General that directly connected unemployment and crime based on a number of studies and hearings on the subject which, incidentally, we came to Los Angeles, and had some very excellent testimony from this immediate area.

But we, again, get very little understanding of that phenomenon coming from the law enforcement side, and it seems to me that if we were to be able to build up these kinds of understandings with those who are working in this area, it seems we might be able to bring this more into terms of the real world, and we wouldn't be arguing positions which frequently are totally immutable and beyond any modification because people are arguing from a point of view that really doesn't allow for much modification.

I wonder if you have any idea as to how the subcommittee and the many organizations that are testifying here, both governmental and social, could help break down these lines and bring into the discussion these kinds of considerations.

Mr. UELMAN. I think in terms of the problem of formulating police policy, there is a tremendous void of public input into that process, and I think this is one area where police departments can take a very positive step instead of police policy being something that is formulated in the back room of the station house among a meeting of the commanding officers.

There should be some involvement of community input into that

process because the policy is only going to be as good as the extent to which the community is going to back up the police department.

Mr. CONYERS. Mr. Lungren, do you wish to question the witness?

Mr. LUNGREN. Professor, as I recall, in the beginning of your statement, you spoke of a survey which was conducted in 1972 with respect to the incidence of shootings involving police. You stated that the only consistent variable was whether or not the police department had an adequate shooting policy, rather than the ethnic background or economic status of the community.

Is that a correct description?

Mr. UELMAN. That's, perhaps, an oversimplification.

What I did was clarify all of the shooting policies in the country into five different categories, ranging from those that did no more than what the penal code allows to those that follow a policy of essentially self-defense, and we had everything in between.

Then I assessed the number of shooting incidents per 100,000 felony arrests. So there would be a relationship between the number of incidents and the number of potentially violent confrontations between the officers and the citizens.

I found that there is a correlation, that those departments that followed the policy of greater restraint tended to have fewer incidents per 100,000 or so felony arrests.

Mr. LUNGREN. I was interested in some of your suggestions with respect to State licensing of police. I believe that you drew an analogy between the police and professional groups, such as doctors, to make that argument.

A State licensing procedure, or national assumption of traditional state or local jurisdiction may be attractive on its face, but let me cite you a situation which seems to me to suggest just the opposite.

I am familiar with one incident where a hospital in southern California felt that a doctor's performance did not meet its minimum standards. When the hospital attempted to remove his privileges, it was frustrated because he met the standards promulgated by the State licensing board. Thus, the hospital was placed in a position where it might be sued by patients for negligence.

To add insult to injury, it became, in fact, the defendant in a lawsuit brought by attorneys on behalf of this doctor whom the staff had attempted to remove. The final chapter of this saga was that the hospital was forced, not only to pay monetary damages, but to reinstate him as a member of its staff.

In that situation, the State's licensing procedures inhibited the local entity in judging the appropriateness of the patient's care.

I wonder if a similar result might not flow from your proposal.

If we opted for State licensing, attorneys representing police officers whom the department had attempted to discipline might successfully argue that they met minimal State licensing standards. As a result, a police department would have no effective right to attempt to upgrade itself.

I am merely suggesting that solutions which may appear feasible in light of existing problems do not in the long run work out that way.

Mr. UELMAN. That very issue was recently litigated.

In fact, the case that arose was out of the Long Beach Police Department where a Long Beach police officer protested that his department set up a policy that was more restrictive than what the State law permitted him to do, and, therefore, the department had no authority to set a higher standard, and the California Supreme Court rejected that argument.

Mr. LUNGREN. That was a question of overall standard of law versus the licensing standard.

Mr. UELMEN. I think your concern is a legitimate one. I would not want to create a State administrative machinery that would actually create disincentive for local departments to set higher standards and be even stricter than at the State level.

Mr. LUNGREN. You mentioned that during the period of your observation of the phenomenon of police shootings, different departments have made what you describe as "cosmetic" changes.

Do you dispute the fact that there have been fewer police shootings resulting in death in the last few years within the jurisdiction of the Los Angeles Police Department and the Los Angeles Sheriff's Department?

Mr. UELMEN. I haven't examined data on that. I don't know whether there have been less or more.

Mr. LUNGREN. At least three witnesses have presented information to that effect in their prepared statements.

Would that possibility tend to change your opinion that merely cosmetic changes have been effected in those two particular departments?

Mr. UELMEN. I am examining the changes in terms of coming to grips with the problems I identified; that is, the problem of uniformity of results, consistency, the problem of impartial adjudication of these incidents, and, of course, the final problem of the extent to which there's public confidence in the results.

I think if you look at any of those three problem areas, the problem has gotten worse rather than better, but I don't lay that at the feet of any bad faith on the part of the LAPD or the LA County Sheriff. In fact, I have been impressed with the extent to which they have made an effort to change, to respond.

But I think the problem is built in; that is, they're always going to be in that conflict of interest position where they cannot adjudicate the discipline of an officer without jeopardizing the department morale overall, without increasing their prospective civil liability. It's just built in.

These departments cannot come to grips with the problems.

Mr. LUNGREN. I wonder if the alternative is worse than the present position. The argument in favor of discipline enforced within a department makes sense to me. You need it in the Armed Forces.

When Members of Congress receive a complaint about one of the services, we forward it to the appropriate disciplinary office within that service, and they take the appropriate action.

I would not want to superimpose my judgment over that of the military, so long as they follow their established procedure.

Mr. UELMEN. Goes back to what Mr. Fisk said: "I don't want somebody else spanking my baby."

My reaction to that is: If you are giving the baby a gun and sending

him out in the community, the community has an interest in terms of the discipline of that baby.

Mr. LUNGREN. I am in strong agreement. However, although we have talked about the number of victims of police officer shootings, we have not talked about the number of deaths of people in the community at the hands of those not police officers. It is imperative that we insure that we have an effective force.

These are two very, very serious concerns that have to be addressed. I am not sure that the alternative you suggested would necessarily be the best.

Mr. UELMEN. I think we can do better.

Mr. CONYERS. We appreciate your testimony.

Mr. GREGORY has a question.

Mr. GREGORY. You mentioned in your testimony the relevance of violation of firearms policy with civil liability.

Does that carry over in criminal law?

In other words, the California law, as I understand, the standard is gross negligence.

Mr. UELMEN. Yes.

Mr. GREGORY. Is that relevant to the discussion?

Mr. UELMEN. The cases in which it has been litigated have been civil litigations.

If the criminal prosecution were based on gross negligence, involuntary manslaughter, the violation of policy would be equally relevant.

Mr. GREGORY. That would seem to impose a higher standard than merely a fear of their own safety, would it not?

In other words, it would be possible to be fearful of your own safety but still be in violation of the policy?

Mr. UELMEN. Well, the policy usually speaks in terms of fear of your safety, but that fear has to be reasonable fear.

Mr. CONYERS. Thank you very much.

We appreciate your dedicated work in this area and hope you will continue to affiliate with the Subcommittee as we continue to assess this problem.

We want to thank all of our friends and experts and community leaders and elected officials that have joined us.

We will now stand in recess until 2:15.

[Whereupon, at 1:15 p.m., the hearing was recessed, to reconvene at 2:15 p.m., the same day.]

#### AFTERNOON SESSION

Mr. CONYERS. The Subcommittee on Crime for the House Judiciary Committee will come to order.

The Chair wishes to report that an increasing number of citizens are coming forward to testify, and we are going to have to make some scheduling problems impend until tomorrow.

Steve Raikin, counsel, is going to be trying to work those out; and I would ask the witnesses to bear with us this afternoon.

We are going to move through very rapidly.

We do have a panel of ladies who expressed that their babysitting problems are going to commence very shortly, and although I prom-

ised them I would put them on today, I didn't realize that they would have to leave at an earlier hour. I had intended that they be added on to the witness list, but because of the influence they have brought to bear on the chairman, I will have them testify on a panel.

And so the subcommittee welcomes you, Ladies.

I recognize Dr. Shakika Gumbua, who is the chairperson of the Black Women Today, Inc., here in Los Angeles.

Would you identify yourself and your organization and then also have each of the ladies on each side of you indicate their names?

**TESTIMONY OF DR. SHAKIKA GUMBUA, CHAIRPERSON OF BLACK WOMEN TODAY, LOS ANGELES, CALIF.**

Dr. GUMBUA. I am Dr. Shakika Gumbua, honorary chairperson of Black Women Today, an international women's organization representing women of Africa, the Caribbean, and the United States.

To my left here is Rev. Mary Moore, who is a victim of rape by the Los Angeles Police Department.

To my right here is Mrs. Mamie Dunn, the mother of Pamela Dunn, who was a rape victim of the Los Angeles Police Department at the age of 8 years old.

Shall I proceed?

Mr. CONYERS. Yes.

Please, go ahead.

Dr. GUMBUA. We black women are living in a state of terror in the city of Los Angeles.

Black women and children have been murdered and raped by the Los Angeles Police Department. We black women are specific target victims of rape and murder by the Los Angeles Police Department, and I would like to point out that it was not only the murder of Eulia Love but many other black women, such as Janice Peck, Marvel Snow, and many others.

Specifically, we are here today to deal with rape. Rape is used as a weapon of terror in the city of Los Angeles by the Los Angeles Police Department on specifically black women and children.

First, I would like to speak about a person who has been absent from the State of California, a rape victim who is a client of Attorney Lenita Gibson of Beverly Hills. Patricia Franklin was raped by the Los Angeles Police Department. A sex act was pulled on her by the Los Angeles Police Department.

Mr. LUNGREN. Mr. Chairman, may I interrupt? Frankly, unsubstantiated statements that someone was raped by a police officer are not within the scope of this hearing. I think this runs far afield of the announced subject of this hearing—the use of deadly force.

I wish to emphasize that I do not intend to impugn the integrity or the sincerity of any person appearing before this subcommittee. However, it seems to me that receiving testimony on a subject such as this, when no prior notice was given to me or the minority staff, would be inappropriate at this time.

Mr. CONYERS. Are any of these women represented by counsel?

Dr. GUMBUA. Yes.

The attorney for Mrs. Mamie Dunn is attorney Bill Barnes of Beverly Hills. Attorney for Rev. Mary Moore is Jack Kane.

Also, as I stated earlier, attorney Lenita Gibson is handling the rape case of Patricia Franklin who had a train of sex acts pulled on her by several Los Angeles policemen. Sticks crammed up her rectum. She was told, "You do what you black bitches know how to do best." Patricia Franklin's life was threatened by the police department, and she was shipped out of the State of California for safety of her life by her attorneys.

Mr. CONYERS. I would like to suspend. We have had an objection raised by a member that I have to honor. The fact of the matter is that, first of all, we did not know you were going to be witnesses today. I agreed that you could come on, and I would stick to that agreement, but one of the colleagues of this committee objects to the testimony. He was not given notice of it. It's questionably related to the use of deadly force, as was indicated or intended by the subcommittee, and so based upon his objection, I'm going to ask you not to submit your testimony today.

Dr. GUMBUA. This is a sociological and psychological deadly force. Can I tell you about the two phone calls that I received?

Mr. CONYERS. No. I'm not going to let you testify any further.

I would like to make arrangements for you to meet with my staff counsel so that we could determine how we could put this in appropriate form.

I have an objection from my colleague.

Dr. GUMBUA. Why can't we bring the truth out here today?

Mr. CONYERS. He's already stated that he had no notice of it and that the police—

Dr. GUMBUA. This is interesting, because I received a phone call from a man who called me at my house and said, "This is the KKK calling again. We have a KKK right on the committee that you are going to today."

Mr. CONYERS. I'm very sorry, Doctor, but I'm not going to be able to do what I promised I would do for you.

Reverend MOORE. We understand. Your hands are tied.

The truth is never going to come out among black women.

They say it took 6 hours to arrest me, and I was chained down and they went up my rectum, and quite naturally, this white man doesn't want the truth to come out.

Dr. GUMBUA. We don't think this committee is about anything if we can't talk about the black woman today.

Mr. CONYERS. I'm sorry, but I cannot take your testimony.

I would like to make arrangements for us to work out assistance to you.

Dr. GUMBUA. I don't think that this subject should be smothered down any longer.

Mr. CONYERS. I'm not trying to smother anything down.

You are not a scheduled witness. I tried to accommodate you, and I would if I could.

Dr. GUMBUA. Not only this woman but an 8-year-old black child was raped by the Los Angeles Police Department. An 8-year-old black child has been raped by the Los Angeles Police Department. Can you ask me a question about that?

You have been asking a lot of questions of everybody else.

Ask me a question about that

Here's the mother of that child that was raped by the Los Angeles Police Department. Ask me about that.

Mr. CONYERS. Please, Doctor. Would you please excuse yourself?

Dr. GUMBUA. Yes.

You're terrorizing black people in this ——— country.

Mr. CONYERS. Our next witness is the U.S. attorney for the central district of California, Ms. Andrea Ordin, who is no stranger to the Subcommittee on Crime.

We welcome you before the committee and appreciate your patience.

Ms. Ordin has been a U.S. attorney for the central district since 1977. Prior to that, she served as assistant district attorney in Los Angeles County.

We welcome the comments and concerns that you have evidenced in terms of police violence and appropriate Federal responses.

We have your prepared remarks, and without objection, incorporate them into the record at this time and allow you to proceed in your own way.

PREPARED STATEMENT OF ANDREA SHERIDAN ORDIN, U.S. ATTORNEY, CENTRAL DISTRICT OF CALIFORNIA

I am pleased to join with you today to discuss police-community relations, with a particular emphasis on the police use of deadly force. There may be no other single issue which has more divided Los Angeles in the last several years. Not only are there deep divisions of opinions among our communities, there are divisions between friends and members of the same families.

Although I am not overly sanguine that the solutions for most of these divisions rest in the hands of the Federal Government, any assistance that this arising of views may accomplish is welcomed.

Before we begin our conversation, it may be helpful to understand the role of the United States Attorney in the Central District of California and the Civil Rights Division of the Department of Justice in this mosaic. The Central District encompasses the counties of Los Angeles, Orange, Riverside, San Bernardino, Ventura, Santa Barbara, and San Luis Obispo.

The United States Attorney's office is staffed by 96 lawyers assigned to the Criminal, Civil, and Civil Tax Divisions. They are gifted men and women who, in general, contribute their services to the government for three to five years. Sometimes we are fortunate enough to retain them as career lawyers.

In April of 1978, this office organized an ad hoc civil rights committee consisting of lawyers in the Criminal and Civil Divisions of the office.

In recent months that committee has been formalized into the first Civil Rights Unit ever instituted in this District. Six trial lawyers in the Criminal and Civil Divisions are assigned to the Unit. The work of the Unit is coordinated by Judith Ashmann, Executive Assistant to the United States Attorney. We have identified one lawyer as the lead person for Criminal and one for Civil. The lawyers carry a diversified caseload in their respective Divisions, but can work from 10 to 30 hours a week on a wide range of civil rights matters.

For example, one lawyer—Richard Romero—has been primarily responsible for the enforcement of the bilingual provisions of the Voting Rights Act of 1976. In that regard, the four United States Attorneys in California entered into a joint program to inform local registrars of the provisions of the Act and to emphasize our intention to enforce compliance with the Act.

Although such matters, and matters such as housing, employment, and credit discrimination have been a focus of our office and the Civil Rights Division—our main focus has been the investigation of police-related shootings.

The United States Attorney and the Civil Rights Division of the Department of Justice, headed by Assistant Attorney General Drew S. Days, share the responsibility to prosecute criminal civil rights violations in this District. The two federal statutes which have the greatest impact on the area of police misconduct are 18 U.S.C. 241 and 242. These statutes, passed during reconstruction and designed to effectuate the requirements of the Fourteenth Amendment, make it unlawful to conspire against or, while acting under color of law, to deprive an individual of rights guaranteed or protected by the Constitution or federal laws.

Nationally, the Civil Rights Division receives upwards of 10,000 complaints each year from individuals who believe that their civil rights have been violated and that the Federal Government should act in their behalf. While large numbers of these complaints are beyond the jurisdiction of federal criminal law, the Federal Bureau of Investigation conducts over 3,000 active investigations into allegations of police misconduct annually. There investigations are referred simultaneously to the Criminal Section of the Civil Rights Division and to the appropriate United States Attorney's office for prosecutive evaluation. Approximately 50-100 matters are presented to a grand jury each year, and 25-50 cases are indicated. In fiscal year 1979, the Department initiated prosecutions against 122 subjects, which represents an increase of 50 percent over the past several years.

The FBI agent or agents assigned to investigate a civil rights matter follow an investigative outline which has been prepared for use in all civil rights matters. Aside from interviewing eyewitnesses, an agent will automatically seek to marshal physical evidence, obtain medical reports, and official reports made by police officers and police departments involved. In this District, the FBI will generally begin investigation simultaneously with local authorities and need not wait until local investigations are completed. In general, of course, we would defer in the first instance to local prosecutions. In part, such deferral is appropriate since often the local statutes do not require the same high level of specific intent required by Sections 241 and 242, but often demand only criminal negligence.

In evaluating the perspective merits of a given matter, the United States Attorney and the Civil Rights Division will be primarily concerned with the corroboration that exists for the allegations of misconduct. This need for adequate corroboration in part defines the standard we use in deciding to approve a case for prosecution.

The Civil Rights Division and this office, before presenting an indictment before a grand jury, must be satisfied that federal jurisdiction exists, is justified, and that at least a reasonable basis exists to believe that a jury can return a verdict of guilty on the facts developed in the investigation.

Since April of 1978, 164 matters have been investigated by the Federal Bureau of Investigation in the Central District of California. The allegations of misconduct ranged over more than a four-year period. The substance of those allegations varied from name-calling, denial of medical treatment, excessive force at time of arrest, to shootings resulting in death.

No indictments to this date have resulted from the investigations, although in rare instances grand jury investigations have been authorized.

Cases where the victim has died receive particular scrutiny in this office and the Department, not only because of the tragic result but because they are often the most difficult to investigate. The victim cannot speak. The trauma surrounding the incident is so intense that the perceptions of those around the scene can often be clouded. For that reason, Assistant Attorney General Drew S. Days personally reviews the investigative file of each case when death has resulted.

At this time in our office, 29 matters are presently under active investigation and another 21 are in varying stages of final review in Washington.

I share the view of the Department and Drew Days that the language of the statutes we enforce limits the effectiveness of federal criminal prosecution as a deterrent to instances of police abuse. The statutes, written over a century ago, contain phrasing that is imprecise and arguably ambiguous.

For example, Section 242 makes it unlawful to deprive an individual of a constitutional right. While case law has made it clear that a defendant need not be familiar with the Fourteenth Amendment in order to deny an individual its protections, the cases also make clear that more than a general criminal intent is required.

While this "specific" criminal intent, which is defined as deliberately disobeying or disregarding the law is a constitutionally satisfactory standard of intent and may be understandable to lawyers who deal with constitutional issues routinely, many jurors must become confused when asked to confirm or deny the existence of specific intent.

Passage of the portions of the Criminal Code revising Sections 241 and 242 is crucial to effective criminal civil rights. The new law is both simpler and more akin to the enforcement of other federal criminal statutes—statutes in which the standard of conduct demanded is clear and the required jury instructions explaining that standard are concise.

Thank you for allowing me to submit these opening remarks. I look forward to beginning our conversation.



TESTIMONY OF ANDREA ORDIN, U.S. ATTORNEY, CENTRAL  
DISTRICT OF CALIFORNIA

Ms. ORDIN. Thank you very much.

I appreciate the opportunity to join with you this afternoon.

It is true that there is no single issue which has more divided Los Angeles in the last several years and, perhaps, in many other years than the issue of deadly force.

There are deep divisions of opinions among our communities and divisions between friends and members of the same family.

As you well know from sitting in this hearing, it is a matter of highest emotional content and highest serious intellectual content.

You have already seen my prepared statement. I have analyzed what our office has been doing, and what it can do and what it can't do.

I have urged in that prepared statement that those provisions of the Criminal Code which clarify and, I think, improve the present language of the civil rights statutes must be passed. Apart from that, I would be more than pleased to respond to questions or, perhaps, delineate some of those areas that are in the statement.

Mr. CONYERS. Could you refer to the kind of changes that you have in mind?

Ms. ORDIN. As you know, the Criminal Codes Reform bill has been winding its tortuous way through the Congress for a good time.

I think, perhaps, this year there is some chance that it will pass, but it's very long and very complex, and there are very many different issues in it.

I think the only issue about which I have never heard any objection is the redrafting of the criminal civil rights statute.

As you know, the criminal civil rights statute today requires proof that an officer, under color of the law, in the exercise of his authority, intentionally deprived a person of his or her constitutional rights.

Now, the court cases explain that the Government does not have to prove that an officer, when using deadly force, articulated in his or her own mind the provisions of the 14th amendment. Nevertheless, the specific intent required is a high burden to meet. It is not mere criminal negligence. It is not only reckless use of that deadly force. It is the intentional deprivation of constitutional rights.

With the new draft in the Criminal Code, a variety of criminal intents will be recognized. For example, assault with a deadly weapon with a general criminal intent. Thereby Federal criminal prosecutions would be as available a remedy as State criminal prosecutions.

As you well know, right now most of the State statutes require a lesser intent than the Federal statutes do.

Many times, in this community, if a local law enforcement agency, a district attorney's office, determines that there are not sufficient facts under the standard of criminal negligence or recklessness, our office is asked to look at it a second time.

Often we are already looking at it because we do investigate these matters simultaneously.

Mr. CONYERS. With the State's attorney?

Ms. ORDIN. Yes. As you know, the Assistant Attorney General of the Civil Rights Division has attempted to involve more fully U.S. attorneys in each district.

In this district and in all of the districts in California, we work on a daily basis coordinating with the Civil Rights Division. In this district, in many matters we begin our investigation at the same time as local law enforcements.

Because of simultaneous investigations, there have been instances where, in fact, the FBI agents have been seen on the scene before certain other investigators from local law enforcement. That is in part because of their staffing and the numbers of cases they are investigating.

We need not wait until the end of the local prosecution.

But the problem, of course, is that we do, as we stated in our statement, differ from local prosecution under the State statutes in the first instance. If, in fact, the requisite criminal intent has not been found under the State criminal statute requiring only negligence, it is going to be a rare case that we are going to find an intentional violation.

There is another problem in that the Federal criminal civil rights statutes are mere misdemeanors unless death results.

In today's case, where the district attorney has filed a case where paralysis to the victim resulted, or where several injuries resulted, such cases would merely be misdemeanors in the Federal side.

I do not believe that is an appropriate penalty. Those matters resulting in serious bodily injuries should be treated as felonies.

Mr. CONYERS. Why is that?

Ms. ORDIN. First, remember these are archaic statutes. They were developed during the Reconstruction period. They have not been changed since that time. The language is difficult.

Maybe understandable for lawyers, but not particularly good for juries in terms of degree of intent needed.

Mr. CONYERS. Are these sections 241 and—

Ms. ORDIN. Sections 241 and 242 are only misdemeanors unless death results. Under the new criminal code, on the other hand, assault with a deadly weapon under color of law with the requisite intent is a felony.

Well, we understand assault with a deadly weapon under color of law. I think we would be much more successful in explaining the offense to the jury.

Prosecutions in the last year nationally have doubled in the civil rights area, although actual numbers are small.

The conviction rate has not risen. In fact, it has dropped.

I truly believe that if you want the Federal Government to be effective in these cases, we need tools that are at least equivalent to local law enforcement.

I have a number of cases here of 29 matters presently under active investigation and 21 in varying stages of final review in Washington.

Mr. CONYERS. I think you created a civil rights division within your own office did you not?

Ms. ORDIN. That's right.

Mr. CONYERS. What kind of cases are these by and large?

Ms. ORDIN. By and large, they are complaints from throughout the district. Los Angeles is only one of the counties covered.

Looking at the numbers of cases that have gone through the office or matters that have gone through the office—approximately 178 matters—one finds that approximately 60 to 65 of those complaints

relate to the Los Angeles Police Department or Los Angeles Sheriff's Department.

The remainder come from as many as 40 other departments throughout the whole district.

The basic complaint relates to excessive force at the time of arrest. Some complaints merely allege verbal abuse.

Other times, they may be allegations of failure to give adequate medical aid, and sometimes they are the tragic cases that you are concerned with here, where there has been a police shooting and a citizen has died.

Mr. CONYERS. To what extent do you have cases that involve excessive use of force by law enforcement officers?

Ms. ORDIN. In the overall numbers, I would say that that is the vast majority of those allegations.

Mr. CONYERS. And are you also saying that this requirement of a specific intent to violate the constitutional rights of the defendant is a bar to an effective prosecution?

Ms. ORDIN. I think the Federal interests to be protected, and the possibility of prosecutions could be better served by having more flexible degrees of intent.

If, in fact, it is the will of the Congress that we be an equivalent source of remedy, then we must have to have remedies that are at least equal to those of our colleagues on the State side.

That is a long way to answer yes.

Mr. CONYERS. It's a very good answer.

Congressman Lungren?

Mr. LUNGREN. You make reference to language contained in the Criminal Code Revision Act of 1980.

Are you referring to the House version or the Senate version?

Ms. ORDIN. My understanding is that those provisions are the same in both versions, but I would certainly defer on that answer to Counsel Hayden Gregory.

Mr. LUNGREN. Would your suggested changes, in essence, lower the Federal requirements for proof so that they would be on a parallel level, so to speak, with State law? Are you suggesting that this is necessary as a sort of relief mechanism for the State system, or is it because the State system is not in one way or another acting appropriately under present circumstances?

Ms. ORDIN. I would say it's more the former.

Such provisions would provide a relief mechanism, a way of assuring additional redress in some cases that could have been prosecuted on the State side but were not.

You are not talking about large numbers of such cases.

Mr. LUNGREN. Do you have any feelings, for the increase in the number of cases that might result if we did change that language along the lines of your recommendation?

Ms. ORDIN. I still believe that matters would not increase numerically greatly.

During the period of time covered by my statement, no indictments alleging civil rights violations by officers have been returned.

If this district were to return one such indictment, that would be the first since 1971, and if we were to have two, that would increase the prosecution by 100 percent, but the actual number of cases would

remain small. It seems to me that it be appropriate to have a similar standard.

Mr. LUNGREN. Thank you.

Mr. CONYERS. Congressman Hawkins, do you have any comment or questions?

Mr. HAWKINS. I don't, Mr. Chairman.

Mr. CONYERS. Thank you very much for coming.

I'm not sure whether we have really exhausted all of the matters we might bring to your attention.

I'm also interested in the fact that your office is moving very rapidly on these matters as they develop in this part of California.

I think it's very important, and I would hope that your office is able to effect the same kinds of relationship and activities throughout the several districts because this would, I think, be very helpful.

Ms. ORDIN. It's clearly one of his first priorities, and you know he hoped to be here to talk to you personally about it.

Mr. CONYERS. Thank you very much.

We'll keep your emphasis on the revisions of the Federal Criminal Code in mind, and we appreciate your testimony.

Ms. ORDIN. Thank you very much.

PREPARED STATEMENT OF LOS ANGELES POLICE DEPARTMENT ASSISTANT CHIEF  
WESLEY HARVEY

On behalf of Chief of Police Daryl Gates, I wish to thank you for this opportunity to speak before this committee on the subject we've been asked to address—Police Community Relations. My brief remarks today will be mostly confined to Police-Community Relations, even though the local papers have referred to the committee hearing as being on "U.S. Hearings on Police Shootings" and "Police Abuse Explored".

Frankly, it is not clear to me why a United States congressional committee is inquiring into the relationship between the police and the local community it serves. But, assuming honorable intentions, there is no reluctance here to discuss and publicize constructive means which may be taken to reduce crime and prevent disorder.

Chief Gates and I are very hopeful these hearings will not deteriorate into another prolonged and needless review of police shootings. For well over a year now there has been an agonizing, sometimes divisive review of police shootings. This review has been complete and well reported. All that can be said has been said, and what is *not* needed is a federal government committee belatedly opening up old wounds. What *is* needed is for all elements of the community to begin working on real issues of reducing crime through police-community interaction.

Despite some problems in police-community relations in recent years, one thing has not changed. The community supports the police. Time and again various studies and polls reveal that the police are supported by the public, and that the police are respected much more than members of other institutions. We believe there are many reasons for this, but most certainly the police are supported because the police respect and serve the public. The police today deliver courteous service.

Here are some of the key elements of positive police-community relations in Los Angeles.

This area has a history and tradition of clean government where the police have served the public in an uncorrupted, politically-unfettered manner. From this has developed a professional police bureaucracy.

There has been a reasonable amount of political oversight by a Board of Police Commissioners which has usually reflected community interests.

Under Chief William H. Parker and others of his era, systems and rules which ensure integrity and honesty in policing were adopted.

Under Chief Edward M. Davis the Department became closer to the community through territorial-based policing and community involvement programs.

Under Chief Daryl F. Gates a value system of courtesy and service is being

promoted. From the moment of his installation as Chief, Chief Gates has demanded that all people be treated with dignity and respect and, to that end, has coined the term "administrative felony" which means, quite literally, that it is considered serious misconduct to not treat all people with courtesy. Penalties for misconduct in this area have become more severe. Training stresses a service-oriented approach to policing. There is a total commitment by the organization to succeed in this Department becoming known not only for its honesty and integrity, but also for being a caring, compassionate, courteous organization.

Presently in place within the LAPD are numerous programs which promote police-community relations. Nonetheless, this committee should be aware that here we have one of the world's finest police training programs, training which stresses peaceful resolution to community and individual problems. If the committee is interested a thorough review of that training could be provided.

This Department has long had a comprehensive set of policy guidelines and standard operating procedures which guide the actions of its employees. Those too are available. LAPD pioneered honest, thorough investigations of complaints by citizens of police activities. Our personnel complaint procedures have served as a model to the rest of the world.

Most recently, under Chief Gates, a comprehensive statement of Police-Community Relations Guidelines was developed. These guidelines contain information on youth programs and other community involvement programs. Most importantly, and at the insistence of Chief Gates, the Community Relations Guidelines stress the continuing need to develop proper police attitudes and describe how management will be held accountable for ensuring service-oriented policing.

Any and all of this and other activities of the Los Angeles Police Department are available for inspection. They are available because this is an open, candid, honest department which has nothing to hide.

Assuming that you do seek some information on the subject of police shootings, there are several things which you should know. First of all, despite contrary claims, this Department has for as long as I can remember used restraint in shooting.

Second, under Chief Gates the constraints upon our officers in shootings have shifted from "when *should* I shoot?" to "when *must* I shoot?" Today you find very, very few police shootings which occur in anything other than self-defense situations, and no one can change human nature and prevent a human being from defending his own life.

Third, we are always searching for improved techniques and tactics for controlling violent citizens. One small example of this is a device recently developed by two street policemen called a "leg grabber" which received a great deal of publicity. This was developed by Los Angeles policemen, in their off-duty hours, in their garage, at their own expense. The Law Enforcement Assistance Administration, an agency which has been given millions of dollars and many years to develop less-than-lethal weapons, has provided us nothing.

Before closing, I think it is necessary to comment on what can be done to improve police-community relations. First, this committee and other political leaders must come to the realization that crime is real and frightening to the community. That realization must include an understanding that there are social, cultural, and institutional problems which must be addressed.

Second, it must be understood that there are disruptive individuals and groups, sometimes including people in politics and in the news media, who seek to incite discord and violence for a variety of reasons. Some of these people will never be appeased and will continue to clamor against the police if forums such as this provide them with the opportunity.

Third, the people and the police, who work well together, need support—not attack—from political leaders. While the people want to work with the police, we have not always seen such a willingness or strength from politicians. To a great extent, this has hurt the cause of police-community relations, and, in turn, has made the control of crime very difficult.

I thank you.

Mr. CONYERS. Our next witness is assistant chief of the Los Angeles Police Department, Mr. Wesley Harvey, who has assignments that have included southwest patrol, southwest vice, and southwest juvenile. He's a member of the Los Angeles County Police Officers Association,

the International Association of Chiefs of Police, and the California Peace Officers Association.

We have your statement, Mr. Harvey. It will be entered into the record, and you may proceed.

**TESTIMONY OF WESLEY HARVEY, LOS ANGELES POLICE  
DEPARTMENT ASSISTANT CHIEF**

Mr. HARVEY. I think I will somewhat follow the prepared statement.

On behalf of Chief of Police Daryl Gates, I'd like to thank you for this opportunity to speak here today on police-community relations.

My brief remarks center around police-community relations, although I understand there is some emphasis on deadly force and, in fact, our local papers have reported that this hearing is to be on police abuse or police shootings.

Mr. CONYERS. All of the above?

Mr. HARVEY. All of the above.

I still don't understand exactly what the committee is doing exploring this subject.

Mr. CONYERS. I will explain it to you.

This is the Subcommittee on Crime of the House Judiciary Committee, and within our jurisdiction lies a number of subject matters, among which are criminal and abuse matters that even involve law enforcement officers, especially where civil rights or constitutional rights of citizens are involved.

So therefore, you can have a matter that could be a purely local matter, as you well know, and also have a Federal nexus as well.

That's why the previous witness was a Federal officer from the same area who works on many of the same matters that you do.

Mr. HARVEY. I understand we do view it as our responsibility to establish good police-community relations. We do look at crime control in this country as a local matter. We do look upon our local problems in the community and press as being our responsibilities.

Mr. CONYERS. So do we, but there's a Federal criminal code, and there are certain crimes in the United States.

Mr. HARVEY. What are you investigating?

Mr. CONYERS. We are not investigating you as a criminal at all, nor the police department.

We are holding hearings here on the subject that if you had any doubt about, I thought you would have checked with us about it, the police and use of deadly force, matters of which can constitute or raise Federal questions.

As Ms. Ordin just indicated, they have a number of the same matters in their jurisdiction. She named as a matter of fact some 29 matters in the office of the U.S. attorney in this area under active investigation and another 21 are in varying stages of final review in Washington.

This does not mean that they all involve the Los Angeles Police Department, nor do they necessarily involve you or the chief of police.

Mr. HARVEY. I understand.

You are here, Mr. Congressman, and it's your ball game.

I understand that. I was only trying to say that this is primarily our responsibility, primarily the responsibility of the citizens of Los

Angeles, not the Federal Government. And, based upon that, assuming this hearing has legitimacy, I'd be more than happy to discuss anything that you want.

Mr. CONYERS. Have you been in contact with our office about the hearings today?

Mr. HARVEY. Yes.

If you like, I will proceed.

Mr. CONYERS. Of course, we would like.

That's why we invited you to participate.

I didn't want you to come here and then decide maybe we were off on a lark or some expedition that maybe you shouldn't be participating in because it's not valid or maybe it's a little bit out of our jurisdiction or yours.

What we want to do is discuss matters raised around the use of deadly force.

You must know about the Eulia Love matter; do you not?

I get no reaction, so I ask you for the third time:

Are you familiar with the Eulia Love case?

You can say yes or no.

Mr. HARVEY. Am I restricted to a yes or no answer?

Mr. CONYERS. No.

You can explain after you indicate.

Mr. HARVEY. Would you like me to proceed with my statement, or would you like me not to?

I am prepared to proceed.

Mr. CONYERS. I thought you were.

It didn't occur to me that you weren't.

Mr. HARVEY. Since you don't prefer me to make my statement, what other questions do you have?

Mr. CONYERS. I'm sorry you feel that way, Mr. Harvey. I do prefer that you make your statement but I was explaining by virtue of mentioning the Eulia Love matter why we are here and what the kinds of concerns were that brought the subcommittee to Los Angeles.

Mr. HARVEY. Based upon these interruptions, I don't think it's possible for me to make my statement.

[Audience boos.]

Mr. CONYERS. I'd like to ask the citizens who are visiting here to please refrain from any reactions or comments at all.

We ask that you indulge the committee in this courtesy and the witnesses as well.

Would you care to proceed?

Mr. HARVEY. No, sir.

I'll respond to your questions

Mr. CONYERS. Well, without objection, the statement of the assistant chief, Wesley Harvey, will be entered into the record in its entirety.

Mr. Harvey, I'd like to find out:

Do you have a record of the cases that have resulted in excessive force or deaths of citizens by members of the Los Angeles Police Department?

Do you know how many matters there are that are pending?

Mr. HARVEY. I don't understand the question. Please, repeat the question.

Mr. CONYERS. Do you have an indication of the number of cases in

which excessive force or death have been the result of shootings by the Los Angeles police officers against citizens of Los Angeles?

Mr. HARVEY. I have some information on shootings and deaths of citizens, but I have no information on excessive force.

I don't understand your question.

Mr. CONYERS. Why don't you tell us what information you have on the shootings?

How many shootings do you have any information on?

Mr. HARVEY. Are you talking about statistically or individually the cases themselves?

Mr. CONYERS. Statistically what number of cases do you have?

Mr. HARVEY. Information on the number of last year's shootings for example?

Mr. CONYERS. How many of them are there?

Mr. HARVEY. Fifty-nine.

Mr. CONYERS. Could you pull the microphone a little closer?

Your responses aren't being picked up.

You have 59 cases of shooting incidents, and they cover 1979?

Mr. HARVEY. Yes, they do.

Mr. CONYERS. And in these cases, have you had complaints filed?

Are there suits pending?

Mr. HARVEY. In some of them.

I do not know which ones or the number of suits pending.

On the shootings, I do not.

Mr. CONYERS. Do you know how many have resulted in disciplinary hearings on the part of the officer or officers involved in the shootings?

Mr. HARVEY. No, I do not.

I can obtain that information for you.

Mr. CONYERS. It will be quite acceptable to the subcommittee if you furnish it to us, and we will add it to the record.

Mr. HARVEY. Sure.

Mr. CONYERS. Of these cases that have been involved, is the *Eulia Love* case one of those cases?

Mr. HARVEY. Yes.

Mr. CONYERS. So you are familiar with this case in some detail?

Mr. HARVEY. Yes; I am.

Mr. CONYERS. And you are aware of the decision of the police commission in this matter?

Mr. HARVEY. Yes; I am.

Mr. CONYERS. Let me ask you this:

What are the findings as you understand them to be?

Mr. HARVEY. The court of the police commissioners made a series of findings concerning the Eulia Love shooting, one of which said the policy of the department is adequate.

Mr. CONYERS. Were there, as a result of that shooting, some changes in the policy of the police department in terms of their reporting?

Mr. HARVEY. There were, yes, sir.

Mr. CONYERS. Can you identify what changes have been made?

Mr. HARVEY. There are numerous changes, and I'll touch on them, Mr. Conyers.

I think the major change in the process, not only in the policy itself, but in the process of review, involved more review by the commission itself, whereas before the ultimate determination of whether the shoot-

ings were within policy or out of policy, the process within the department ended with the chief of police.

Since that time, the policy has been modified or the procedure, rather, has been modified, to where there is a review by the board of police commissioners itself and the opportunity for them to review an individual shooting in different ways.

I think that's a major policy or procedural change.

Mr. CONYERS. Officers that are involved in shooting incidents are questioned, and their statements are reported in what way?

Mr. HARVEY. The officers are interviewed by the shooting team.

Mr. CONYERS. They are interviewed by whom?

Mr. HARVEY. The shooting team of the homicide division, and the statement is tape recorded by them.

Mr. CONYERS. And that is one of the changes that have been made; is that correct?

Mr. HARVEY. That's true.

Mr. CONYERS. My understanding—and you can correct me if I am wrong—is that prior to that, the officers were interviewed away from the scene of the incident in a group together and that there was no reporting of the discussion?

Mr. HARVEY. That's correct.

Interviewed sometimes separately, sometimes together. It varied, depending upon the circumstances just as it varies sometimes in interviews of civilian witnesses.

But investigative practices were followed, and that involves—on some occasions even now in the interview of witnesses, whether they be police witnesses or civilian witnesses, it involves varying interview techniques.

Mr. CONYERS. Why would, in some instances, the police officers be interrogated all together and why would they, in other instances, be interviewed separately?

Mr. HARVEY. I can give you one example.

It depends a great deal on just the sheer number of people involved.

If you have a large body of witnesses, again whether they be civilian or officers, sometimes it's not practical to separate and interview all of them separately.

Sometimes, particularly in the initial interviews of an investigation—and I say sometimes, not always—it is good practice to have everyone together because the witnesses do fill in the gaps.

One witness will see one thing, but really not see all the remainder of the situation, and another witness will see another part of it. So the investigator is able to in that way fill in all the gaps, and in certain situations that's what happened. That's entirely necessary and proper.

Mr. CONYERS. I'd like to yield to Mr. Lungren for a few questions.

Mr. LUNGREN. Thank you, Mr. Chairman.

Chief, I have here a flow chart, so to speak, of the procedures followed in instances involving the use of force. I would like you to tell me if this is the department's flow chart.

Mr. HARVEY. Yes; I recognize that.

Mr. LUNGREN. I would like to have the flow chart entered into the record of these hearings, since I think it outlines the procedures we have been discussing.

Mr. CONYERS. Without objection, so ordered.

Mr. LUNGREN. Chief, could you briefly describe the training that a Los Angeles police officer receives at the police academy with respect to the use of force?

Mr. HARVEY. The use of force training by the Los Angeles Police Department is predicated on statements of policy which are incorporated into training material.

The use of force, this would be an awfully long subject, but I will try to summarize it as you have asked, but the use of force policy of the department is based upon the premise that only that amount of reasonable force is used that is necessary, and it is based upon deescalating and escalating of force that may be used in response to resistance or aggression of a citizen.

That is all incorporated in the training, both in lecture, in workbooks, and in videotape cassette training, in shooting simulators, and shooting qualification courses, in field situations, in testing.

It is reinforced throughout and spread through not just one particular block of time, although there are blocks of time devoted to that training at the academy.

But in each and every situation throughout the training, whether it be an investigation of a burglary, the handling of a family dispute, the impounding of a car, it doesn't matter. The issue of force relating to arrest comes up in all police training.

The very nature of police arrest involves somebody being taken into physical custody, and therefore, this whole subject is very elementary, very fundamental, but very thoroughly discussed in any kind of police training.

Mr. LUNGREN. Is this subject part of a written examination?

Mr. HARVEY. Yes.

Mr. LUNGREN. Have there been any adjustments in the past years in this aspect of training?

Mr. HARVEY. There have been a lot of adjustments.

Our training is constantly revised depending upon what the current local and timely needs are, but an awful lot of training involves not only the investigation of recruit training, but a lot of training involves the followup and the in-service training subsequent to recruit training.

The more recent changes have been made in the last year—I would think are the most major changes—have been in that area of in-service training.

Mr. LUNGREN. A lot of professionals, including lawyers, doctors and businessmen, like to think that they are involved in "in-service training."

Sometimes that actually occurs; sometimes it does not. What does the department mean when they speak of "in-service training"? Is this a regular effort, or is it "hit or miss"?

Mr. HARVEY. We have regular training and rollcalls before work each and every day.

About three times every month, the issue of the use of force is addressed in that rollcall.

Mr. LUNGREN. In what way? Is it the decision of the individual officer in charge of the station to address the issue, or is this a result of direction from the department?

Mr. HARVEY. It's up to the watch commander. However, the depart-

ment, to assist the line manager, does prepare material and training tapes and does prepare training aids which he may use in order to assist him in that rollcall training.

In addition to that, we have more formalized programs of annual refresher courses in the application of control holds, for example, and in addition to that, we have in-service training about every 4 years of every variety in which officers receive the same refresher on the use of force, when to shoot, and other things related to force.

Mr. LUNGREN. You mentioned "control holds."

Earlier in these hearings we received testimony about certain difficulties sometimes experienced with the use of the "choke hold." I believe that this has also been discussed in the newspapers.

Is this an example of the control hold you mentioned?

Mr. HARVEY. That's one of the control holds.

Mr. LUNGREN. Have there been changes in that area in recent years?

Mr. HARVEY. In recent years there have been. The use of control holds over about 15 years has evolved from the frontal bar of control to right now what we use is the carotid which is an application of hold on the carotid arteries, and more recently, within the last 2 years, we have been applying that to modify the carotid which neither affects the carotid arteries, nor does it affect the windpipe, but, rather, comes across this way, and that's the first application.

Our officers are taught now that's the first application of what is called the modified carotid.

Second, if that fails, and you are unable to get the subject in custody, then he may have to go to the carotid hold which cuts off the blood flow and renders the person unconscious.

Originally, when it first began about 15 years ago, it was taught across the throat.

Today we tell them not to use that unless it deteriorates and they are hanging on for dear life, trying to effect an arrest.

We do teach that they apply the modified carotid before they go to the other. It's not always possible for the officer to apply it in that order, but that's the way it is taught.

Mr. LUNGREN. You are again making reference to an article I saw just yesterday, which included a photograph of sheriff's deputies utilizing, for want of a better description, long poles with clamps and nets.

Has the department been involved in these sorts of nonlethal methods? If so, how were they developed, and how ready are they for immediate use? Has a judgment been made on that?

Mr. HARVEY. No; a judgment has not been totally made. For years—I'm trying to remember back to probably 1968 when there became a review of less lethal and nonlethal weapons all across the country. There have been various things experimented with. Most of them have not been very effective.

Most recently, within about 2 years ago, we began experimenting with a Taser gun and still are. But last week some of our officers who had been involved and witnessed a shooting earlier went home and in the garage and on their own time developed what we call a leg-grabber. It's a long polelike device that locks on to the legs from some distance.

About a week ago, if you had been in town, you might have seen

that in the papers because there was a subject that was apprehended when our officers approached him with these devices.

They did not apply the device, however, and we don't know at this time how effective the whole thing may be.

Same way with the nets and other types of devices that you saw in the paper the sheriffs are trying. We are very interested in those and have been interested for years. It's not a new thing to constantly try to come up with something that is better.

There has not been something that has come up that's better, unfortunately.

Your congressional committee here, being interested in this sort of thing, surely must be interested in law enforcement administration. They haven't come up with anything. They haven't come up with anything in 12 years, and millions of dollars.

Here are Los Angeles Police officers coming up with something in their garage that may be of value.

There are not really, except for throat holds, except for batons, or nightsticks, as you may call them, there really are not many things around that fill in that intermediate range of use of force, short of deadly weapons, and that's unfortunate, and it's too bad.

We hope that they may be developed.

Mr. CONYERS. The LEAA may have been interested in developing law enforcement in a different direction.

Are you enjoying LEAA funding at the present time?

Mr. HARVEY. No; we don't.

Mr. CONYERS. Why is that?

Mr. HARVEY. We don't want it.

Mr. CONYERS. Our information is that you were cut off, you mean you refused it?

Mr. HARVEY. We would refuse it.

Mr. CONYERS. How many millions have you accepted before you started refusing?

Mr. HARVEY. We probably accepted somewhere around the order of \$2 million.

Mr. CONYERS. How many?

Mr. HARVEY. I'm not certain.

Probably \$10 million.

What happened is there's a suit pending by the wonderful Department of Justice of the United States. That suit has not been terminated. They haven't proven the facts, but because they have lodged the suit, they said they will cut off the funds.

That doesn't disturb us because we are not interested.

We were very interested in LEAA early on. We did receive money, as you have indicated. We did make some useful purposes years ago. However, the direction of LEAA changed. The money went to other sorts of strange projects. We started getting less and less and more politicized, and the funds were of no value to us.

Mr. CONYERS. The cutoff resulted as an operation of law when the police department was brought into court.

They had to suspend the funds pending the resolution of the suit.

Mr. HARVEY. I don't believe they had to.

I think they are empowered to do so by their own rules. There was never any determination in a court of law against the department, Mr. Congressman.

Mr. CONYERS. It operates without—

Mr. HARVEY. The case is still pending.

Mr. CONYERS [continuing]. Without any discretion on their or your part.

It doesn't mean that funds are permanently terminated, but are pending the outcome of the litigation.

Mr. HARVEY. I'm not certain of the details.

Mr. CONYERS. That doesn't constitute your refusing the funds?

Mr. HARVEY. We would refuse the funds.

Mr. CONYERS. You were getting ready—

Mr. HARVEY. We strongly believe that law enforcement assistance has outlived its usefulness and should be terminated, and I think the Government of the United States would provide a real service to the country if it would suspend providing any more money to the law enforcement agencies.

Mr. CONYERS. Would your position be the same if you had not had funds suspended?

Mr. HARVEY. Yes; it would.

We were getting out before. We were really getting out.

We had very, very few funds left at the time funds were suspended.

Too, I recommended getting out. It's very helpful not to have that.

Mr. CONYERS. Yes.

Who needs those millions of dollars?

What would you do with them, anyway?

You may use it for the wrong purpose, and you may be involved in another lawsuit.

Mr. HARVEY. They are not of any value any longer.

Mr. CONYERS. You are the first police department that I ever heard of that doesn't need money.

I'm glad to know that.

Mr. HARVEY. We are very much in need of money.

Very badly, but not that type.

Mr. CONYERS. Do you agree with the California State Commission on Peace Officers Standard and Training, known as POST, that an open and effective internal complaint procedure is an asset to the police officer because it assures him that if he conducts himself in a proper manner, he will be protected from unwarranted criticism and even discipline?

Mr. HARVEY. Of course, we do.

Mr. CONYERS. Well, your internal investigations have never been open.

I won't question whether they have been effective, but they sure have not been open.

Mr. HARVEY. Oh, yes, they have.

Mr. CONYERS. They have?

Everybody that has visited us has stated that they have not been public.

Mr. HARVEY. What are you talking about, Mr. Congressman?

Mr. CONYERS. I'm talking about investigations where there are internal complaint procedures.

For example, in a question where the use of deadly force is involved and there is an internal investigation, maybe that—

Mr. HARVEY. Perhaps, I can ask you a question. I think you are talking about the report?

Mr. CONYERS. Yes, the report, the results.

Mr. HARVEY. The results are made available to the public, yes, but the investigation reports themselves—perhaps, I can help you in this way:

The investigation reports themselves are not made public. They are very confidential, personal information, and it's illegal to release that. They could not do it if they wanted to. It would be bad personnel practice. It would be bad in all regards.

In answer to your question, is our complaint procedure open, "Yes," it is.

In answer to your question, do we make the results of that investigation available, "Yes," we do.

We do let them know the outcome of the complaint. We do discuss it with them if they wish.

We cannot supply the reports that are illegal to release.

Mr. CONYERS. This is by virtue of some State or city law?

Mr. HARVEY. Presently it is by virtue of State law.

Even without that State law, there are certain rights that an individual has when he is questioned under compulsion and his statement has not been released. In addition to that, there are witnesses who come forward in a confidential manner.

There are anonymous people who do not wish to be divulged.

There's medical and psychological information that cannot be provided.

It would be an invasion of privacy to release.

There are all kinds of things that are involved in an investigation that don't as a matter of course, get released unless it is through the proper channels of the court. The courts in this country would control what information is released so that everybody doesn't get their hands into the pot and come out with all kinds of information that would damage people.

The courts do—

Mr. CONYERS. I'd like to be made aware of the specific statute that you are referring to, so that we can add that into the record when you find it and supply it.

Mr. HARVEY. I'm sorry, I don't have the statute, but I'll provide that for you.

Mr. CONYERS. Counsel Gregory?

Mr. GREGORY. Inasmuch as you endorsed the post-position on open procedures and you make reference to the State law which does restrict the release of information, does the department favor amendments to that to bring the practice more consistent with post-recommendations?

Mr. HARVEY. Is there more to that post-statement than it articulates? Exactly what is it talking about or is that the statement that Mr. Conyers read?

Perhaps, you can tell me what that is.

Mr. GREGORY. Let's put aside the post-statement, and let's talk about what kind of information should be made public in these instances in your view.

There has been citizen injury.

Do you feel that the law is too restrictive in what you can release?

Mr. HARVEY. No, I do not presently.

You mentioned shootings, and we will give you an example.

We do within hours issue a press statement that summarizes what did occur.

We do provide most, if not all, the information of what did occur.

There's very little—in fact, there's almost nothing that is not released.

On any one of these shootings you may name, you would find that the details of that shooting are made public.

Now, if there is contained within an investigation report on any one of these shootings some confidential medical, psychological information, if there are statements made by an employer under—by an employee, excuse me—under threat of loss of employment, if there's information provided to you by a citizen who wishes to, and if he asks you, "I will cooperate with your investigation, but I do not want my statement made public," I think we would be morally and legally obligated to respect that request.

Now, these kinds of things would not be released to the public, but as far as the shooting is concerned, there's really nothing, absolutely nothing, that is not known. I can't think of hardly anything that is not known about any of the shootings that have occurred in Los Angeles in recent years that have not been a matter of public interest. They are all available. The information is available. It's just that some shootings do not become public.

Mr. GREGORY. Is my understanding correct that the LAPD did support the application—

Mr. HARVEY. That information is correct.

Mr. GREGORY. Obviously, you feel that it is a good program.

Mr. HARVEY. No, I wouldn't say that.

Mr. GREGORY. Why would you support it if you don't think it is a good program?

Mr. HARVEY. There's no harm in having an independent review of an investigation, and we welcome it for no other reason that people think there should be. There's no practical need for it. We do the investigations, both criminal and administrative, on police shootings. There would be no point.

Mr. GREGORY. What do you do to support it?

Mr. HARVEY. We didn't endorse it. We didn't provide any testimony.

Mr. GREGORY. I didn't make myself clear.

I'm talking about the program itself.

Are there instructions to officers to cooperate with the DA's office?

Mr. HARVEY. Yes, there are.

Mr. GREGORY. Is that being done?

Mr. HARVEY. I believe it is.

Mr. GREGORY. I have been led to believe that officers are instructed not to cooperate.

Mr. HARVEY. Which officers?

Mr. GREGORY. The officers involved in a shooting.

Mr. HARVEY. That's a result of legal counsel.

I think you can appreciate that.

Mr. GREGORY. That's something the department cannot control?

Mr. HARVEY. That's something the department cannot control.

Mr. GREGORY. Do you think it makes a bad image of the department?

Mr. HARVEY. I don't regret anyone exercising their constitutional and legal rights.

I think that any police officer or civilian has a right to exercise those rights.

Now, I would object very, very much if we internally and administratively were not able to get the truth because we were bound by the same restrictions, but we are not. We are able to, under compulsion, examine the information from the officers if necessary.

It's usually not necessary because they are not under indictment, and they do provide us information.

But as far as the criminal team, for example, if we are doing a criminal investigation and we have a criminal team doing that investigation and we have an administrative team doing administrative investigations, we would expect as a matter of law and as a matter of policy and as a matter of fair play that the statements obtained by criminal investigators be done so under constitutional safeguards.

We would also expect the statements obtained by an administrative investigative team, we would expect officers to tell us what happened.

That is an example of why some of the actual investigation reports must not be revealed to the public. They are obtained under duress without constitutional safeguards.

Mr. GREGORY. Let's take the occasion of a shooting incident in which a team is involved.

One of the officers is involved in the shooting, and one of the officers is not.

Do you feel you have any control or do you have any policy in regard to an officer not involved and does not seem to have fifth amendment claims?

Mr. HARVEY. That could become an issue.

Mr. GREGORY. It is an issue; isn't it?

Mr. HARVEY. I don't know that it is, and it depends upon the circumstances with that specific witness or not because, naturally, I think the union or the league representative would probably say that that officer is an involved party, and they would therefore feel he comes within the fifth amendment rights.

But that is a questionable issue.

Mr. GREGORY. You have rights, too; don't you?

Mr. HARVEY. Yes, sir.

And what happens normally is that the noninvolved officer—well, I should not say that. It could be a problem.

Mr. GREGORY. It is a problem; isn't it?

It's not a hypothetical problem?

Mr. HARVEY. I haven't looked at it as being a problem.

Someone might, but I have not.

Mr. GREGORY. Have there been instances, to your knowledge, in which the noninvolved officer has refused to make statements?

Mr. HARVEY. Yes, there have been, but whether that has been a problem or not, it is not a problem to me.

Mr. GREGORY. It's an investigative problem; isn't it?

Mr. HARVEY. It's not for us because we obtain the statement from him.

Now, if we were to become involved in a criminal action shooting where we suspect there was criminal activity and we were to extract under criminal investigation information from them, then it might be a problem to us.



Mr. GREGORY. Suppose the district attorney's office told you that, "We have a problem. We, the district attorney's office, have a problem with noninvolved officers not making statements to us, and will you issue some kind of departmental directive requiring them to do so?"

Mr. HARVEY. You are getting into an area here that probably will ultimately have to be resolved in the court.

Legal counsel advising them one way. You are really putting the officer on the horns of a dilemma. I don't know that we would be—

Mr. CONYERS. Any further questions?

Mr. LUNGREN. Yes.

Chief, earlier in these hearings, one witness suggested that, perhaps, we might have a State licensing agency for all police officers throughout California.

I questioned what the standards might be and whether or not they might be actually less demanding than those currently in force in certain departments.

It is my understanding that the California State Commission on Police Standards Training, POST, recommends that a police officer have a minimum of 400 hours' training before he is on the street.

Can you tell me what your department requires?

Mr. HARVEY. Six months; however many hours that is. Six months at 40 hours a week.

Mr. LUNGREN. That is a lot of training.

Mr. HARVEY. 960 hours.

Mr. LUNGREN. So the standards you have in terms of initial training are more than twice what POST requires or recommends?

Mr. HARVEY. That's my understanding.

Mr. LUNGREN. Another newspaper article I read referred to a program in the department known as DEFT. I believe that it has something to do with firearms training.

Mr. HARVEY. It's an evaluation of firearms training. The DEFT program was a comprehensive total system review of officer training in shooting under LEAA money.

In that, we reviewed all of the shootings, but the main component or main feature of the department project was a shooting seminar which is quite unique throughout the world.

It's a projected simulation on a screen with sound, and so forth, and it involves an officer being on call to make a judgment of when to shoot. The whole object of the simulator is to develop judgment, develop discretion, and develop caution as to when to shoot.

As the scenario goes, when the officer shoots, there's a sensing system, and a computer system which registers whether or not that officer hit or missed. It registers whether he shot when he should not have. It has that kind of review.

Then afterward there is a review of his performance within that simulation.

Mr. LUNGREN. Is that an ongoing practice in the department?

Mr. HARVEY. Yes, it is.

Mr. LUNGREN. For instance, does an officer go through this simulation at the academy?

Mr. HARVEY. Yes, he does.

We are beginning to use the simulator for in-service training also. That's only one total feature of the firearms training.

Mr. LUNGREN. Is he graded on his response to the situation?

Mr. HARVEY. Whether he is graded, I don't know, but it is reviewed with him how many times he should have and how many times he shouldn't have, and those kinds of things. The instructor goes over the whole situation with him.

Mr. LUNGREN. Is that a fairly new project?

Mr. HARVEY. It's fairly new. It's been in operation within the last year.

It's been in development for probably 5 or 7 years. It's a very unique project, believe me.

Mr. LUNGREN. Has that been an improvement? Is it something that you would recommend to other departments?

Mr. HARVEY. It's very successful, and it does give the officer a greater sense of what kind of field situation he may have to encounter and what problems he does have in the discretion of using the firearm.

Really, I think, it impresses upon him just how tenuous and how difficult and how careful he must be in that situation.

Mr. LUNGREN. Thank you.

Mr. CONYERS. Counsel Gregory has a closing question.

Mr. GREGORY. Has there been some review by the police commission in perhaps some adjustment in rapid fire policy? Is my understanding correct on that?

Mr. HARVEY. That's something we are looking at.

Mr. GREGORY. That was certainly one of the concerns in the *Eulvia Love* case.

Mr. HARVEY. Several years ago we made a modification in first trying to control fire, but, of course, it was an observation of the commission.

Probably a direction of the commission. Yes, it was a direction of the commission that we get involved in continued review of controlled fire.

Mr. GREGORY. Do you have a division commander by the name of Matt Hunt?

Mr. HARVEY. Yes; we do.

Mr. GREGORY. Is his district the southwest area?

Mr. HARVEY. The southwest area.

Mr. GREGORY. One of the things that we were told is that he actually gives awards to officers who are able to diffuse dangerous situations without the use of deadly force.

Is that true?

Mr. HARVEY. I wouldn't be surprised.

It's kind of a common practice.

Mr. GREGORY. Last year in the district that has a high crime rate there were no shootings in that district. Perhaps, leadership is influential in that?

Mr. HARVEY. The leadership there is outstanding, there's no question about it.

Mr. GREGORY. What's one of the areas that the Los Angeles Times poll suggested was diminishing in regard to police using their guns.

I wonder if that common practice might—

Mr. HARVEY. That has occurred for years.

Now, the emphasis and the degree and number of awards and the type of awards have varied throughout the years, but it's always been

a practice of commanding officers who are able to overcome a very difficult situation and save life at the same time.

Mr. GREGORY. One final question.

Has the department had a policy of reviewing the personnel records of officers who are involved in multi-incidents involving force?

Is there any, shall we say, routine review after five incidents to see if there are some special circumstances?

Mr. HARVEY. Better than that, there's a review after every incident.

After every incident, and in part of that review of every incident, the officer's entire history is reviewed.

We don't wait until five occurrences.

If a situation occurs, we say, "This officer has had five shootings. Is there some need for some type of evaluation?"

We don't wait for five times. We have to do it each and every time there is a shooting.

Mr. GREGORY. Thank you.

Mr. CONYERS. Thank you, Mr. Harvey, for coming before the committee.

Mr. CONYERS. We now have a panel that we would like to invite to join us. The chairperson of the California Advisory Committee of the U.S. Commission on Civil Rights, Ms. Nadine Hata; the executive director of the American Civil Liberties Union of Southern California, Ms. Ramona Ripston; and the National Association of Colored People, NAACP, Los Angeles president, Mr. Paul Hudson. I understand Mr. Hudson is not here.

We welcome you,, ladies and incorporate your statement into the record.

Who is going to begin?

[The prepared statement of Nadine I. Hata follows:]

STATEMENT OF NADINE I. HATA, SOUTHERN VICE-CHAIRPERSON, CALIFORNIA ADVISORY COMMITTEE, UNITED STATES COMMISSION ON CIVIL RIGHTS

Mr. Chairman and members of the Subcommittee on Crime of the House Judiciary Committee, my name is Nadine Hata, and I serve as Southern Vice-Chairperson of the California Advisory Committee to the United States Commission on Civil Rights. I am pleased to accept your invitation to appear here today. I welcome you, and thank you for your concern, evidenced by this hearing, on this most urgent issue in Los Angeles.

"There has been a dangerous breakdown in communication between the community—all of the community—and the police. Relations are bad and getting worse. Future confrontations are inevitable unless the government can regain the confidence of the community, unless the government and law enforcement agencies develop a new set of attitudes and a new approach."

Those words were written 10 years ago by our advisory committee following a major confrontation between law enforcers and a minority community, and the subsequent killing of Ruben Salazar by a law enforcement officer in this city.

Ten years later, we are facing the same problems and symptoms which existed in 1970, and our advisory committee again comes forward to support "a thorough investigation and public airing of this situation . . . , absolutely necessary as a minimum starting point for improvement in police-community relations."

In our experience there is nothing more difficult to determine than the degree of civil rights violations involving police misconduct. Traditionally, police have full control of all the information necessary to objectively and dispassionately evaluate circumstances; by contrast, the community is often left with conjecture, rumor, suspicion, and fear.

Despite these difficulties, the national commission began a major national study of police practices in the spring of 1978. The commissioners are deeply

concerned by the mounting numbers of citizen complaints coming to them from throughout the country about alleged police misconduct.

Let me provide an example of the roadblocks and potholes our commission has confronted in its study of law enforcement practices: the commission conducted public hearings on police practices in two major cities, Philadelphia in April 1979 and Houston in September 1979. Our attempts to obtain a complete record in Philadelphia were thwarted by city officials who resisted our subpoenas and a court which declined to enforce them. Only within the last 10 days has that ruling been overturned by the U.S. Court of Appeals in Philadelphia.

Despite these setbacks the national commissioners remain committed to assisting toward resolution of police community problems in our Nation. While the commission's budget constraints precluded a third hearing in Los Angeles, national commission chairman Arthur Flemming responded to local requests and visited Los Angeles last summer to meet with community members and city officials. Following those meetings the advisory committee has continued to keep our general counsel in Washington, D.C. informed on local police practices.

Another activity of the California advisory committee may be of interest to this body. From 1975 to 1979 the advisory committee and commission staff monitored police community relations in San Jose, a city not dissimilar to Los Angeles in rate of crime, proportion of minority community to the total city population, and breakdown in communication between civilians and law enforcers.

In 1976 San Jose hired a new police chief, Joseph McNamara. From that point on, we have had little difficulty in obtaining information. Communication between the commission and the chief was open. But more important, communication between the citizens of San Jose and their chief was open. Our report about San Jose will be released within the month, and we will be happy to provide you a copy. One remark by Chief McNamara of San Jose stays in my mind, he said "a police department's personnel must reflect the community it serves."

I close by again quoting from our advisory committee report of 1970:

We, who employ police as our defenders, have a right to question their conduct. We do this with the full knowledge that they—like the rest of us—are only human.

Yet, too often, the police and other officials sharing in the responsibility for the administration of justice in our democratic society—regard public scrutiny as an infringement of their rights.

We regard public scrutiny as essential.

Thank you.

**TESTIMONY OF NADINE I. HATA, SOUTHERN VICE CHAIRPERSON,  
CALIFORNIA ADVISORY COMMITTEE, U.S. COMMISSION ON CIVIL  
RIGHTS**

Ms. HATA. My name is Nadine Hata, and I serve as southern vice chairperson of the California Advisory Committee to the U.S. Commission on Civil Rights. The chairperson, unfortunately, cannot be here this afternoon.

I want to thank you for your invitation and for holding this hearing on a very, very important issue.

I'd like to highlight some words that were written by our advisory committee some 10 years ago that I think still have relevance today.

There has been a dangerous break-down in communication between the community—all of the community—and the police. Relations are bad and getting worse. Future confrontations are inevitable unless the government can regain the confidence of the community, unless the government and law enforcement agencies develop a new set of attitudes and a new approach.

Those words were written 10 years ago by our advisory committee following a major confrontation between law enforcers and a minority community, and the subsequent killing of Ruben Salazar by a law enforcement officer in this city.

Ten years later we are facing the same problems and symptoms which existed in 1970, and our advisory committee again comes forward to support "a thorough investigation and public airing of this situation—absolutely necessary as a minimum starting point for improvement in police-community relations."

In our experience, there is nothing more difficult to determine than the degree of civil rights violations involving police misconduct.

Traditionally, police have full control of all the information necessary to objectively and dispassionately evaluate circumstances; by contrast, the community is often left with conjecture, rumor, suspicion, and fear.

Despite these difficulties, our commission began a major national study of police practices in the spring of 1978. The commissioners are deeply concerned by the mounting numbers of citizen complaints coming to them from throughout the country about alleged police misconduct.

Let me provide an example of the roadblocks and potholes our commission has confronted in its study of law enforcement practices:

The commission conducted public hearings on police practices in two major cities, Philadelphia in April 1979, and Houston in September 1979. Our attempts to obtain a complete record in Philadelphia were thwarted by city officials who resisted our subpoenas and a court which declined to enforce them. Only within the last 10 days has that ruling been overturned by the U.S. Court of Appeals in Philadelphia.

Despite these setbacks, our commissioners remain committed to assisting toward resolution of police community problems in our Nation.

While the commission's budget constraints precluded a third hearing in Los Angeles, Commission Chairman Arthur Flemming, responded to local requests and visited Los Angeles last summer to meet with community members and city officials. Following those meetings, the advisory committee has continued to keep our general counsel in Washington, D.C., informed on local police practices.

Another activity of the California Advisory Committee may be of interest to this body. From 1975 to 1979 the advisory committee and commission staff monitored police community relations in San Jose, a city not dissimilar to Los Angeles in rate of crime, proportion of minority community to the total city population, and breakdown in communication between civilians and law enforcers.

In 1976 San Jose hired a new police chief, Joseph McNamara. From that point on, we have had little difficulty in obtaining information. Communication between the commission and the chief was open. But, more important, communication between the citizens of San Jose and their chief was open.

Our report about San Jose will be released within the month, and we will be happy to provide you a copy.

One remark by Chief McNamara of San Jose stays in my mind. He said, "A police department's personnel must reflect the community it serves."

I close by, again, quoting from our advisory committee report of 1970:

We, who employ police as our defenders, have a right to question their conduct. We do this with the full knowledge that they, like the rest of us, are only human.

Yet, too often, the police and other officials sharing in the responsibility for the administration of justice in our democratic society regard public scrutiny as an infringement of their rights.

We regard public scrutiny as essential.

Thank you.

Mr. CONYERS. Thank you very much.

How do you explain the fact that we seem to have gone around full circle in a decade in Los Angeles?

Do you have some insight to offer?

Ms. HATA. Perhaps, the man who has seen all these changes beginning in 1970 would be the proper person to respond. He is our regional director, Phil Montez. He is here with me this afternoon.

Mr. MONTEZ. From my perspective, I would suspect that things have always been the same.

I don't think there has been a full circle. I think minority communities have always been affected by the same kinds of practices.

They highlight at certain times when certain issues are raised.

I think there has always been concern in minority communities in our region.

Mr. CONYERS. You don't think that much progress has been made, even though there is an increase in numbers of blacks and minority members on the police force?

There are increasing numbers of blacks on the judiciary, but yet the problem is still remaining essentially the same?

Mr. MONTEZ. I would suspect the problems are improving, but across the board in numbers I would suspect they are the same.

The fear and suspicion in minority communities continue to exist.

I think we have to work at that base.

Mr. CONYERS. Is there some way that those that would like to help can join with you?

Mr. MONTEZ. I guess the classic example of that, that we have seen, has been in San Jose with the change of attitude of the new police chief who is a very strong man, who has taken very strong positions in regard to minority communities and has created a sense that every individual officer has to be responsible for his own behavior and not give blanket endorsement to the police department in any situation unless he can prove it was justified.

I think that is a very important attitude.

Ms. HATA. Mr. Conyers, I think it's important that you and the committee are out here investigating these matters and making them a part of the record.

If we expose them, perhaps, we will know what they are and then be able to tackle them, and I'm glad that you are doing this.

Mr. CONYERS. Let me ask my final question because if what you suggest is true, then we have many youngsters growing up with a hostile point of view toward law enforcement officers.

Can you speak to that question?

Mr. MONTEZ. My sociological opinion, having been raised in a poverty community myself, hostility is naturally there because especially in an affluent society the young people can see people around and yet within their own ghettos they see that there are things not happening; that's a base for immediate hostility before you ever get involved with any of the social implications: Employment, law enforcement, education, and so forth.

It seems to me that the beefing-up within those areas, the barrios and ghettos of our country, have to be much more extensive than just the regular run of services that we provide.

The young people have to learn that police officers can be their friends.

They have to learn that teachers can be their friends. That employment counselors are also their friends and really sincere about providing a service for the community.

I'm not sure if we don't need to do more work with the people providing the service that there has to be a new kind of commitment to these particular areas where there is already hostility built up.

It's a long way of saying it, but I don't see any other way.

Ms. HATA. I see these hostilities in my classroom because, perhaps, in part young people have only negative contact with the police department. They only see police officers when they are stopped for some violation.

If they could see the police officer in a more positive light—as Mr. Montez said—as a friend—there may be a change of attitude.

When you are only seeing negative aspects of police conduct and behavior, then you are, obviously, going to bring forth hostilities.

Mr. CONYERS. I'm afraid you are right.

I'd like to recognize Mr. Lungren now.

Mr. LUNGREN. I believe you referred to San Jose as a subject of study and indicated that communication between the chief and the commission, as well as between the chief and the citizens, has improved.

Without giving us a recapitulation of the report, which I understand you will submit to us, can you briefly describe to us improvements in the situation between the department and the community in terms of numbers of complaints, shootings, and deaths? Are those figures available?

Mr. MONTEZ. At the time that we moved into San Jose, there had been 17 justifiable homicides of civilians by the county sheriff and the San Jose Police Department.

Since the coming of Joe McNamara, there has only been one death, and that is in the 3 years that he has been there.

The complaints against police officers have dropped, but the process for filing the complaint has changed. You no longer have to go through the police department, which was very intimidating to citizens. The chief removed that process and put it into another building which was not part of the officialdom of the city and hired members of the minority community to take complaints along with several police officers that were geared for community relations.

So those kinds of things had tremendous impact on that city, where people do not feel intimidated, for example, about going through the department that had in the past refused to take their complaint.

Mr. LUNGREN. You say that it is similar to Los Angeles? Obviously, it is on a smaller scale.

Has that similarity continued in terms of crime rates, and so forth?

Are those variables similar to variables that have been seen with respect to Los Angeles?

Mr. MONTEZ. There has been some decrease in crime. They have had more time to get involved with, I guess, the crime-solving kinds of elements that are there. They haven't solved all the problems.

Mr. LUNGREN. I realize that, but I would be interested in taking a look at that report.

Mr. CONYERS. I want to thank you for joining us today. Thank you very much.

TESTIMONY OF RAMONIA RIPSTON BEFORE THE HOUSE CRIME SUBCOMMITTEE OF THE  
HOUSE JUDICIARY COMMITTEE  
INTRODUCTION

I am Ramona Ripston, the Executive Director of the American Civil Liberties Union of Southern California, an organization of over 20,000 members in Southern California dedicated to the preservation of freedoms embodied in the Bill of Rights of the United States Constitution and the amendments to it.

The ACLU of Southern California has provided information and testimony in a variety of areas, and we have brought substantial litigation on behalf of persons whose civil liberties have been violated. The ACLU receives an enormous number of requests for legal representation. We operate an office with a staff of 30 in Los Angeles, and community "hotlines" are maintained by ACLU chapters throughout the Southland.

At our headquarters office alone, the ACLU receives over 10,000 requests for counsel each year. Approximately one-half of these calls, or 5,000 each year, concern complaints of police abuse. Our hotline units report that the majority of their calls concern police-community relations, as well.

These complaints range from verbal harassment, to charges of brutality, shooting incidents, and death.

We have also received information and complaints from several police officers who are angered by the incidents of police brutality which they have witnessed, and anguished by the contradiction which they feel between their desire to be good police officers fairly enforcing the law and the reality of some officers abusing the authority which they possess. The police officers who have contacted us uniformly fear retaliation should their identities be made known.

That fear is not without a basis. The committee members should be made aware of the fate of the officer who appeared anonymously on KABC and was dubbed "the Masked Marvel." Former Los Angeles Police Department Chief Edward Davis publicly announced after the officer's revelations that the LAPD would discover his identity and remove him. They did, after an ignoble witch-hunt.

If police officers are intimidated and fearful in raising their voices against abuse, what of ordinary citizens? How much more fearful they must be, and how much more fearful and frustrated they actually are when they attempt to petition for redress of grievances against police misconduct.

We of ACLU believe that the First Amendment of the Constitution, in its provisions guaranteeing the right to petition for redress of grievances, embraces petitions for redress against police actions as well as other governmental actions.

We believe further, however, that that right has been effectively and continually frustrated in the area of police abuse, as the existing remedies are ineffective to the point of futility in many cases.

It is a dangerous situation. When the police department is allowed to exist as a kind of separate sovereignty answerable only to itself, there is an inevitable tension. An attitude of confrontation develops and it breeds fear, anger, frustration, and cynicism concerning our system of justice itself. The absence of effective remedies in the area of police misconduct, including federal remedies, breeds the belief, whether real or imagined, that the system of law enforcement is inherently discriminatory with the police on one side and the people on the other. The entire system of justice is thereby tainted.

We therefore welcome the opportunity to discuss with the committee the dimensions of the problem based upon our experience. It is poignantly appropriate that you should hold hearings here in Los Angeles where the police department prides itself on being the best and most professional police force in the world.

If the tension which prevails here can arise under the best, most professional police department in the world, then the nation is indeed in trouble.

We want to discuss with you today, our experience in this area and the problems created by inadequate means of redress and ineffective remedies. Specifically, we want to discuss these problems in relation to the use of deadly force, the

difficulties in petitioning for redress through the complaint process, the practical absence of a right to witness police misconduct, and the necessity for providing effective protections and remedies.

#### THE USE OF DEADLY FORCE—SUMMARY JUSTICE

It was here in Los Angeles that Mrs. Eulia Mae Love, a black woman struggling to raise her children, was shot to death in front of her home in January, 1979, in a dispute over a gas bill. The police maintain that she was about to throw or threw a kitchen knife at two officers who approached with guns drawn. They emptied their weapons, striking her eight times and killing her.

The killing remains controversial despite the investigations and reports. I have not gone into any detail about the shooting because I believe other testimony will cover it. What cannot be disputed is that her punishment was summary, immediate, and final—executed in the streets. That is an awesome power, a frightful power, over which there must be effective control and against which there must be an effective remedy.

It was here, too, that William Gavin was shot to death by deputies of the Los Angeles County Sheriff. Gavin, an obviously disturbed individual, was surrounded by officers. He had a knife. He apparently raved incoherently. The deputies, armed with hollow-point expanding round ammunition which they allege gives officers confidence and decreases the rapid fire syndrome, opened fire. Gavin was hit by at least 20 bullets. Three of the five officers emptied their weapons.

Again, his punishment was summary, immediate, and irrevocable.

These two killings have been the most controversial, sparking anger and fear. But they are hardly aberrations. The use of deadly force is escalating, not diminishing.

Our records show that from 1975 through 1978, 278 civilians were shot by police and 123 were killed.

#### NO ADEQUATE REMEDIES—18 U.S.C. 242 IS NO DETERRENT

Our inquiries to the office of the District Attorney confirmed our suspicion that in the years 1975 through 1978 there was not a single prosecution of any LAPD officer for any duty-related shooting. Not one. Nor was there any such prosecution in 1979 or so far this year.

Nor has there been a single prosecution brought by the U.S. government under the Civil Rights Act, 18 United States Code § 242. That Civil Rights Act protection makes criminal an intentional violation of civil rights. However, a prosecution under the Civil Rights Act is an extreme rarity. There has been no such prosecution in the Los Angeles area since 1971, according to our information.

We have been told by the Justice Department that prosecutions are not worthwhile because a violation is only a misdemeanor with a weak penalty. Additionally, the standard of proof is extremely high. It must be shown that the officer acted with the specific criminal intent to violate the victim's civil rights. That is, it is not sufficient that the victim was unnecessarily shot or brutalized; it must be shown that the officer shot or beat the person with specific criminal intent to violate the victim's civil rights.

The intent of 18 USC 242 was to deter violations of civil rights; but, in effect, it is no deterrent at all

#### CIVIL REMEDIES INADEQUATE

What of other remedies? An aggrieved individual may bring a civil action for damages under the Civil Rights Act (42 United States Code Section 1983). But that is a long, expensive process. And, unless the individual has suffered continuing physical injury as a result of police misconduct, the likelihood of a recovery even equal to the cost of litigation is small.

Congress has not acted to create a statutory minimum damages recovery for violations of civil rights. Thus, even in successful litigation in which the violation of a constitutional right is clearly established, the recovery can be minute.

Further, the burden of proof is extremely difficult under the Civil Rights Act, 42 U.S.C. Section 1983. The aggrieved person must prove not only that the police acted unreasonably, but also that the police acted with the intent to violate civil rights, and in bad faith.

That is a very difficult standard for recovery.

Congress has not acted to provide even that the usual legal standard of reasonableness should control.

Aggrieved persons may also bring civil actions under state laws. That, again, is a long, expensive process which provides no real alternative for the victim is simply abandoned in many cases.

#### DISCRIMINATORY ENFORCEMENT OF THE LAW

The difficulty is increased by what appears, in our experience, to be a pattern of discriminatory enforcement of the laws. In many instances in which complaints are made to the ACLU, the person, has also been arrested and must undergo a criminal prosecution which impedes a civil action. And there appears to be one standard when the police charge assault and another standard when a person claims assault by police.

Our experience has been that the complainants are not arrested for crimes independent of the encounter with police, but, rather, for charges associated with that encounter—resisting arrest, battery or assault on an officer, or, the most common charge, interference with an officer in the performance of his duties (California Penal Code Section 148).

In complaint after complaint, the person who complains of brutality is charged under Penal Code Section 148 or with Penal Code Section 242 (assault on an officer). The complainants therefore, must suffer the humiliation of arrest which remains on his or her record and the trauma of incarceration. The individual must undergo the further trauma and expense of a trial in defending against the charges.

If the person is convicted, the chances of success in a later civil suit are all but nil. If the person is acquitted, he or she cannot introduce evidence of that acquittal in a later civil proceedings because of the higher standard of proof in a criminal proceeding. That is, the acquittal means only that it was not established beyond a reasonable doubt that the person was guilty of the crime charged, most often the crime of interfering with an officer.

The victim of brutality, then, can and often does find himself or herself the defendant in a criminal action for interfering or resisting.

Many persons simply abandon their claims. Many prosecutions are dropped in exchange for the complainant dropping claims of brutality and releasing the police from liability.

While the government authorities have the data available through computers and we do not, our own check of records in the notorious Los Angeles "shredding affairs" indicates that more than 2,500 prosecutions are brought each year under Penal Code Section 14 and 242, that is interfering with or assaulting an officer. That is a tremendous number. However, our examination of records indicates that it was even higher prior to 1974 when the California Supreme Court decided the case of *Pitchess v. Superior Court*, 11 Cal. 3d 531 (1974).

In that case, the Supreme Court held that when an officer claims he is the victim of an assault and a criminal prosecution results, the defendant may, on a proper showing, obtain prior complaints of brutality made against the officer who alleges he/she is a victim. That decision cut the number of assault charges by police almost in half, according to the results of our examination of records. The prosecutions had been at the rate of approximately 4,000 each year. After the Supreme Court declared defendants could discover other instances of police brutality, the prosecutions fell to 2,500, still a phenomenal amount.

These prosecutions against citizens on the basis of police complaints must be compared to the number of prosecutions brought against officers charged with brutality by citizens. While the government has the accurate data readily available, our experience has shown that in approximately 9 out of 10 instances in which a citizen is charged with assault by the police a prosecution is brought. In contrast, it is an absolute rarity for an officer to be prosecuted upon the complaint of a citizen claiming assault by the officer.

This reeks of discriminatory enforcement of the laws. There cannot be a different standard for bringing similar prosecutions. There cannot be one standard when the police charge assault and another standard when a citizen charges assault by the police.

However, the reality is unavoidable that the prosecutions are routinely brought when police complain and almost never brought when a citizen complains.

Congress has not acted in this area in any meaningful way, and prosecutors are immunized against civil actions to remedy the situation.

## RIGHT TO WITNESS

Associated with the problems of an effective remedy and adequate redress, is the absence of any legislation providing a right to witness police activity.

In our experience, many instances of police brutality result in the arrest not only of the victim, but also the arrest of percipient witnesses. Again, the catch-all Penal Code §148 "interference with an officer" is the tool used to intimidate and silence witnesses.

If the witness is convicted, then, of course, the witness' testimony in a later civil proceeding brought by the victim of brutality is discredited, as the police in the civil proceeding can point to the witness' conviction in the criminal action.

Our experience has been that the greater the brutality inflicted on the victim, the greater the likelihood the victim will be arrested for interfering with, resisting, or assaulting the officer.

Similarly, our experience has shown the greater the brutality, the greater the possibility that any witness who verbally objects to the brutality will also be arrested, for the same catch-all charges.

Let me cite but three brief examples in complaints brought to us.

In one, a young woman and her date walked in their own neighborhood to a corner store to purchase cigarettes. As they returned home, they were stopped by six officers who traveled in three police units, apparently pursuant to a complaint of some crime.

The couple was stopped. The young woman's companion was taken aside and released after he proved his identity by showing his driver's license. The young woman, however, had not taken her purse with her. She asked to be allowed to get it and was told no. She asked the officers to accompany her to her home so that they could talk to her mother.

The officers refused. Instead, since she could not immediately prove her identity by a written document, they told her she would be taken to the police station. She protested that as nonsense and officers then roughly seized her arm and began handcuffing her. She cried out in pain and demanded that the officer identify himself. His response was to roughly raise her arm behind her even higher and cause her great pain.

She states she kicked backward, striking the officer in the leg. His response was to strike her in the face several times with his large flashlight, lacerating her face and rendering her unconscious.

She required hospital treatment.

She was arrested for assault on an officer.

No charges were brought against the officer.

While charges were ultimately dropped in that case, she has an arrest record now for battery on a police officer.

All of this happened because she did not have written identification immediately available. We do not have a national passport system in this country. But the committee should be aware that there is no congressional enactment protecting people from seizure by police simply because they cannot instantly produce written evidence of their identity.

In another case, a young man walked out of his apartment to the parking area, only to be seized unexpectedly and roughly by sheriff's officers in Covina. They had responded to a call of a fight with a knife, a disturbance which had long ended by the time they arrived.

They encountered the young man as he rounded a fence. He did not see the police until that moment, and had no idea whatsoever there had been a disturbance in the area. He was thrown against the six-foot wooden fence roughly and when he had the temerity to ask what was going on, he was told to shut up and that he would be told when it was necessary.

When the handcuffs the police used cut into his wrists, he protested and started to turn, whereupon his hair was grabbed from behind and he was slammed against the fence. The entire fence fell over from the force. The young man fell with the fence and the officers fell with him.

The gun of one officer fell out of his holster, and to secure the young man while the officer reached for the gun, the officer placed his foot on the young man's head. Meanwhile, the young man, who suffers from a bone disease which resulted in part of his skull being removed and replaced with a mesh device, begged officers not to hit him in the head as it could be fatal. The officer apparently did not hear the pleas. He continued to grind his foot into the young man's head.

The young man was arrested and charged with Penal Code Section 148, interfering with an officer. He was incarcerated, had to post bail, had to bear the costs of his defense, and almost lost his job because he had to miss work to attend the trial. He was not convicted.

In the third instance, Mr. Charles Chapple, chairperson of the Coalition Against Police Abuse, became aware of an arrest being made in his neighborhood and, with his neighbors, went to observe. Mr. Chapple stated to us that he quickly observed that the person who was being arrested by application of the bar-arm chokehold was in fact already unconscious.

Mr. Chapple called to the officer to stop choking the man as he was unconscious. That officer did stop, but another officer took umbrage at Mr. Chapple's audacious exercise of his rights and proceeded to order him about in abusive language, addressing him in epithets.

Both police and Mr. Chapple left about the same time for the same police station, the police to book the arrested party, and Mr. Chapple to file a complaint of police misconduct.

Mr. Chapple filed his complaint, and has never heard another word about it.

However, a few weeks later he received a notice in the mail that he had been charged with Penal Code Section 148, interfering with an officer. He was advised that if he did not appear a warrant would issue. Mr. Chapple was prosecuted, but the case was dismissed when the prosecution refused to turn over information pertaining to past brutality by the arresting officers and evidence of police infiltration of and spying upon the lawful activities of Mr. Chapple and his organization, CAPA.

The ACLU believes that there should be no prosecutions under Penal Code Section 148 for purely verbal conduct such as that of Mr. Chapple in exercising his right to witness police conduct and his call upon officers to stop choking an unconscious man.

But he was prosecuted, and there is no congressional enactment protecting the right to witness and barring prosecutions for purely verbal conduct associated with that right.

## POLICE INFILTRATION AND SPYING

It is noteworthy that the prosecution of Mr. Chapple terminated when he sought to discover evidence of police infiltration and surveillance of his organization, the Coalition Against Police Abuse.

The problem of police spying on lawful groups is a major one and one which impedes greatly the exercise of constitutional rights without fear of retaliation and invasions by police.

The ACLU, in concert with the American Friends Service Committee, has assisted in maintaining the work of the Citizens Commission on Police Repression, which has uncovered and made public extensive infiltrations and intrusions by the Los Angeles Police Department through its Public Disorder Intelligence Division (PDID).

The Citizens Commission has probed the agency and its operations and it was revealed that the PDID had infiltrated more than 200 organizations in the Los Angeles area and maintains extensive, and often erroneous, dossiers on persons and organizations guilty of no more than participating in the democratic process. I have attached a list of the organizations which have been spied upon by the LAPD so you will understand the breadth of the intelligence activity.

The PDID operates as a separate sovereignty within the police department itself. The PDID has defied the order of courts in criminal cases to allow judges to inspect PDID material in camera to determine whether defendants need it to have a fair trial.

The result has been that the LAPD has been able to determine, unilaterally, what prosecutions would proceed, instead of that prosecutorial discretion being exercised by the proper judicial agencies. Since the most severe sanction a court can impose against the government for willful refusal to disclose evidence is dismissal, the PDID officers escape even contempt citations.

It is a menacing power. While congress has acted in relation to abuses of the FBI and CIA, there is no effective legislation regulating local police departments or other local agencies in these nefarious activities. They, of course, share and distribute the information they collect through abuse of civil rights with other agencies, including federal agencies.

**CONTINUED**

**1 OF 4**



## NO EFFECTIVE MEANS OF SEEKING REDRESS

All of these factors—killings, brutality, harassment, spying—combine to create serious denials of constitutional rights and poison police community relations.

The means of redress are ineffective.

As stated, there is no criminal remedy because prosecutions simply are not brought. The civil remedy is so expensive and the likelihood of recovery so little that it is an inadequate remedy. And the internal complaint process available through internal affairs investigations is perhaps the most frustrating of all.

The police "police" themselves and rise up righteously at the thought that an independent investigatory and disciplinary body might be established.

The result is mass frustration by aggrieved citizens, and many expressions that the process is no more than a sham. Our experience has shown that many persons believe, based upon their own experience, that redress through the Internal Affairs mechanism is utterly futile.

It is hard to argue otherwise, and to persuade citizens to utilize the complaint procedure. However, it is the only mechanism available.

The committee should note that although Los Angeles has a Police Commission composed of appointed citizens, that body has absolutely no power to discipline officers. That power is retained solely by the Chief of Police. Even in the killing of Mrs. Love, the commission, which found that the officers had acted inappropriately and in violation of policy, declared itself impotent to impose discipline, which is the exclusive prerogative of the Chief of Police. The Chief declined to impose discipline.

In the wake of the Love killing, the commission ordered that henceforth citizens must be notified of what becomes of their complaints to Internal Affairs. It is the position of the police, however, that the existing system should be maintained. That is, once the complaint is filed, the police are under no obligation to ever again notify the complaining citizen of what became of his or her complaint.

Although innumerable television cops, Kojak et al, wring their hands over obstacles like "technicalities"—that is, the Constitution of the United States—and the allegedly rigorous hounding of Internal Affairs investigators, the reality is that the complaining citizen is all but left out of the process altogether. The police contend the citizen has no right to know what investigation was conducted, what findings were made, and what disposition was taken.

It is all a private affair justified by police on the grounds of the privacy of the officers. This concern for the privacy of public officers is righteously raised while no mention is made of the activities of these police officers in surreptitiously infiltrating hundreds of organizations and maintaining thousands of dossiers which violate the privacy of many citizens. All of these files are immune from the Freedom of Information Act and there is no FOIA equivalent under California law for police activities.

## THE SHREDDING AFFAIR—AN EXERCISE IN FUTILITY

Perhaps the most glaring evidence of the futility of the process is the now infamous "Shredding Affair" of the Los Angeles Police Department. In that incident, more than four and one-half tons of citizens' complaints were shredded by the LAPD, which had represented to the L.A. City Council that the LAPD was disposing of mere "miscellaneous" records.

The contempt for the public in such an act is manifest. The cynicism it breeds cannot be ignored.

As a result of citizen outrage at the shredding, the Los Angeles Grand Jury investigated the matter. For the first time in history, the grand jury declared itself a "hung grand jury," unable to decide whether to bring an indictment.

The ACLU, the Coalition Against Negative and Discriminatory Law Enforcement (CANLE) and other organizations, filed a lawsuit seeking the impanelment of a second grand jury to consider the matter. That case, *Ilene Korsen-Mankiewicz et al v. Presiding Judge of the L.S. Superior Court*, was taken to the California Supreme Court.

The Supreme Court declined last year to issue an order in that unprecedented lawsuit and the statute of limitations has now expired.

While shredding may have destroyed the evidence of complaints about police abuse, the notorious "Shredding Affair" did a great deal to destroy confidence in the integrity of our system of justice.

There was and is no available remedy under Federal law.

## FUTURE DIRECTIONS

Although in the aftermath of the tragic killing of Mrs. Eulia Love the L.A. Police Commission has attempted to defuse the situation through changes in policy, the response of the LAPD indicates that absent strong regulations at the federal or state level, the deaths will continue to mount.

The LAPD's response to the Love killing was to condemn the Police Commission's findings and policy changes.

Now, the LAPD, despite the tension, has responded by seeking more firepower. It now seeks authority to adopt hollow-point, expanding round ammunition with its greater wounding power. The only justification offered so far is that it will cure police officers lack of confidence in their present ammunition—a lack of confidence which the Chief implicitly admits is irrational, since he has testified that the present ammunition is adequate. But the LAPD's argument is that by increasing firepower they will increase officers' confidence and thereby reduce what they call the "rapid fire syndrome;" that is, officers emptying their weapons on victims like Mrs. Love.

However, the experience of the sheriff's department, which is already armed with such ammunition, refutes any notion that rapid fire will be reduced. In the death of William Gavin, three of the five deputies emptied their weapons. That is ghastly evidence that more terrible ammunition will not cure the problem.

The ACLU, with other organizations, has opposed the increased firepower, and advocated instead the implementation of the most technologically advanced nonlethal alternatives to deadly force.

However, there is no Congressional, local, State legislation or regulation which controls the kind of ammunition which may be used, nor which mandates or encourages implementation of non-lethal alternatives.

We can expect, therefore, more and more firepower and more and more deaths. In the absence of any national policy, most police departments have quietly adopted the hollow-point ammunition, since most of them have no civilian policy making body controlling them.

We believe, for all the reasons stated, that it is necessary for Congress to take action to provide effective mechanisms whereby the right to petition against police misconduct is protected and made meaningful, and where effective remedies are established to guarantee the free exercise of that right.

The direction of the LAPD and other departments appears to be backward into increased firepower, increased wounding power and deadly force. We hope this committee, and Congress, will walk forward into an era of enlightened law enforcement, rather than backwards into the escalation of deadly force.

Thank you.

# Reforms in L.A. Police Intelligence Urged

Mr. CONYERS, Ms. Ripston, on behalf of the American Civil Liberties Union.

Continued from First Page

Following are the names of organizations on the list of groups under surveillance through 1975, followed by the names of organizations that were on the list but had been crossed out for unknown reasons:

- Communist Party—International
- Communist Party—U.S.A.
- Young Workers' Liberation League
- National Committee to Abolish the House In-American Activities Committee.
- Los Angeles Committee to defend the Bill of Rights
- United Defense Against Repression
- Coalition for the Restoration of Democracy in Chile
- Provisional Committee for a Just Peace in the Mid-East
- Institute for Marxist Studies
- Citizens' Committee to Preserve American Freedoms
- Young Communist League
- Revolutionary Union
- Socialist Workers' Party
- Young Socialist Alliance
- Student Mobilization Committee
- National Peace Action Coalition
- International Socialists
- Student Worker Action Committee
- Revolutionary Socialist League
- Workers' League
- Young Socialists
- Social Democrats—U.S.A.
- Spartacist League
- Revolutionary Communist Youth
- Socialist Union
- Progressive Labor Party
- Students for a Democratic Society
- Venceremos Brigade
- Workers' Action Movement
- October League
- Communist League
- Socialist Labor Party
- Socialist Party
- Venceremos Organization
- Weathermen Organization

- Indochina Peace Campaign
- New American Movement
- Vietnam Veterans Against the War
- Winter Soldier Organization
- Movement for a Democratic Military
- Peace Action Council
- World Peace Council
- Community Union
- People's Action Union for Peace and Justice
- People's Coalition for Peace and Justice
- Citizens for Peace
- Support Our Servicemen
- Revolutionary Union
- American Nazi Party
- National Socialist White People's Party
- Ministry of Christ Church
- Tax Rebellion Group
- American Volunteer Group
- New Christian Crusade Church
- Secret Army Organization
- National States' Rights Party
- Greater Los Angeles Area Citizens' Council
- White Citizens' Council
- Ku Klux Klan
- Council of Oriental Organizations
- Chinese Awareness
- Asian Movement for Military Outreach
- Wah-Ching
- You-Lee
- South Bay Asian Involvement
- Katipunan ng mga Demokratikong Pilipino (militant Philippine organization)
- Yellow Brotherhood
- Asian Involvement
- Asian Americans for Peace
- United Asian Students
- Nichiran Shoshu Academy
- Christian Nationalist Crusade (Gerald L.K. Smith)
- First Unitarian Church of Los Angeles
- Irish Republican Army
- Irish Republican Club (SWP oriented)
- Friends of Ireland (SWP oriented)
- Irish Northern Aid Committee
- Turkish-American Assn.
- Armenian Revolutionary Federation
- Armenian Youth Federation

- Gay Community Services Center
- Gay Liberation Front
- Gay Community Alliance
- Hungarian Freedom Fighters' Federation
- Americans for Captive Nations
- Pakistan-American Friendship League
- Radical Jewish Community
- California Students for Soviet Jews
- Southern California Council for Soviet Jews
- Tribe of Radical Zionist Alliance
- The Jewish Right
- Jewish Defense League
- Arab Student Assn.
- Middle East-Ethiopian Solidarity Committee
- Palestine Arab Fund Committee
- Palestine Liberation Organization
- Palestine Revolutionary Liberation Movement (Al-Fatah)
- US Organization
- California Community Alert Patrol
- Black Students' Union
- People United to Save Humanity
- Republic of New Africa
- African People's Party
- Black Panther Party
- Black Liberation Army
- Afro-American Liberation Army
- Nation of Islam (Muslims)
- Al Colestran (Muslims)
- Southern California Prison Coalition
- Black Guerrilla Family
- Southern Christian Leadership Conference
- Operation Breadbasket
- Community Freedom School
- African Liberation Support Committee
- Symbionese Liberation Army
- August Seventh Guerrilla Movement
- Jonathan Jackson Education Cadre
- San Quentin Six Movement
- Welfare Rights Organization
- Educational Opportunities Program
- Center for Metropolitan Mission In-Service Training
- National Council of Churches
- International Black Workers' Congress
- Sons of Watts

- Watts Summer Festival Committee
- Citizens Research and Investigation Committee
- Interreligious Foundation for Community Organization
- Revolutionary Action Movement
- Sunni Muslims
- Pan African Union
- World Council of Churches
- National Organizing Movement
- Black Social Workers' Union
- Black Solidarity Day Committee
- Revolutionary People's Communication Network
- Right-On Faction
- Gary Lawton Defense Committee
- United Prisoners' Union
- Ahmad Jamal Defense Committee
- Students' Organization for Black Unity
- Barrio Defense Committee
- Brown Berets
- Chicano Community Movement
- Junta de los Barrios
- American Indian Movement
- Crusade for Justice
- United Farm Workers of America
- Chicano Liberation Front
- The East Los Angeles Community Union
- United Community Reform
- Justicia
- Centro Accion Social Autonomo
- Comite De Libertad de Ricardo Chaves Ortiz
- Movimiento Estudiantil Chicanos de Aztlan
- National Community to Free Los Tros
- Afiso-Pico Assn.
- Chicano Coalition
- East Los Angeles Health Task Force
- Tupamaros
- Alpha 66
- Aryan Brotherhood
- Brigada 2506
- La Familia
- Mexican-American Penal Institution Organizations
- Mexican Mafia

- Mexican-American Political Assn.
- La Raza Unida Party
- La Vida Nueva (U.S.A. College)
- Neighborhood Adult Participation Project
- La Causa Venice
- National Organization for Women (20 chapters in Los Angeles area)
- Los Angeles Women's Liberation Union
- National Women's Political Caucus
- Women's International Strike for Peace
- Women's International League for Peace and Freedom
- Feminist Women's Health Center
- La Comision Feminil
- Chicana Service Center
- The following names had been deleted from the list:
- John Birch Society
- Korean Assn.
- Pasadena Asian Concern
- Community Workers' Collective
- Northern Ireland Civil Rights Assn.
- Croatian American Congress
- Associated High School Students for Soviet Jews
- Arab Nationalist Movement
- Iranian Student Assn.
- House of Uthurs
- Community Return Project
- Watts Labor Community Action Committee
- Community Relations Conference of Southern California
- Ruchell Magee Committee for Black Prisoners
- Barrio Free Clinic
- Greater Los Angeles Community Action Agency
- National Pinto Caucus
- Maravilla Assn. for Progressive Community Action
- Women's Resource Center
- Womanspace
- Action Coordinating Council for Comprehensive Child Care
- Day Care and Child Development Council of America

90

TESTIMONY OF RAMONA RIPSTON, EXECUTIVE DIRECTOR, AMERICAN CIVIL LIBERTIES UNION OF SOUTHERN CALIFORNIA

Ms. RIPSTON. I have 13 pages of testimony which was what I thought was needed to adequately address the problem but I realize that you have time problems.

So what I want to do is run through and highlight it. However, before I begin, I really do request an opportunity, just a brief opportunity to respond to the police officer who appeared two witnesses ago because you are absolutely accurate, Mr. Conyers. The LEAA funds were cut off because of a lawsuit brought by the American Civil Liberties Union challenging discrimination on the part of the LAPD.

Prior to that, they received quite a bit of LEAA funding and used some of those funds for very, very nefarious programs, programs which we challenged in the court: The photographing of young people, blacks and browns, simply because a busdriver or a teacher believed a young person to be a troublemaker and an Alpha file was built up when no criminal charge had ever been made against most of the names appearing in that file.

LEAA funding was used to operate that program.

I also wanted to tell you that the reports from the Los Angeles Police Department about police misconduct are reports that are absolutely incomprehensible.

I receive them each month in my office. We study them, and we read them.

What we have learned from the reports is that police officers probably are disciplined more for off duty conduct such as drinking off duty or having what the police department considers an improper relationship with someone other than his wife. That is punished in a severer way than misconduct and abuse by police officers of private citizens.

But you are absolutely unable to tell the names of the police officers, what the incident was, or anything much about it.

It's a report made public.

Mr. CONYERS. Could we get some copies of those reports?

Ms. RIPSTON. I'd be delighted to send them to you.

Mr. CONYERS. We will incorporate your full statement into the record without objection.

Ms. RIPSTON. I want to say in terms of the public being notified about complaints, there's someone in the audience today whom I will talk about a little later on, who made a complaint and still has to hear about that complaint, Mr. Charles Chapple.

The police commission has suggested that complaints be made public. This is as a result of the Eulia Love shooting, but as of this moment, no apparent change has been made.

Also in terms of privacy on the part of police officers, Assemblywoman Maxine Waters introduced legislation into the State legislature which would have made these reports public, and it was the police lobby that fought against it tooth and nail and was successful in stopping that from becoming law.

Now, to my testimony.

We have 20,000 members here in southern California. We have a staff of 30. We receive about 10,000 calls a year from people requesting counsel.

About 5,000 of those calls have to do with police misconduct.

We have 26 chapters throughout the southland, and they too tell me that the majority of the calls they receive have to do with police misconduct.

The complaints range from verbal harassment to charges of brutality, shooting incidents and deaths.

We have also received information and complaints from several police officers who are angered by the incidence of police brutality which they have witnessed, and they are anguished by the contradiction which they have witnessed, and they are anguished by the contradiction which they feel between their desire to be good police officers fairly enforcing the law and the reality of some officers who abuse the authority which they possess. The police officers who have contacted us uniformly fear retaliation should their identities become known.

That fear is not without basis. The committee members should be made aware of the faith of the officers who appeared anonymously on KABC and was called the masked marvel.

Former Police Chief Ed Davis publicly announced after his officer's revelations that the LAPD would discover his identity and remove him and, indeed, they did just that.

If police officers are intimidated and fearful in raising their voices against abuse, what of ordinary citizens?

How much more fearful they must be and how much more fearful and frustrated they actually are when they attempt to petition for a redress of grievances against police misconduct.

We of the ACLU believe that the first amendment of the Constitution in its provision guaranteeing the right to petition for redress of grievances embraces petitions for redress against police actions as well as other governmental actions.

It is a dangerous situation here in Los Angeles. When the police department is allowed to exist as a kind of separate sovereignty answerable only to itself—and this is the situation we have right now—there is an inevitable tension, and an attitude of confrontation develops and breeds a distrust of justice.

The absence of effective remedies in the area of police misconduct, including Federal remedies, breeds the belief, whether real or imagined, that the system of law enforcement is inherently discriminatory with the police on one side and the people on the other. The entire system of justice is thereby tainted.

I am happy to be here today to discuss this problem with you.

You made reference a few moments ago to the shooting of Mrs. Eulia Love. I will not go into that any more because you obviously have heard a great deal of testimony about it.

It was here, too, that William Gavin was shot to death by deputies of the Los Angeles County Sheriff. Gavin, an obviously disturbed individual, was surrounded by officers. He had a knife, which he apparently raised incoherently. The deputies armed with hollow-point expanding round ammunition which they allege gives officers confidence and decreases the rapid-fire syndrome, opened fire. Gavin was hit

by at least 20 bullets. Three of the five officers emptied their weapons. His punishment was summary, immediate, and irrevocable.

Our records show that from 1975 through 1978, 278 civilians were shot by the police, and 125 were killed.

The next part of my testimony goes into the Civil Rights Act, and we would agree completely with Andrea Ordín when she recommended the standard of proof needs to be changed.

I would recommend, however, that it not be dealt with as part of Senate bill 1722 which is the codification of the Criminal Code, but it be dealt with separately and as quickly as possible.

I think also it should be remembered that the Civil Rights Act was passed in order to get to Government officials who were not following the law as it was, and that is part of the trouble with why there's no effective statement when you asked that question of Ms. Ordín. I think you have to go back to why the Civil Rights Act was passed.

We have been told by the Justice Department that prosecutions are not worthwhile because the violation is only a misdemeanor with a weak penalty.

So I urge you to do something about the standards that have been talked about.

We also would recommend that civil remedies be changed. We feel that civil remedies are inadequate.

An aggrieved individual may bring a civil action for damages under the Civil Rights Act, but that is a long and expensive process, and unless the individual has suffered continuing physical activity as a result of police misconduct, the likelihood of a recovery even equal to the cost of litigation is small.

Congress has not created a statutory minimum damages recovery for violations of civil rights, and we would recommend that you do that.

I will skip the next part because I think Andrea Ordín covered that.

Discriminatory enforcement of the law on page 4.

The difficulty is increased by what appears in our experience to be a pattern of discriminatory enforcement of the laws.

In many instances in which complaints are made to the ACLU, the person has also been arrested and must undergo a criminal prosecution which impedes a civil action.

And there appears to be one standard when the police charges assault and another standard when a person claims assault by police.

Our experience has been that the complainants are not arrested for crimes independent of the encounter with police but, rather, for charges associated with that encounter: resisting arrest, battery or assault on an officer, or the most common charge, interference with an officer in the performance of his or her duties.

That's California Penal Code, section 148.

In complaint after complaint, the person who complains of brutality is charged under section 148 or under section 242, assault on an officer. The complainant therefore must suffer the humiliation of an arrest which remains on his or her record and the trauma of incarceration. The individual must undergo the further trauma and expense of a trial in defending against the charges.

If the person is convicted, the chances of success in a later civil suit are all but nil.

If the person is acquitted, he or she cannot introduce evidence of that acquittal in a later civil proceeding because of the higher standard of proof in a criminal proceeding. That is, the acquittal means only that it was not established beyond a reasonable doubt that the person was guilty of the crime charged, most often, the crime of interfering with an officer.

The victim of brutality then can and often does find himself or herself the defendant in a criminal action for interfering or resisting.

Many persons simply abandon their claims. Many prosecutions are dropped in exchange for the complainant dropping claims of brutality and releasing the police from liability.

Our investigations indicate that there are some 2,500 prosecutions per year under California Penal Code section 148 and 242.

We, of course, do not have the computer data to establish it, but this is on the basis of the investigations we have made.

These investigations against citizens on the basis of police complaints must be compared to the number of prosecutions brought against officers charged with brutality by citizens.

While the Government has the accurate data readily available, our experience has shown that in approximately 9 out of 10 instances in which a citizen is charged with assault by the police a prosecution is brought. In contrast, it is an absolute rarity for an officer to be prosecuted upon the complaint of a citizen claiming assault by the officer.

Congress has not acted in this area in any meaningful way, and prosecutors are immunized against civil actions to remedy the situation.

Associated with the problems of an effective remedy and adequate redress is the absence of any legislation providing a right to witness police activity. In our experience, many instances of police brutality result in the arrest not only of the victim but also the arrest of the percipient witnesses.

Again, the catchall Penal Code 148, interference with an officer, is the tool used to intimidate and silence witnesses.

If the witness is convicted, then, of course, the witness' testimony in a later civil proceeding brought by the victim of brutality is discredited, as the police in the civil proceeding can point to the witness' conviction in the criminal action.

Our experience has been that the greater the brutality inflicted on the victim, the greater the likelihood the victim will be arrested for interfering with, resisting, or assaulting the officer.

Similarly, our experience has shown the greater the brutality, the greater the possibility that any witness who verbally objects to the brutality will also be arrested for the same catchall charges.

Mr. CONYERS. Would it be asking too much of a bruden on the ACLU that we document instances where this has happened?

Ms. RIPSTON. I have done that. I'll have it in my testimony.

Mr. CONYERS. We'd like to make sure that we fill the record accurately on this subject because it is very important and very controversial.

Ms. RIPSTON. I have included some examples, and we'd be happy to furnish you some more.

In one, a young woman and her date were walking in their own neighborhood to a corner store to purchase cigarettes. As they returned

home, they were stopped by six officers who traveled in three police units, apparently pursuant to a complaint of some crime. The couple was stopped. The young woman's companion was taken aside and released after he proved his identity by showing his driver's license. The young woman, however, had not taken her purse with her. She asked to be allowed to get it and was told no. She asked the officers to accompany her to her home so that they could talk to her mother.

The officers refused. Instead, since she could not immediately prove her identity by a written document, they told her she would be taken to the police station. She protested that as nonsense, and officers then roughly seized her arm and began handcuffing her. She cried out in pain and demanded that the officer identify himself. His response was to roughly raise her arm behind her even higher and cause her greater pain.

She states she kicked backward, striking the officer in the leg. His response was to strike her in the face several times with his large flashlight, lacerating her face and rendering her unconscious.

She required hospital treatment. She was arrested for assault on an officer. No charges were brought against the officer.

While charges were ultimately dropped in that case, she has an arrest record now for battery on a police officer. All of this happened because she did not have written identification immediately available.

We do not have a national passport system in this country.

Mr. CONYERS. I was wondering if there was some law that required identification to be on the person at all times?

Ms. RIPSTON. There is no law; but it's a funny situation. If the officer has reason for stopping you, then you have to be able to show him some identification.

In this particular case, there was no reason for the stop. So she would not have had to produce her identification, but it has worked that way in any number of instances where a police officer decides for some reason known only to himself or to herself why the stop is made, and then the request for identification; and there is no identification, and then the person is arrested.

In another case, a young man walked out of his apartment to the parking area only to be seized unexpectedly and roughly by sheriff's officers in Covina. They had responded to a call of a fight with a knife, a disturbance which had long ended by the time the police arrived. They encountered the young man as he rounded a fence. He did not see the police until that moment and had no idea whatsoever that there had been a disturbance in the area. He was thrown against the 6-foot wooden fence roughly, and when he had the temerity to ask what was going on, he was told to shut up and that he would be told when it was necessary.

When the handcuffs the police used cut into his wrists, he protested and started to turn, whereupon his hair was grabbed from behind, and he was slammed against the fence. The entire fence fell from the force.

The young man fell with the fence, and the officers fell with him.

The gun of one officer fell out of his holster, and to secure the young man while the officer reached for the gun, the officer placed his foot on the young man's head.

Meanwhile, the young man who suffers from a bone disease which resulted in part of his skull being removed and replaced with a mesh

device, begged officers not to hit him in the head as it could be fatal. The officer, apparently, did not hear the pleas. He continued to grind his foot into the young man's head.

The young man was arrested and charged with penal code section 148, interfering with an officer. He was incarcerated, had to post bail, had to bear the costs of his defense, and almost lost his job because he had to miss work to attend the trial.

He was not convicted.

In the third instance, Mr. Charles Chapple, chairperson of the Coalition Against Police Abuse, became aware of an arrest being made in his neighborhood, and with his neighbors went to observe.

Mr. Chapple stated to us that he quickly observed that the person who was being arrested by application of a bar-arm choke hold was, in fact, already unconscious.

Mr. Chapple called to the officer to stop choking the man, as he was unconscious.

That officer did stop, but another officer took umbrage at Mr. Chapple's audacious exercise of his right and proceeded to order him about in abusive language.

Both police and Mr. Chapple left about the same time for the same police station, the police to book the arrested party, and Mr. Chapple to file a complaint of police misconduct.

Mr. Chapple filed his complaint and has never heard another word about it. However, a few weeks later, he received a notice in the mail that he had been charged with penal code section 148, interfering with an officer. He was advised that if he did not appear, a warrant would be issued. Mr. Chapple was prosecuted, but the case was dismissed when the prosecution refused to turn over information pertaining to past brutality by the arresting officers and evidence of police infiltration of and spying upon the lawful activities of Mr. Chapple and his organization, the Coalition Against Police Abuse.

Mr. Chapple was in the audience sometime ago, so you might want to hear from him.

The ACLU believes that there should be no prosecutions under penal code section 148 for purely verbal conduct such as that of Mr. Chapple in exercising his right to witness police conduct and his call upon officers to stop choking an unconscious man.

But he was prosecuted, and there is no congressional enactment protecting the right to witness and barring prosecutions for purely verbal conduct associated with that right.

We urge you to consider that.

I also have dealt with police infiltration, and I do not know whether that is a mandate of your committee. However, it has been a great problem here in Los Angeles. I have attached to my testimony a list of organizations which have been spied upon by the LAPD.

We have supported, along with the American Friends Service Committee, the work of the Citizens Commission on Police Repression which has uncovered and made public extensive infiltrations and intrusions by the LAPD through its Public Disorder Intelligence Division.

I realize that time is a problem, so I would ask that you read the section. It's just terribly important, and it's a problem that we have been plagued with here in Los Angeles.

All of these factors—killings, brutality, harassment, spying—combine to create serious denials of constitutional rights and poison police-community relations.

The means of redress are ineffective. As stated, there is no criminal remedy because prosecutions simply are not brought.

The civil remedy is so expensive and the likelihood of recovery so little that it is an inadequate remedy. And the internal complaint process available through internal affairs investigations is, perhaps, the most frustrating of all.

The police "police" themselves and rise up righteously at the thought that an independent investigatory and disciplinary body might be established. The result is mass frustration by aggrieved citizens and many expressions that the process is no more than a sham.

I think it is important for you to note that we do have a police commission but that the Los Angeles Police Commission is composed of appointed citizens and has absolutely no power to discipline officers.

That power is retained solely by the chief of police. Even in the killing of Mrs. Love, the commission, which found that the officers had acted inappropriately and in violation of policy, declared itself impotent to impose discipline, which is the exclusive prerogative of the chief of police. The chief declined to impose any discipline in that situation.

Although innumerable television cops, Kojack and the like, ring their hands over obstacles like technicalities; that is, the Constitution of the United States, and the allegedly rigorous hounding of internal affairs investigators, the reality is that nothing happens.

The complaining citizen is all but left out of the process altogether.

The police contend that the citizen has no right to know what investigation was conducted, what findings were made, and what disposition was taken.

I say that despite the police officer who testified just before me.

It is all a private affair justified by police on the grounds of the privacy of the officers.

This concern for the privacy of the police officers is righteously raised while no mention is made of the activities of these police officers in surreptitiously infiltrating hundreds of organizations and maintaining thousands of dossiers which violate the privacy of many citizens.

All of these files are immune from the Freedom of Information Act, and there is no FOIA equivalent under California law for police activities.

I don't know if you know about the shredding affair here in Los Angeles, but the most glaring evidence of the futility of the process is the now infamous "shredding affair."

In that incident, more than 4½ tons of citizens' complaints were shredded by the LAPD which had represented to the LA City Council that the LAPD was disposing of mere miscellaneous records.

The contempt for the public in such an act is manifest.

As a result of citizen outrage at the shredding, the Los Angeles Grand Jury investigated the matter.

For the first time in history, the grand jury declared itself a hung grand jury, unable to decide whether to bring an indictment.

The ACLU, the Coalition Against Negative and Discriminatory Law Enforcement, and other organizations filed a lawsuit seeking the impanelment of a second grand jury to consider the matter. That case, *Ilene Korsen-Mankiewicz et al.*, versus the presiding judge of the Los Angeles Superior Court, was taken to the California Supreme Court. The supreme court declined last year to issue an order in that unprecedented lawsuit, and the statute of limitations has now expired.

While shredding may have destroyed the evidence of complaints about police abuse, the notorious shredding affair did a great deal to destroy confidence in the integrity of our system of justice.

There was and is no available remedy under Federal law.

Mr. CONYERS. If you think of anything, let us know.

I don't know what additional relief we could have provided.

Ms. RIPSTON. I will confer with my staff, and if we can think of some remedy, we will certainly be in touch with you.

Although in the aftermath of the tragic killing of Ms. Eulia Love, the Los Angeles Police Commission has attempted to defuse the situation through changes in policy, the response of the LAPD indicates that absent strong regulation at the Federal or State level, the deaths will continue to mount.

The LAPD's response to the Love killing was to condemn the police commission's findings and policy changes. Now, the LAPD, despite the tension, has responded by seeking more fire power. It now seeks authority to adopt hollow-point expanding round ammunition with its greater wounding power. This came right after the Eulia Love shooting.

The police department asked to be able to use this kind of ammunition.

The only justification offered so far is that it will cure police officers' lack of confidence in their present ammunition, a lack of confidence which the chief implicitly admits is irrational since he had testified several years ago that the present ammunition is adequate.

But the LAPD's argument is that by increasing firepower, they will increase officers' confidence and thereby reduce what they call the rapid fire syndrome, that is, officers emptying their weapons on victims like Mrs. Love. However, the experience of the sheriff's department, which is already armed with such ammunition, refutes any notion that rapid fire will be reduced.

The ACLU, with other organizations, has opposed the increased firepower and advocated instead the implementation of the most technologically advanced nonlethal alternatives to deadly force.

However, there is no local, State, or congressional legislation or regulation which controls the kind of ammunition which may be used, nor which mandates or encourages implementation of nonlethal alternatives. We expect therefore more and more firepower and more and more deaths.

In the absence of any national policy, most police departments have quietly adopted the hollow point ammunition since most of them have no civilian policy making body controlling them.

We believe for all the reasons stated that it is necessary for Congress to take action to provide effective mechanisms whereby the right to petition against police misconduct is protected and made

meaningful and where effective remedies are established to guarantee the free exercise of that right.

The direction of the Los Angeles Police Department and other departments appears to be backward in increased firepower, increased wounding power, and deadly force.

We hope this committee and Congress will walk forward into an era of enlightened law enforcement rather than backward into the escalation of deadly force.

I had planned to close today by saying we for a long time had urged the police department and the sheriff's department to explore the use of nonlethal weapons.

As recently as 2 months ago, one of our staff attorneys appeared before the police commission opposing the use of hollow-point bullets and asking about nonlethal weapons.

We were gratified to see the recent newspaper stories, one as recently as yesterday, in which the sheriff's department said they are experimenting in this area. I had planned to say we are happy that this is happening. I had even initially planned to commend both the sheriff's department and police department for exploring these areas, but having heard the police officer testify just before me, I'm afraid I have to take back any commendation I was planning to make.

I thank you.

Mr. CONYERS. Thank you for a very effective presentation, and I want to urge you and also ask you how you keep your hope and stamina and courage up under the situations that have been revealed today?

To me, it seems like a tremendous act of faith in this political process that somehow we are going to be able to deal with this matter, and I commend you on the struggle and the people and organizations that you and American Civil Liberties Union have brought together in this area or such a difficult matter.

Ms. RIPSTON. It's hearings like this that give us the hope to go on.

We did meet with Mr. Flemming of the Civil Rights Commission 8 months ago.

I think that it is those kinds of activities that give us hope that at some point we will see a change in Los Angeles.

I, too, believe, as was testified just a few moments ago, that part of the problem we have here in Los Angeles is the policy which is set by the top officials in the Los Angeles Police Department.

It is policy which filters down and which is communicated, and I think until we see some real changes at the very top level, we won't see changes.

It is true that we do have more women. We do have more minority members in our police department, but when you have the kind of attitude that was displayed earlier setting policy, it does affect how the whole department is run.

Mr. CONYERS. It certainly does.

In other words, is it proper to assume that there are forces here that sustain this kind of activity?

In a normal democratic system, great numbers of people being aggrieved by a particular process can band together and change it.

That is not happening here because many people refer to the fact that a decade ago the problems were not really too much different, so

I'm beginning to wonder: What are the dynamics inside the system that resist change so effectively?

Ms. RIPPSTON. I think in part it is because victims of the police department are the people who are, for the most part, powerless in this society.

They are minority. They are very young people.

If you are white and middle class and you look as I do and you walk around in the street of Los Angeles or drive in your automobile, you are not victimized by the police department.

It's a certain group of people, and it is those people who don't have power, who don't have redress.

That's why the problem has continued for such a very long time, because the people who are the victims really don't know where to go and because the people who maintain the power are not victims. They don't adequately understand it.

If people were to come to my office and see the people we see every day, I think they would gain an insight as to what really is going on in this city.

Most upper class white people live very insulated lives.

We have a very segregated city in Los Angeles. You know, our local system is the most segregated school system in the country.

The Civil Rights Commission has said it is such.

We have been in court since 1963 trying to integrate. It's impossible. I am a New Yorker. I have lived here 7 years. I can tell you this is one of the most segregated cities, major cities, in this country, and I think that's part of the problem.

Mr. CONYERS. That's a very good explanation.

Mr. LUNGREN, do you have questions?

Mr. LUNGREN. I know we are limited on time. However, my remarks will take more the form of a statement than of questions. I think the purpose of this hearing is to air a lot of different opinions which are being expressed on a very difficult issue.

On a number of major points, you and I would very strongly disagree, but I suggest to you that different points of view can be appropriate in this instance.

It might surprise you and some others to learn that I have successfully defended people in the courtroom against charges of assault on a police officer. Furthermore, I have initiated at least one lawsuit against a police department for its activity against my client.

At the same time, I sometimes wonder whether we, perhaps, on all sides paint with too broad a brush.

It is easy to suggest that, because one is white and middle class, one does not then have the same worry about being put upon by officers as someone else in this community. There is another side to it. People in that other community are beset more often by criminal activity. They are more often victims than those, as you say, in a white middle-class area. When a police officer goes into that area, he has a heightened concern, not only for his safety, but the safety of the people in the community. I think that in and of itself accounts for different reactions from those by an officer in another part of the city.

That does not mean to excuse those instances of excessive force, which may exist anywhere, as long as you have human beings in the police department. Our goal is to find the most effective way of diminishing those occasions.

I am not one who believes Federal Government intervention necessarily achieves the goals to which many of us subscribe.

I appreciate your viewpoint, and I will look at your remarks in detail when we further consider this issue.

Ms. RIPPSTON. I think you are quite accurate, and I want you to realize that, although I have been accused of being anti-cop, I am not anti-cop.

I think that there are very fine cops.

There are some fine police officers, and there are some who attempt to do their duty.

I also believe that it is not always the easiest job, that it is difficult, and it is done at great peril sometimes. I do understand that, and I don't mean to indicate that every member of the Los Angeles Police Department was guilty of the charges I made today.

I also feel in terms of the Federal Government, however, that when you have a situation which persists as long as this has persisted—I have been here almost 8 years—it was a terrible problem when I came, and I have constantly heard from my colleagues about how this has gone on for many, many years.

I'm from another part of the country. I don't remember a situation like this in New York.

I can tell you that I vowed that the two areas of concern that I wanted to do something about was the area of school segregation and police misconduct because I believe it is such a great problem here in Los Angeles.

I think when the local government has not been capable of acting to redress a problem, that is exactly what the Federal Government has to do.

I think that was initially the meaning of the Civil Rights Act.

When the community becomes desperate, when the State government has not acted, when local officials have not acted, we do feel the Federal Government should help us. I tried in my testimony not only to give you examples, but to give you ways of, perhaps, aiding a problem that does exist.

I did not want the testimony just to be rhetoric. I wanted it to be suggestive of concrete ideas that you might think about introducing.

Mr. CONYERS. Thank you for joining us.

I hope you will follow the struggles of the subcommittee, and we will follow your struggles and, hopefully, mutually, we will improve the situation.

We have two witnesses remaining. I hope that everyone will stay with us until we conclude.

We have from the district attorney's office for Los Angeles County, Johnnie L. Cochran, assistant district attorney, who will now come to us in his own way; he is a former defense attorney and has been honored in many ways for his trial work and activity in the bar.

He is a professor at UCLA and Loyola Law School.

We look forward to your comments and will incorporate your prepared statement in its entirety into the record at this time.

We welcome you before the subcommittee.

STATEMENT OF ASSISTANT DISTRICT ATTORNEY JOHNNIE L. COCHRAN, JR.

Under California law, the county district attorney is the public prosecutor and is vested with the power and responsibility to conduct on behalf of the



people all prosecutions of public offenses of California law. (California Government Code section 26500.) It is also within the duties of the district attorney to appear before and give legal advice to the grand jury whenever cases are presented for its consideration of a criminal indictment. (California Government Code section 26501.)

To fulfill these functions, California courts have traditionally recognized that the district attorney must investigate and gather evidence relating to alleged criminal offenses which it would have jurisdiction to prosecute. (*Hicks v. Board of Supervisors*, 69 Cal.App. 3d 228,241.) Over the last few years, public concern has strongly demanded open and independent investigations when persons were injured by the police use of deadly force. The Los Angeles County district attorney has judged that this concern and our responsibility require that our office conduct our own investigation of every officer-involved shooting incident occurring within Los Angeles County that results in a wounding or a fatality. We also investigate every death that may have been the result of police conduct, i.e., choke-hold, use of baton or flashlight.

In previous years, our office investigated police shootings when there were questions which needed resolution, at the request of local law enforcement agencies or because of private citizens' complaints or coverage in the press. Because we had this limited involvement, our office would often not hear of these matters until long after the incident. In the latter part of 1977, Los Angeles County DA John K. Van de Kamp advocated and requested that the county fund a program to allow members of the district attorney's staff to immediately commence an independent investigation of incidents involving the police use of deadly force when death resulted. With the public and press concern which was developed in 1979 concerning police-involved deaths, the Los Angeles City Police Commission ordered their department to immediately notify our office of all officer-involved deaths and facilitate our immediate investigation of these incidents, later last year, 1979 the county sheriff's department and other local enforcement agencies also agreed to cooperate with our office's immediate independent investigation program.

Now, deputy district attorneys and investigators immediately respond to the scene of police-involved shootings and initiate an independent and concurrent investigation. District Attorney personnel are able to interview witnesses while their memories are fresh and observe the shooting scene before it is altered, certain critical facts and impressions, such as lighting conditions, evidence of bullet trajectory, and the availability of and demeanor of witnesses, are best gained first-hand and not weeks later in edited reports submitted by the involved officers' employer. When controversial shootings or deaths occur involving law enforcement use of deadly force, the district attorney can immediately inform the public that our office will decide criminal culpability based upon our own thorough and independent investigation.

The investigation project, called the "rollout program", pairs an attorney from the special investigations division with an experienced investigator and they are available to respond to a call at all times, 24 hrs. Most shootings do not occur during normal working hours, but on weekends and late at night.

The district attorney and local law enforcement agencies have established procedures for conducting our concurrent investigations. The details of the understandings attempt to avoid interference by either party with the other's investigation. When the team arrives at a scene of the shooting, the police representative in charge of the officer-involved shootings briefs the deputy district attorney and the investigator concerning the shooting, including the names of the involved officers and the names and addresses of any witnesses.

At the conclusion of the on-scene investigation by the police agency, the district attorney and investigator are again briefed by the officer in charge and taken on a walkthrough of the shooting scene. While at the scene, the district attorney team decides whether the case warrants further immediate investigation and whether or not additional district attorney personnel are needed.

As the investigator determines the facts surrounding the shooting, the deputy district attorney is able to oversee the investigation and make certain that particular facets of the investigation are being properly covered. As an experienced prosecutor, he alone at the scene understands and appreciates all of the legal necessities for evaluating the possibility of criminal conduct. He then is the deputy district attorney who would either prosecute the case or write the report announcing our decision not to prosecute.

Our decision to bring or not to bring criminal charges is detailed in a report. These reports are now made available to the media and public upon request or

when the case has raised considerable public interest at the time the district attorney announces his decision. Presently, we are the only office which issues a complete report detailing our investigation and analysis of every police-involved shooting occurring within our jurisdiction.

Both the public and the police agencies involved have a right to as speedy a resolution of the investigation as the circumstances permit. A speedy investigation also holds to as low a level as possible the emotional impact suffered by officers and families of persons who were involved in police shooting cases. During the first year of existence, the rollout program has greatly shortened the time taken to complete our investigation of these types of shootings.

In December of 1979, the district attorney of Los Angeles County received an L.E.A.A. grant of \$255,000 to augment our rollout program. This grant supports three additional attorneys, two investigators, and a legal secretary. The investigations of ninety-four incidents involving police use of deadly force have been initiated during the rollout program's existence. Most law enforcement agencies have agreed to notify us immediately upon the discovery that a member of their agency has injured a citizen by the use of deadly force. Regardless of whether a police agency is willing to participate in the rollout program, our office attorney investigates every officer-involved shooting case where injury occurs and every in-custody death case.

The district attorney, by analyzing and investigating the possibility of criminal liability for an officer-involved shooting, must confront law enforcement concern that police personnel are not held to higher standards of care than the law requires and at the same time public and news media concern that someone who violated the law while using deadly force is not excused merely because he is a policeman. The district attorney must decide each case according to the same standards of law and office policy used to decide every case. Whether claims are made that the prosecutor is trying to "get a cop" or protect the police, the judgment in each case must be made fairly and independent of public or special interest pressure. The use of independent, thorough investigations by the district attorney ensures that the basis of a legal decision of criminal liability by a prosecutor will be removed from influences which limit fairness and objectivity.

#### TESTIMONY OF ASSISTANT DISTRICT ATTORNEY JOHNNIE L. COCHRAN, JR., LOS ANGELES, CALIF.

Mr. COCHRAN. Thank you very much.

It is my pleasure to be here.

I will refer to my written statement, and I will embellish upon it and answer any questions that you might have afterward.

Over the last few years public concern has strongly demanded open and independent investigations when persons were injured by the police use of deadly force.

The Los Angeles County district attorney has judged that this concern and our responsibility require that our office conduct our own investigation of every officer-involved shooting incident occurring within Los Angeles County that results in a wounding or a fatality.

We also investigate every death that may have been the result of police conduct, that is, choke hold, use of baton or flashlight.

In previous years our office investigated shootings when there were questions which needed resolution at the request of local law enforcement agencies or because of private citizens' complaints or coverage in the press. Because we had this limited involvement, our office would often not hear of these matters until long after the incidents.

In the latter part of 1977, District Attorney John Van De Kamp advocated and requested that the county fund a program to allow members of the district attorney's staff to immediately commence an independent investigation of incidents involving the police use of deadly force when death resulted.

With the public and press concern which was developed in 1979 concerning police-involved deaths, the Los Angeles Police Commission ordered their department January 1979, to immediately notify our office of all officer-involved deaths and facilitate our immediate investigation of these incidents.

Later last year, July 1979, the county sheriff's department and other local enforcement agencies also agreed to cooperate with our office's immediate independent investigation program.

Now deputy district attorneys and investigators immediately respond to the scene of police-involved shootings and initiate an independent and concurrent investigation.

District attorney personnel are able to interview witnesses while their memories are fresh and observe the shooting scene before it is altered.

Certain critical facts and impressions, such as lighting conditions, evidence of bullet trajectory, and the availability of and the demeanor of witnesses are best gained firsthand and not weeks later in edited reports submitted by the involved officers' employer.

When controversial shootings or deaths occur involving law enforcement use of deadly force, the district attorney can immediately inform the public that our office will decide criminal culpability based upon our own thorough and independent investigation.

The investigation project, called the roll out program, pairs an attorney from the special investigations division with an experienced investigator, and they are available to respond to a call at all times, 24 hours a day.

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The details of the understanding attempt to avoid interference by either party with the other's investigation. When the district attorney team arrives at a scene of the shooting, the police representative in charge of the officer-involved shootings briefs the deputy district attorney and the investigator concerning the shooting, including the names of the involved officers and the names and addresses of any witnesses.

At the conclusion of the on-scene investigation by the police agency, the district attorney and investigator are again briefed by the officer in charge and taken on a walk-through of the shooting scene.

While at the scene, the district attorney team decides whether the case warrants further immediate investigation and whether or not additional district attorney personnel are needed.

As the investigator determines the facts surrounding the shooting, the deputy district attorney is able to oversee the investigation and make certain that particular facets of the investigation are being properly covered.

As an experienced prosecutor, he alone at the scene understands and appreciates all of the legal necessities for evaluating the possibility of criminal conduct.

Mr. CONYERS. Was this available at the Eulia Mae Love incident?

Mr. COCHRAN. No.

The police commission ordered the police department to notify us shortly after the Eulia Love incident.

Mr. CONYERS. It may have precipitated the formation of this program.

Mr. COCHRAN. The idea had been there as early as 1977 but was not ordered until after the *Eulia Love* case.

He then is the deputy district attorney who would either prosecute the case or write the report announcing our decision not to prosecute.

Our decision to bring or not to bring criminal charges is detailed in a report. These reports are now made available to the media and public upon request or when the case has raised considerable public interest at the time the district attorney announces his decision. Presently we are the only office which issues a complete report detailing our investigation and analysis of every police-involved shooting occurring within our jurisdiction.

Both the public and the police agencies involved have a right to as speedy a resolution of the investigation as the circumstances permit.

A speedy investigation also holds to as low a level as possible the emotional impact suffered by officers and families of persons who are involved in police shooting cases.

During the first year of existence, the rollout program has greatly shortened the time taken to complete our investigation of these types of shootings.

In December of 1979 the district attorney of Los Angeles County received an LEAA grant of \$255,000 to augment our rollout program.

This grant supports three additional attorneys, two investigators, and a legal secretary.

The investigations of 94 incidents involving police use of deadly force have been initiated during the rollout program's existence.

Most law enforcement agencies have agreed to notify us immediately upon the discovery that a member of their agency has injured a citizen by the use of deadly force.

Regardless of whether a police agency is willing to participate in the rollout program, our office investigates every officer-involved shooting cases where injury occurs and every in-custody death case.

The district attorney, by analyzing and investigating the possibility of criminal liability for an officer-involved shooting; must confront law enforcement concern that police personnel are not held to higher standards of care than the law requires, and at the same time public and news media concern that someone who violated the law while using deadly force is not excused merely because he is a policeman.

The district attorney must decide each case according to the same standards of law and office policy used to decide every case.

Whether claims are made that the prosecutor is trying to "get a cop" or protect the police, the judgment in each case must be made fairly and independent of public or special interest pressure.

The use of independent, thorough investigations by the district attorney insures that the basis of a legal decision of criminal liability by a prosecutor will be removed from influences which limit fairness and objectivity.

That concludes my written statement, Mr. Chairman. I will be happy to try to answer any questions you might have.

Mr. CONYERS. So what's the situation like with reference to police shootings involving excessive use of force?

Mr. COCHRAN. It's a very, very tough situation.

Speaking now from the standpoint of the district attorney's office, it's basically a no-end situation.

We have tried to independently investigate these cases by responding to the scene. It does make a difference. I have gone to the scene of a shooting. I do fairly frequently—to understand what is happening, to understand about the cooperation of law enforcement, to get an idea of what it means to initiate your investigation within minutes or hours of the shooting, or to observe the demeanor of witnesses.

So I think there has been some progress made in that, but it's a very difficult area.

Also with regard to the function of the district attorney's office, it's not to pass upon whether the shooting was in policy or not, but to determine whether or not there is criminal culpability. And oftentimes it's not clear to the public.

Mr. CONYERS. Is it a more difficult stand to test the incidents?

Mr. COCHRAN. Very often it is.

I think what you have to do is adopt a case-by-case basis because no matter what decision is rendered, somebody is going to be unhappy.

If you close out a case, very often the public will be unhappy.

If you file against police officers, you will be accused of making political prosecution.

You cannot win.

What I found during my tenure for some 10 years, you have to do what you believe is right, and you have to ask for the strength to know what is right.

Mr. CONYERS. I'm going to commend your program, and I'm just hoping that there will be devised a way to keep you going when the gold dries up, which, as all things in this area, inevitably it does, that somehow this program, an excellent one, will further take its place in the annals of criminal justice history by being made permanently even after the grant money expires.

Mr. COCHRAN. I hope it will.

I think this idea was there long before we had a grant. Without any additional budget augmentation, the district attorney made a decision to do this program; \$255,000 was augmented.

I believe there's a commitment that if that grant fails in another year or so that this must be continued.

I think one of the reasons LEAA granted the money was they said: If this program proves successful in any particular—or in this jurisdiction, then they would want to look at it in other jurisdictions throughout the country.

Mr. CONYERS. It's a very good point.

We here in Washington can look toward trying to expand from our knowledge.

I think this reflects very capably upon District Attorney Van de Kamp as well, because I am sure this is obviously following his own views and beliefs in this area.

Mr. COCHRAN. It does.

Mr. CONYERS. Mr. Lungren?

Mr. LUNGREN. Thank you, Mr. Chairman.

I would like to compliment you, Mr. Cochran, on the thoroughness of your report.

I was given a prior opportunity to look at one of the reports prepared by your office, and it is obvious that a great deal of detail, thought, and work goes into these reports.

With reference to LEAA, I am aware of another program here funded by that agency, the anti-gang program, that the department used. It proved very successful, and when the funding was terminated, the city of Los Angeles continued to fund the program. That evidences the original vision of the LEAA—to provide an impetus to stimulate projects which otherwise might not have come about, with the hope that once they were proven, the communities would assume the responsibility for funding them.

I think you correctly hit on the most important point, that was even touched upon earlier by the assistant chief of police, that perhaps the most important aspect of that program is the fact that people in the community can have confidence that those problems are being looked at.

I think the fact that you are there early, the fact that you conduct a thorough investigation, and the fact that it is not something that is handed to you later on are probably as important as the actual work that is done within the particular investigation, and I think you are to be commended for that.

Thank you.

Mr. CONYERS. Mr. Cochran, we are glad you are here, and I hope you watch and help us in our work, and we will try to do the same where you are concerned.

Mr. COCHRAN. Thank you very much.

Mr. CONYERS. Thank you very much for coming here.

Our final witness today is George Aliano, president of the Los Angeles Police Protective League.

Is he here?

Fine.

We welcome Mr. Aliano.

We understand that your organization represents officers with regard to wages, working conditions, grievances, benefits and police abuse matters as well.

You have been involved in law enforcement for over 16 years, and we look forward to your testimony and incorporating your prepared statement into the record in its entirety.

PREPARED STATEMENT OF GEORGE ALIANO, PRESIDENT, LOS ANGELES POLICE PROTECTIVE LEAGUE

When I learned of the subcommittee hearings on police use of deadly force, I questioned the reasoning for such hearings concerning the Los Angeles Police Department. We have more than adequate remedies and avenues for redress should violations of law or policy occur involving a police officer. However, I was not surprised considering the attention that has been paid to this subject in the recent past, and the self-serving interests that have been realized by certain individuals who have chosen to dramatize police incidents.

Today, I'm going to point out some very relative facts that are suspiciously overlooked or distorted by those who have their own interests to promote rather than the welfare of all the people of Los Angeles. I will illustrate that the focus of attention is being diverted to the police shooting incident while little recognition is given to some of the reasons these incidents occur; part of which is that Los Angeles is a City with increasing rates of major crimes and crimes of violence.

We have some individuals who conveniently ignore the violence that exists in Los Angeles and that those who commit violent acts are frequently con-

fronted by police officers who must take whatever action they are forced to take. To illustrate the increasing violence that occurs in Los Angeles, let me present the following crime statistics for 1977, 1978 and 1979:

	1978		1979		
	Amount	Percent	Amount	Percent	
Murders.....	576	655	+13.7	817	+24.7
Rape.....	2,339	2,467	+5.5	2,532	+2.6
Robbery.....	15,246	17,105	+12.2	20,515	+19.9
Aggravated assault.....	15,519	16,565	+6.7	19,780	+19.8
Burglary.....	63,928	69,876	+9.3	74,501	+6.6
Grand theft auto.....	32,791	36,431	+11.1	39,644	+8.8
Total.....	130,399	143,099	+9.7	157,789	+10.2

These crimes are not committed by police officers. They are committed by people who, for whatever reason, will not abide by laws and rules established for the well-being of society. The police represent those laws and rules and the police will be disregarded with the same reckless abandon; only sometimes with costly results.

*Guns confiscated in Los Angeles*

1975.....	8,369
1976.....	8,271
1977.....	7,599
1978.....	7,462
1979.....	8,755

Approximately 8,000 guns are confiscated each year in Los Angeles. There is no doubt guns, as well as other weapons, are readily available. There is only one group authorized to have guns on the streets of Los Angeles—and they are the police. Anyone else can only expect trouble.

Much has been said concerning Los Angeles Police shootings. Let's examine the fatal and non-fatal shootings of civilians:

Year	Civilian fatalities	Officer fatalities	Civilian wounded	Officer wounded
1979.....	14	1	42	4
1978.....	20	0	41	7
1977.....	33	1	40	6
1976.....	29	2	42	6

**CIVILIAN FATALS, BY RACE**

	1978	1979	Percent
White.....	7	4	-42.8
Black.....	9	8	-11.1
Latin.....	3	2	-33.3
Other.....	1	0	-100.0
Total.....	20	14	-30.0

**CIVILIANS WOUNDED, BY RACE**

	1978	1979
White.....	7	8
Black.....	21	20
Latin.....	12	14
Other.....	1	0
Total.....	41	42

As it can be seen, fatal shootings have decreased substantially since 1977. Also those who were wounded have remained about the same. This in spite of increased violent crime in the City and an increase of 23 percent in assaults with guns against officers.

In 1978 police officers shot 12 percent of those people who used deadly force against them.

In 1978, there were three attacks on police officers every day of the year. Police faced deadly force seven times every 5 days. This was a 9-percent increase over 1977.

These statistics are never revealed by those small, but vocal, groups who constantly advocate police reform and call for civilian police review boards. It would appear from the statistics that there is more civilian abuse than police abuse.

Additional information that is extremely relevant, but not made known by these groups, is the number of people who were armed when shot by the police. Of the 14 fatalities in 1979, 13 were armed with a deadly weapon. Of the 42 who were wounded, 37 were armed with deadly weapons.

On a statewide basis, from 1974 through 1978, an average of 90 civilians per year were killed by police while an average of 10 police officers were killed each year. Considering the civilian population and the police population, more officers lose their lives in proportion to their group than do civilians. One officer dies for each 4,000 officer population—1 civilian dies for each 244,444 civilians.

One important point must be made. The police officers who died weren't criminals and weren't committing any crimes when they died. They were murdered, and their lives were taken because of who they were.

It would appear from these facts that it's civilian abuse that should be of concern to those who care to investigate.

Speaking of abuse and complaints against police officers, let's examine how extensive and numerous those complaints are:

*Complaints by civilians against officers*

1971.....	1,393
1972.....	1,271
1973.....	1,202
1974.....	1,150
1975.....	876
1976.....	879
1977.....	651
1978.....	584
1979.....	546

For 1978, the latest figures available, 146 of those complaints of the 584 were sustained or 25 percent. To include all complaints from internal disciplinary matters, then 57 percent were sustained. Of all complaints outside and inside the Department in 1978, 91 officers were processed through a Board of Rights. Fourteen were found guilty and removed from service; 57 were found guilty and received an average suspension of 24 days; 5 were found guilty and reprimanded; 13 were found not guilty.

With 3,000,000 police-citizen contacts per year, in 1979 we received one complaint for each 5,495 civilian contacts—not perfect—but we are constantly striving to improve our performance. It would seem to be very clear that not only does the Department investigate and discipline officer misconduct, but that complaints have dramatically decreased over the years. This is in sharp contrast to the propogandized stories circulated about by the unknowledgeable. Mistakes, yes we make them. Excesses, abuses, yes they occur, but not to any extent that warrants constant attacks, demoralizing forays and attempts to politically control the Police Department. I would also like to point out the types of weapons that are used to commit murders in the United States in 1978. 48 percent with guns. I present this to demonstrate the high percentage of certain weapons that some might consider less than dangerous. I specifically point to the 19 percent of murders committed utilizing a knife.

My last chart I present in response to an article I read in the Oakland Tribune, February 21, 1980, in which Assemblywoman Maxine Waters shows her complete lack of concern for all people of all colors in this country and states that within the last 10 years, the police have killed 6,000 Black people. Although these figures are not verified, it is an irresponsible and biased comment as is

the content of the article. It is truly unfortunate that a legislator does not have concern for all people. If that were so, then Assemblywoman Waters would have determined that during that same 10-year period, there were 186,000 murders in the United States. There should have been enough concern to call for a subcommittee hearing to investigate why these occur. There should also have been concern for the 817 murders in Los Angeles in 1979 that did not get notoriety or attention. But, then there's no way to gain control of a police department by getting concerned over non-police involved deaths.

I believe the issue of police shootings and the tremendous concern some take in them involves more than statistics. It is a philosophical issue and one which those who would cause distrust of the police are themselves philosophically disoriented.

Anyone who constantly distorts and reshapes issues to cause the police to be pitted against the public has to have their motives scrutinized. That could be farthest from the police role. The police need the public and could not function effectively without that support. We, the police of Los Angeles know that, and the people have shown their support on numerous occasions.

Anyone that would use a police shooting incident and attempt to make a racial issue out of it, lacks any understanding of what takes place in shooting situations. Police officers react to a situation, not a person. It's of little importance when an officer defends himself or herself against a gun, who the person is who is shooting that gun. The officer just reacts to that situation of self defense.

What has to end and end soon is the repeated attacks on police authority and their legal justification to exist.

You as legislators enact laws, but the laws need to be enforced for those who refuse to comply. We, the police, assume that enforcement responsibility.

Without laws there would be chaos, without enforcement there would be anarchy.

A police department needs to have the confidence of the public, without it the department loses its own confidence. This will erode the ability of a department to perform to its fullest and cause officers to lose concern. When the police come to the point of not becoming involved, the people will be the ultimate losers.

You gentlemen, because of your position, will carry a message that will be heard. We anticipate that message to be one restoring confidence to law enforcement.

The Los Angeles Police Protective League is the voice of Los Angeles Police Officers, and we hope that our message was clear.

#### TESTIMONY OF GEORGE ALIANO, PRESIDENT, POLICE PROTECTIVE LEAGUE, LOS ANGELES, CALIF.

Mr. ALIANO. Thank you, Mr. Congressmen.

When I learned of the subcommittee hearings on police use of deadly force, I questioned the reasoning for such hearings concerning the Los Angeles Police Department.

We have more than adequate remedies and avenues for redress should violations of law or policy occur which involves a police officer.

However, I was not surprised, considering the attention that has been paid to this subject in the recent past and the self-serving interests that have been realized by certain individuals who have chosen to dramatize police incidents.

Today I'm going to point out some very relative facts that are suspiciously overlooked or distorted by those who have their own interests to promote rather than the welfare of all the people of Los Angeles. I will illustrate that the focus of attention is being diverted to the police shooting incident, while little recognition is given to some of the reasons these incidents occur, part of which is that Los Angeles is a city with increasing rates of major crimes and crimes of violence.

We have some individuals who conveniently ignore the violence that exists in Los Angeles and that those who commit violent acts are fre-

quently confronted by police officers who must take whatever action they are forced to take.

To illustrate the increasing violence that occurs in Los Angeles, let me present the following crime statistics for 1977, 1978, and 1979.

In every category of murder, rape, robbery, aggravated assault, burglary, grand theft auto, have all increased in those 3 years.

The totals: 130,000 for 1977; 143,000 for 1978; 157,000 for 1979.

Murders: From 500 to 600 to 800.

In all categories an increase.

These crimes are not committed by police officers. They are committed by people who, for whatever reason, will not abide by laws and rules established for the well-being of society.

The police represent those laws and rules, and the police will be disregarded with the same reckless abandon, only sometimes with costly results.

For my next chart—

Mr. CONYERS. Is there any proposal to reduce the number of policemen on the force?

Mr. ALIANO. They are being reduced.

Because of proposition 13, we are below strength. Our highest number of officers was 7,400 in 1975, and we are down to 6,700. Today we are one of the lowest in per capita in the country. We have 1.5 patrol officers per 1,000 people.

The next chart I present is the number of guns confiscated in Los Angeles.

This chart depicts the number of guns confiscated since 1975. Approximately 8,000 guns are confiscated each year in Los Angeles.

There is no doubt guns, as well as other weapons, are readily available.

There's only one group authorized to have guns on the streets of Los Angeles, and they are the police. Anyone else can only expect trouble.

Mr. CONYERS. Well, people do have licenses to carry guns.

Mr. ALIANO. We don't issue licenses to carry guns in Los Angeles. This is not like New York with gun permits. You cannot carry a gun. If you carry a gun in a car, it must be disassembled. You cannot have a loaded gun on your front seat or in your glove compartment.

Mr. CONYERS. Or in the house?

Mr. ALIANO. The house is fine because that's not on the street.

Mr. CONYERS. Then I presume that you support gun control measures?

Mr. ALIANO. I support registration.

Mr. CONYERS. No, I'm not talking about registration. What about more stringent controls?

Mr. ALIANO. No.

I believe the people have a right to have a gun. They just don't have a right to use it to commit crimes.

Mr. CONYERS. It's OK to have guns but just have them—what I realize is that that policy introduces millions of guns into the area, and invariably a number of people are not going to follow the policy.

Mr. ALIANO. I have another chart to show the other weapons that are used that you have to control if you are going to stop these crimes.

Mr. CONYERS. It doesn't matter.

Handguns are all you need. That can create as many crimes as you need. I'm sure there are presently other weapons as well.

What about the police department itself? Does it have a policy or does your organization take the position on gun control—

Mr. ALIANO. I don't speak for the police department.

Mr. CONYERS. You work for the police department; don't you?

Mr. ALIANO. I am with the Protective League full time.

Mr. CONYERS. Well, you might know about the police department's position.

What about your organization?

Mr. ALIANO. The Protective League has a policy. Just what I stated: registration.

Mr. CONYERS. Very interesting.

Mr. ALIANO. Much has been said concerning Los Angeles police shootings.

Let's examine the fatal and nonfatal shootings of civilians.

In 1979, 14 fatalities; in 1978, 20 fatalities; in 1977, 33 fatalities; in 1976, 29 fatalities.

The number of people that we wound remains approximately the same: around 42 per year.

As can be seen, fatal shootings have decreased substantially since 1977.

Also those who were wounded have remained about the same. This, in spite of increased violent crime in the city and an increase of 23 percent in assaults in which are with guns against officers.

In 1978 police officers shot 12 percent of those people who used deadly force against them.

In 1978 there were three attacks on police officers every day of the year and police faced deadly force seven times every 5 days. This was a 9-percent increase over 1977.

These statistics are never revealed by those small but vocal groups who constantly advocate police reform and call for civilian police review boards.

It would appear from the statistics that there is more civilian abuse than police abuse.

Additional information that is extremely relevant but not made known by these groups is the number of people who were armed when shot by the police.

Of the 14 fatalities in 1979, 13 were armed with a deadly weapon.

Of the 42 who were wounded, 37 were armed with deadly weapons.

On a statewide basis from 1974 through 1978 an average of 90 civilians per year were killed by police while an average of 10 police officers were killed each year.

Considering the civilian population and the police population, more officers lose their lives in proportion to their group than do civilians.

One officer dies for each 4,000 officer population; 1 civilian dies for each 244,000 civilians.

One important point must be made: Police officers who died weren't criminals and weren't committing any crimes when they died. They were murdered, and their lives were taken because of who they were.

It would appear from these facts that it's civilian abuse that should be of concern to those that care to investigate.

Speaking of abuse and complaints against police officers, let's examine how extensive and numerous those complaints are.

The brown lines on the chart indicate outside complaints; the pink lines indicate complaints within the department.

Our outside civilian complaints have decreased since 1971. There were 1,393-plus complaints in 1971, down to 546 in 1979.

From 1978, the latest figures available, 146 of those complaints, of the 584, were sustained or 25 percent. To include all complaints for internal disciplinary matters, then 57 were sustained.

Of all complaints both outside and inside of the Department in 1978, 91 officers were processed through a board of rights; 14 were found guilty and removed from service; 57 were found guilty and received an average suspension of 24 days; 5 were found guilty and reprimanded; 13 were found not guilty.

With 3 million police-citizen contacts per year, in 1979 we received one complaint for each 5,495 civilian contacts. Not perfect, but we are constantly striving to improve our performance.

It would seem to be very clear that not only does the department investigate and discipline officer misconduct, but that complaints have dramatically decreased over the years.

This is in sharp contrast to the propagandized stories circulated about the unknowledgeable.

Mistakes, yes, we make them.

Excesses, abuses, yes, they occur; but not to any extent that warrants constant attacks, demoralizing forays, and attempts to politically control the police department.

I would also like to point out the types of weapons that are used to commit murders in the United States. I present this to demonstrate the high percentage of certain weapons that some might consider less than dangerous.

I specifically point to the 19 percent of murders committed utilizing a knife.

My last chart I present in response to an article I read in the Oakland Tribune February 21, 1980, in which Assemblywoman Maxine Waters shows her complete lack of concern for all people of all colors in this country and states that within the last 10 years the police have killed 6,000 black people.

Although these figures are not verified, it is an irresponsible and biased comment, as is the content of the article.

It is truly unfortunate that a legislator does not have concern for all people.

If that were so, then Assemblywoman Waters would have determined that during that same 10-year period there were 186,000 murders in the United States.

There should have been enough concern to call for a subcommittee hearing to investigate why these occur.

There should have also been concern for the 817 murders in Los Angeles in 1979 that did not get notoriety or attention.

But then that's no way to gain control of a police department by getting concerned over non-police-involved deaths.

I believe the issue of police shootings and the tremendous concern some take in them involves more than statistics.

It is a philosophical issue—and one which those who would cause distrust of the police are themselves philosophically disoriented.

Anyone who constantly distorts and reshapes issues to cause the police to be pitted against the public has to have their motives scrutinized.

That is farthest from the police role. The police need the public and could not function effectively without their support. We, the police of Los Angeles, know that; and the people have shown their support on numerous occasions.

Anyone that would use a police shooting incident and attempt to make a racial issue out of it lacks any understanding of what takes place in shooting situations.

Police officers react to a situation, not a person. It's of little importance when an officer defends himself or herself against a gun, who the person is who is shooting that gun.

The officer just reacts to that situation of self-defense.

What has to end and end soon is the repeated attacks on police authority and their legal justification to exist. You as legislators enact laws, but the laws need to be enforced for those who refuse to comply. We, the police, assume that enforcement responsibility.

Without laws, there would be chaos; without enforcement, there would be anarchy.

A police department needs to have the confidence of the public.

Without it, the department loses its own confidence. This will erode the ability of a department to perform to its fullest and cause officers to lose concern.

When the police come to the point of not becoming involved, the people will be the ultimate losers.

You gentlemen because of your position will carry a message that will be heard.

We anticipate that message to be one restoring confidence to law enforcement.

The Los Angeles Police Protective League is the voice of Los Angeles police officers, and we hope that our message was clear.

Mr. CONYERS. Thank you, Mr. Aliano.

Mr. Lungren?

Mr. LUNGREN. Thank you, Mr. Chairman.

Mr. Aliano, you mentioned that there is a real need for mutual respect between the department and the community it serves and you suggest that there has been some difficulty in that regard recently.

Could you tell me what suggestions you have?

What is the feeling of your membership with respect to ways in which we might achieve a restoration of mutual respect between the members of the force and certain members of the community?

Mr. ALIANO. I don't think there's a loss of mutual respect.

I think what we hear are from the people who say that is the way it is.

There is a silent majority. They only come out when the ballot measures come out and vote for issues that are supportive of the police.

We've seen it when the people supported prevailing wage; they let up keep that while the county was losing that issue 2 to 1 after proposition 13.

We saw it when they let us have a more beneficial pension system,

and all of this occurred in minority areas where most of our support came from.

We have the support, and I think our community relations programs being more open in the department as we have been with our basic car plans and getting into the community involving people in the department is what breaks down those barriers of communication and the mystique behind the police operation.

Mr. LUNGREN. Has there been any decrease in community relations efforts by the police department as the result of the cutback in the overall manpower levels of the department in recent years that you mentioned?

Mr. ALIANO. We lost a number of officers. We also lost our community relations program as it existed when we had a lieutenant in charge of the program in every division and the actual existence of a community relations program.

That all had to be disbanded because of budget cuts.

And with the radio call load and increased crime rate, it is left up to the officers to do what they can as far as meeting with community groups.

Mr. LUNGREN. Given the manpower levels that currently exist, do you think it is feasible to reconstruct such a program?

Mr. ALIANO. I think we do the best with what we have. I think we will have to get our personnel up to more adequate levels.

I don't ascribe to the theory that you have to have a cop on every corner.

I think we do the best and are effective with what we have, but I think we are understaffed.

Mr. LUNGREN. You mentioned earlier that the ratio of police officers to the civilian population is low in Los Angeles.

Could you explain the significance of the figure that you gave us?

For instance, can you make a comparison with Chicago, New York, and San Francisco?

Mr. ALIANO. Philadelphia has 4.98 officers per thousand people; Detroit, 4.45; Chicago, 4.31; and New York, 3.29.

If you included all our officers, we would have 2.5. I used patrol officers when I stated we had 1.5 officers per thousand.

Mr. LUNGREN. Patrol officers are lower than those others that you mentioned?

Mr. ALIANO. Yes.

Mr. LUNGREN. Can you tell me what the state of morale is in the department at the present time?

Mr. ALIANO. That changes.

Mr. LUNGREN. Can you characterize it generally?

Mr. ALIANO. I think they feel that they belong to an effective department; I think they feel proud of it.

The lack of corruption that you might find in some other cities—they feel good about that. That has a lot to do with morale.

Mr. LUNGREN. How do officers generally feel about the efforts being made by the sheriff's department and the police department about new techniques and weapons of a nonlethal or less-lethal nature?

Mr. ALIANO. Well, we and the officers are in favor of that.

Many of those weapons are developed by officers that were involved

in situations and were frustrated by not having a weapon to use between a baton and the gun.

One of our devices, the leg grabber, was developed by two officers who could not approach a knife-wielding individual after 45 minutes, and the only thing they had left was throwing trash cans at him.

That was their weapon.

They developed these leg grabbers which already have been used successfully.

We're looking at 4½-foot batons.

We're looking at the batons with handles on them. We've tried nets. We're looking at the electronic gun called a laser.

Mr. LUNGREN. Is there a reluctance on the part of officers to utilize these types of things?

Mr. ALIANO. No. They would like to have equipment that would make the job easier and not be frustrated in controlling situations.

Mr. LUNGREN. It is obvious from some of the testimony we have received, and from newspaper articles, and so forth, that the department and individual officers do not favor initiating a civilian review board.

Can you give us the specific reasons for their objections to that concept?

Mr. ALIANO. They see themselves controlled or disciplined by people outside and these people, not having the knowledge of what occurs within the police association, being controlled by elected officials who really their main objective is their constituency and maybe some objectivity would be lost to satisfy a certain group of people and possibly to aspire to higher office. And I think the statistics that I presented show that in Los Angeles our discipline is not weak. We are very strong and severe with officers, and they wouldn't have it any other way.

Mr. LUNGREN. Would the establishment of a civilian police review board be a major morale factor?

Mr. ALIANO. It would just about stop any officer-initiated activity in the city.

They would not put themselves on the line just to be brought before that board.

They would not put themselves in a position to cause that to happen.

Mr. LUNGREN. Throughout this hearing, the discussion has been about the use of deadly force, obviously, under unfortunate circumstances. There has been testimony on both sides. There are very different feelings. In one sense, it has nearly been suggested that the police are almost looking for situations in which to use deadly force. By contrast, we have heard statements from the police department that officers are trained to avoid the use of deadly force.

Could you express the officers' feeling, as you understand it, on how they view the use of deadly force?

Mr. ALIANO. Well, they know that the time may come when that situation may arise.

They don't look forward to it. No one wants to have to go through that type of a traumatic experience, and officers who have survived those shooting situations have gone through tremendous stress and a long process and constant scrutiny: Are you going to be fired on? The whole fear of that is stressful.

They don't look forward to that. They would enjoy it to be non-violent.

You get tired of fighting out in the streets. We are not the biggest, toughest people. We like to go home at night. We like it peaceful.

That choice is not always left up to us.

Mr. CONYERS. Thank you very much, Mr. Aliano, for joining us as president of the Protective League.

We appreciate your testimony.

The subcommittee is going to adjourn and reconvene tomorrow morning at 9:30, at the U.S. Customs Courtroom 8329, at 300 North Los Angeles.

This room will be occupied tomorrow by previous agreement, and there's none other in the building this size.

We deeply appreciate those of you who have come before the committee and many others who have worked to make this hearing possible.

We will continue tomorrow morning at 9:30 a.m.

The subcommittee stands adjourned.

[Whereupon, at 5:20 p.m., the hearing was adjourned, to reconvene at 9:30 a.m., Saturday, March 22, 1980.]



## POLICE AND THE USE OF DEADLY FORCE

SATURDAY, MARCH 22, 1980

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CRIME,  
COMMITTEE ON THE JUDICIARY,  
*Los Angeles, Calif.*

The subcommittee met at 9:30 a.m., in the U.S. Customs Court, 300 North Los Angeles Street, room 8529; Hon. John Conyers, Jr. (chairman of the subcommittee) presiding.

Present: Representatives Conyers and Lungren.

Staff present: Hayden Gregory, counsel, and Deborah Owen, associate counsel.

Mr. CONYERS. The Subcommittee on Crime of the House Judiciary Committee will come to order. This morning we continue the hearing on the police and the use of deadly force. Good morning, everyone. I am the chairman of this subcommittee and we are very honored to have with us today the Director of the Community Relations Service who has joined us. We are very pleased to welcome the Honorable Gilbert G. Pompa who is the Director of the Community Relations Service, U.S. Department of Justice.

Mr. Pompa has served with CRS many years. He is himself an attorney, former police officer and has previously been Deputy Director of the Service. He has been distinguished by many organizations for the peacekeeping role that the Community Relations Service has played in many, many tense situations across the country. We are very pleased that he has with him at the table Robert Lamb, regional director for the northwest office in Seattle and Julian Klugman, the Community Relations Service's regional director in the San Francisco area.

We are delighted to have you, Director Pompa, and incorporate your prepared statement in its entirety. We now invite you to give your testimony in your own way. Welcome before the subcommittee.

TESTIMONY OF GILBERT G. POMPA, DIRECTOR, COMMUNITY RELATIONS SERVICE,  
U.S. DEPARTMENT OF JUSTICE

Good morning, I am Gilbert Pompa, Director of the Community Relations Service of the United States Department of Justice.

Thank you for the opportunity to speak to you on one of the most important community relations problems facing our country today.

As long-time race relations mediators we know of no single problem that causes greater disruption in a community more quickly and with more devastating results than a deterioration of police/community relations. When the community loses confidence in the police and the police lose the cooperation of the community, the safety and quality of life of all involved is seriously endangered.

Over the years we have responded to various types of cases which have led to police/minority friction. These include citizens' allegations of harassment and brutality and police counter-allegations of uncooperativeness and general disrespect for the law. However, we have concluded that no single issue will lead to serious community disruption as swiftly and as harmfully as allegations or perceptions of the use of excessive force by police.

The issue is so emotionally charged that one single charge of excessive use of force against a police department has the capability of snowballing into an avalanche of problems that may include a vicious cycle of police and citizen killings; a decrease in public confidence in, not only the police force, but the entire city and even state administrations; and a decline in citizen cooperation with police, greatly hampering the ability of the police to do their job.

We see this problem as one that community members as well as police want to avoid because of the real likelihood that both citizens (particularly minority citizens), and police officers may be the eventual losers.

Concern over this issue continues to increase and is evidenced by requests for CRS services from local and national minority organizations who demand attention to the problem and likewise by the Department of Justice's emphasis on seeking a solution.

As our caseload increased by 122 percent in this area, we also increased the attention given to State, region, and nationwide projects to deal with this issue. In the past year, we sponsored two conferences on excessive use of force as it relates to minorities in the southwest, another in New England, and a nationwide "consultation on safety and force" cosponsored with the League of United Latin American Citizens (LULAC) and the National Urban League.

Our work in this area has led us to draw several general conclusions. Among these are:

1. The commonly held notion that tragic police cases arise only in large urban areas does not hold up. Our case documentation points out that fatalities from excessive force are occurring just as readily in small communities as large metropolitan areas. Further, police/community friction arising from the issue of deadly force knows no boundaries in terms of city population, size, or size of the municipal police force.

2. Patterns of occurrence are particularly difficult to determine since even the FBI reports difficulty in obtaining full, accurate, and reliable statistics from local jurisdictions in such instances.

3. Gauging the effect of citizen participation is likewise not an easy task.

We in CRS believe that the existence of citizen boards and councils may result in fewer actual cases primarily because of the extra layer of accountability. But we are not yet prepared to say that they provide a more substantive review that can be classed as an effective deterrent.

Additionally, in examining our cases, we tried to ascertain: (1) How police excessive use of force cases arise? (2) Is there a definite progression of events that usually occurs? and (3) How much of the community concern over the issue is emotionally based?

Excessive force cases do not always arise from an initial life-and-death situation for the police officer. Rather, they may arise from a great range of circumstances. While some have involved the police response to actual and violent confrontations, others have escalated from incidents as innocuous as the writing of a traffic ticket.

Although there does not seem to be a usual progression of events leading up to an officer's use of deadly force, our cases suggest that those jurisdictions where relatively minor complaints of harassment are longstanding—or are ignored by police agencies—are more likely to get excessive force complaints.

Most importantly, we have found that emotions play a prominent role in escalating problems with this issue because communities sometimes become overly involved in the emotional aspects of a tragic case to the extent that the more universal issues are ignored. We recognize that this emotional tackling block is most difficult to overcome. We have found, however, that far better results are gained if both sides focus on the police department's policy system rather than on the individual patrolman involved.

Finally, we sought to determine what guide officers have in their authority to use force. And, what legal issues are involved?

In assessing this issue and analyzing our cases, we attempted to isolate the various type of guidelines governing the officer's use of force.

An officer's decision to use a weapon is historically grounded in strict legal terms. And while these terms are based on society's view of what is reasonable

and just, the stark reality of an incident in the street more often than not demands that the officer make his or her own decision based on little more than what he or she views as reasonable and just at the very instant. As a former law enforcement officer, I can tell you that such an agonizing decision can only be fully understood by the officer who has had to make it.

Compounding the problem we found that State laws limiting a police officer's use of deadly force to arrest a felony suspect are not uniform. Therefore, it is extremely difficult to come up with a model performance standard.

Still further compounding the problem of deadly force is the lack of consistency in the classification of crimes by the various States. What is considered a felony in one State might be a misdemeanor in another, and in a third may not even be a crime.

We found, for example, that a suspect's running from the police is a felony in one of our northwestern States regardless of the suspected minor crime. In other States, minor offenses such as traffic violations, do not permit use of deadly force in their enforcement.

But we found one encouraging note. When reviewing the guidance given police officers on this issue. Presently, there is a definite trend emerging that indicates local police departments are voluntarily imposing more stringent limitations on their officers than are required by State laws. More restrictive firearm policies and the like have resulted from such self-imposed efforts.

In addition to concerns over firearms policies, we found other common concerns in the various cases which we handled. These include:

The nature of the enforcement of these firearms policies and procedures.

The degree of accountability required by the police in the exercise of their discretion.

The nature and effectiveness of the current review process used by the police department when an allegation of excessive use of force is made.

The extent of citizen participation in the development of policies and in the enforcement of these policies through the review process.

Further, we concluded that community groups had a variety of reactions to allegations of excessive use of force by police. These reactions range from total support of the police from some factions to an all-out confrontation against police from other factions.

Although we can cite no one guaranteed plan or failsafe system to address this issue, we have found, through our experiences, that some of the most effective cooperative actions by citizens and police in helping to solve an excessive use issue have been the utilization of constructive channels by citizens that allow an atmosphere of continued cooperation between police and citizens. These include:

Willingness on the part of citizens to cooperate with the police department in identifying and solving specific problems surrounding excessive use of force.

Registering of citizens' complaints formally with the police department through the police/community relations unit if one exists, the city human rights unit, the mayor's office, the district attorney's office, and/or community-based legal service organizations.

Citizens acting as an interface between individuals with complaints and the police department, gathering information on alleged use of excessive force, presenting it to the police department in a uniform and comprehensive manner.

Operating a rumor control and information dissemination mechanism.

Police actions that have had positive citizen support include:

Developing and implementing adequate and reasonable policies with citizen input and support.

Enforcement of such policies so as to generate confidence in the police mission.

Screening before hiring and assigning officers to prevent or minimize the likelihood of incidents leading to use of excessive force.

Providing adequate training and updating of training in enforcement procedures to instill confidence in carrying out the police mission in a professional, nonabrasive manner.

Developing a public attitude on the part of the department in general, and individual officers in particular, that the police mission emphasizes the community relations aspects of its job as most necessary in reducing crime.

In conclusion, I want to re-emphasize that the Community Relations Service considers the issue of police use of excessive force one of the most serious disruptive problems in our nation today. For this reason we have assigned it the highest priority and will, in cooperation with other elements of the Department, community groups, and law enforcement officials, continue to provide assistance in resolving complaints regarding this issue.

## TESTIMONY OF GILBERT G. POMPA

Mr. POMPA. Thank you, Congressman. I might point out that Regional Director Robert Lamb is also chairman of the task force which I put together a couple of years ago on the police and excessive use of force and he joins me today not only in that capacity but also as regional director.

We thank you for the opportunity of speaking on one of the most important community relations problems facing our country today.

As long-time race relations mediators, we know of no single problem that causes greater disruption in a community more quickly and with more devastating results than deterioration of police/community relations.

When the community loses confidence in the police and the police lose the cooperation of the community, the safety and quality of life of all involved is seriously endangered.

Over the years, we have responded to various types of cases which have led to police/minority friction. These include citizens' allegations of harassment and brutality and police counter-allegations of uncooperativeness and general disrespect for the law.

However, we have concluded that no single issue will lead to serious community disruption as swiftly and as harmfully as allegations or perceptions of the use of excessive force by the police.

The issue is so emotionally charged that one single charge of excessive use of force against a police department has the capability of snowballing into an avalanche of problems that may include a vicious cycle of police and citizen killings; a decrease in public confidence in, not only the police force, but the entire city and even State administrations; and a decline in citizen cooperation with police, thereby greatly hampering the ability of the police to do their job.

Concern over this issue continues to increase and is evidenced by requests for CRS services from local and national minority organizations who demand attention to the problem and likewise by the Department of Justice's emphasis on seeking a solution to this very difficult problem.

As our caseload increased by 122 percent in this area, we also increased the attention given to State, regional, and nationwide projects to deal with this issue.

As a result of this attention, our work in this area has led us to draw several general conclusions which we would like to share with you. Among these are: 1. The commonly held notion that tragic police cases arise only in large urban areas simply does not hold up. Our case documentation points out that fatalities from police use of excessive force are occurring just as readily in small communities as large metropolitan areas.

Further, police/community friction arising from the issue of deadly force really knows no boundaries in terms of city population, size, or size of the municipal police force.

Second, patterns of occurrences in terms of killings of and by police are particularly difficult to determine since even the FBI reports difficulty in obtaining full, accurate, and reliable statistics from local jurisdictions in such instances.

Third, gaging the effect of citizen participation is likewise not an easy task.

We in Community Relations Service believe that the existence of citizen boards and councils may result in fewer actual cases primarily because of the extra layer of accountability.

We are not yet prepared to say that they provide a more substantive review that can be classified as an effective deterrent.

Additionally, in examining our cases, we try to ascertain various other factors such as: No. 1, how police excessive use of force cases arise?

No. 2, is there a definite progression of events that usually occurs? And, No. 3, how much of the community concern over the issue is emotionally based?

We have determined that excessive force cases do not always arise from an initial life-and-death situation for the police officer; rather, they may arise from a great range of circumstances.

While some have involved the police response to actual and violent confrontations, others have escalated from instances as innocuous as the writing of a traffic ticket.

Although there does not seem to be a usual progression of events leading up to an officer's use of deadly force, our cases suggest that those jurisdictions where relatively minor complaints of harassment are long standing, or are ignored by police agencies, are more likely to get excessive force complaints.

Most importantly, we have found that emotions play a prominent role in escalating problems with this issue because communities sometimes become overly involved in the emotional aspects of a tragic case to the extent that more universal issues are ignored.

We recognize that this emotional tackling block is most important to overcome. We have found, however, that far better results are gained if both sides focus on the police department's policy system rather than on the individual policeman involved.

Finally, we sought to determine what guides officers have in their authority to use force and what legal issues are involved.

In assessing this issue and analyzing our cases, we attempted to isolate the various types of guidelines governing the officer's use of force.

We all know that an officer's decision to use a weapon is historically grounded in strict legal terms, and while these terms are based on society's view of what is reasonable and just, the stark reality of an incident in the street more often than not demands that the officer make his or her own decision based on little more than what he or she views as reasonable and just at that very instant.

Compounding the problem, we found that State laws limiting a police officer's use of deadly force to arrest a felony suspect are simply not uniform. Therefore, it is extremely difficult to come up with a model performance standard for the overall use of deadly force.

Still further compounding the problem of deadly force is the lack of consistency in the classification of crimes by the various States in which we operate.

What is considered a felony in one State might be a misdemeanor in another and in a third may not even be a crime.

We found, for example, that a suspect's running from the police is a felony in one of our Northwestern States regardless of the suspected minor crime. In other States, minor offenses such as traffic violations, do not permit use of deadly force in their enforcement.

But we have found one encouraging note that we would like to share with you. When reviewing the guidance given police officers on this issue, we found that presently there is a definite trend emerging that indicates local police departments are voluntarily imposing more stringent limitations on their officers than are required by some State laws. More restrictive firearms policies and the like have resulted from such self-imposed efforts.

Further, we concluded that community groups had a variety of reactions to allegations of excessive use of force by police. These reactions range from total support of the police from some factions to an all-out confrontation against police from other factions.

Although we can cite no one guaranteed plan or fail-safe system to address this issue, we have found, through our experiences, that some of the most effective cooperative actions by citizens and police in helping to solve an excessive use issue has been the utilization of constructive channels by citizens that allow an atmosphere of continued cooperation between police and citizens.

These include such things as willingness on the part of citizens to cooperate with the police department in identifying and solving specific problems surrounding excessive use of force; registering of citizen's complaints formally with the police department through the police community relations unit if one exists, the city human rights unit, the mayor's office, the district attorney's office, and/or community based legal service organizations; citizens acting as an interface between individuals with complaints and the police department, gathering information on alleged use of excessive force, presenting such information to the police department in a uniform and comprehensive manner.

Some police actions that we feel have had positive citizen support include: Developing and implementing adequate and reasonable policies with citizen input and support; enforcing such policies so as to generate confidence in the police mission; screening before hiring and assigning officers to prevent or minimize the likelihood of incidents leading to use of excessive force; providing adequate training and updating of training in enforcement procedures to instill confidence in carrying out the police mission in a professional, nonabrasive manner; also, developing a public attitude on the part of the department in general, and the individual police officers in particular, that the police mission emphasizes the community relations aspects of its job as most necessary in reducing crime.

In conclusion, Mr. Chairman, I want to re-emphasize that the Community Relations Service considers the issue of police use of excessive force one of the most serious disruptive problems in our Nation today. For this reason we have assigned it the highest priority and will, in cooperation with other elements of the department, community groups, and law enforcement officials, continue to provide assistance in resolving complaints regarding this issue.

I have concluded my statement and I will be happy to answer any questions you might ask.

Mr. CONYERS. Thank you, Director Pompa. Can you or your regional directors give us any examples of how you have operated in the face of a police shooting or where there has been use of excessive force or where there has been a very sharp situation going on in a city?

Mr. POMPA. Generally, Congressman Conyers, we become involved with a particular department before an incident occurs by virtue of the type of rapport which we may have established beforehand. But all too often, because we have a small staff, we are unfortunately drawn into these types of incidents after they occur.

What we do in situations varies from region to region, but essentially the process involves the logging of the incidents which are referred to us. We then proceed to assess these alerts for possible community implications. If necessary, we then move to provide conciliation or mediation service to the situation.

Mr. CONYERS. Well, how do you operate? What do you do in the real world? How does it happen?

Mr. POMPA. All right. Let me call on Mr. Bob Lamb to give us the on-the-ground assessment of how he would conduct an interview, and then we might amplify it by calling on Mr. Klugman to see how he would handle it.

Mr. LAMB. Mr. Congressman, the manner in which the agency would respond would, of course, depend on the nature of the incident itself. I would like to make a brief addendum to the comments that were made by the Director before proceeding in an effort to answer your question.

In our whole effort of looking at the question of excessive force, we found that race appears to be a significant factor. The number of blacks that are killed by the police nationally appears to be highly disproportionate to the number of whites killed by the police.

The figures on a national basis as it relates to Hispanics are not readily available because Hispanics are often identified as whites.

Looking at the matter from the standpoint of important factors, it involves, to a great extent, these two minority communities, and as the Director stated, no other type of incident seems to serve to precipitate a greater breakdown between law enforcement and the police, particularly with minority groups.

We have found when we attempted to analyze the perceptions that exist in the total community, including the minority community, we find that there are few institutions that sufficiently understand or recognize the gravity in terms of the anger that exists in the minority community when a shooting takes place.

As to what happens when a shooting takes place I would like to cite one city, as an example, the city of Seattle, Wash., where we conducted an assessment of the problems. In conducting an assessment of the problem, we do not view the problem as a police problem; we view the problem as a community problem, as a total community problem although the police certainly are in a very instrumental and key role, serving a key role in that problem.

To resolve it, you need to recognize it, you need to control it within the community itself. Seattle has had a history of a disproportionate number of blacks being killed by police, despite the fact that I would say up to 2 years ago Seattle had a black population of perhaps 9 percent, some 49 percent of victims of police use of deadly force were black.

There was one particular case, as in most instances, that created a tremendous furor within the community that the Community Relations Service responded to. At this particular time working with the

total community, we found that the Urban League, the NAACP, the American Civil Liberties Union, various church groups, the chamber of commerce and other organizations were concerned about the problem itself.

Viewing the manner in which the police departments establish their function, we attempted to identify the control mechanisms. Control mechanisms also existed in the office of the mayor; and within the office of the city council.

So as a result, there were developed, within the city of Seattle working with various groups, efforts to identify a means of detecting, monitoring what happens before excessive force occurs and what happens after it occurs.

It was determined that the climate in the community has a great deal of influence on the attitude of law enforcement officers. The sensitivity or insensitivity toward minority groups also played a great role.

We looked at the preliminary training; we looked at the need for identifying the kind of officers that were being recruited into police work and we looked at police policy itself.

One area that the entire community, including the city council and the various organizations, felt that should be addressed was the question of the firearms policy.

It also became an issue which political candidates were asked to address as they were aspiring to the position of mayor.

A police firearms policy was finally drafted and submitted by the mayor as a result of working with various groups in the community with the assistance of the Community Relations Service.

We provided technical assistance. We have, as you know, administration of justice specialists and consultants. One administration of justice consultant; namely, Dr. Lee Brown, who is presently commissioner of public safety in Atlanta, Ga., was dispatched to Seattle to work with those in governing positions and to make recommendations.

The recommendation of the Community Relations Service, through the administration of justice consultant, was for a firearms policy which would limit the use of deadly force to those incidences when a police officer's life or someone else's life or a police officer or someone else's personal safety was in great danger.

That policy was submitted to the city council and an addendum was made to it adding to it a provision based upon what has been identified as a policy on danger. That was passed. That policy was passed by the city council.

Subsequent to that, the police officer's union had an initiative placed on the ballot similar to what I imagine was called California proposition, something of that sort, on the ballot and the majority of the community voted to overturn the more restrictive policy.

However, the problem still remained—

Mr. CONYERS. What was the issue on the ballot?

Mr. LAMB. I am sorry, I did not make that clear. The police department had asked the citizens to overturn the policy that had been established.

Mr. CONYERS. The firearms policy?

Mr. LAMB. The firearms policy. They asked if they could be given power of the party to return to State law and State law is based on any felony and that is what occurred.

Mr. CONYERS. What I am trying to get at is how you characterize a community relations service as functioning? I see it as the negotiating arm, the independent leadership factor that can move into a tense community situation and be able to talk to all sides and to work things out. That is what I think you do, but the question is what do you really do? You were telling me what happened in a situation.

In Seattle you got involved in a firearms policy. I presume that that was the strategy you saw as being effective.

Mr. LAMB. That was only one of the strategies. What I was attempting to do, perhaps because I was thinking about the problem of time, was indicate that that was one of the products resulting from the activities.

Mr. CONYERS. Is it true that you may do a number of things or anything in each situation depending on the give and take? I was trying to develop sort of a succinct pattern of what your approach is when you get a situation where a city is torn over the issue of excessive use of force; what is the approach?

Mr. POMPA. Let me see if I can answer that for you, Congressman. We have two cases in Texas that might illustrate best the role of the Community Relations Service in these types of situations. One was in Galveston and the other in Houston. I will use Houston because it is probably better known but the situations are pretty similar although the results were not.

In Houston as a result of the shooting of José Compos Torres, there was an immediate outcry for some redress demanded by the community in Houston.

Essentially what happens in these types of situations, you have the killing by a police officer of a minority victim. Usually the officer will be white with a minority victim, most often black or Hispanic.

From this, you usually get an immediate reaction from the minority community demanding the officer's hide. They want him tried and convicted right then and there.

In this type of atmosphere, the Community Relations Service comes in and tries to sort through the issues that both sides may have surfaced.

On one hand you usually have the police department saying they are looking into it and on the other hand you have the community saying the police are not looking into it fast enough and nothing is being done.

So we have to sort of wade through that and try to get at the more substantive issues, like the root causes of what brought the problem about in the first place. Invariably, these issues wind up being either the lack of an affirmative action plan, or lack of a firearms policy within the department, things of this sort.

Our job is to go in and sort through these issues and come up with an approach that can bring the community and the police toward a joint resolution of that particular problem.

Mr. CONYERS. You are a lubricant?

Mr. POMPA. Well, we try to be the lubricant and, hopefully, the mechanism by which the solution is found.

Mr. CONYERS. I appreciate hearing that. Do you have any techniques you were going to put into operation here in California, Mr. Klugman, unless they are secret and we don't want to divulge how to resolve the

tensions here in Los Angeles. Since we are in the real world and we have a situation that is swirling around us, thank goodness, Mr. Lungren did not deliberately suggest we come out here this weekend.

Fortunately, nobody can say we planned all of this—maybe somebody suggested that. I mean the headlines every day are on the subject of which this committee is holding hearings. It would seem to me that CRS might have an important role to play in the events that are swirling around us here in this great city.

Mr. KLUGMAN. We have offered our assistance to the police department and the police commission. We have been meeting with various minority organizations for quite some period of time.

Mr. CONYERS. See if your mike is on.

Mr. KLUGMAN. The police commission came out a few weeks ago—similar testimony was heard yesterday—with a new plan. The area of our expertise is community relations and the plan—

Mr. CONYERS. Your mike isn't working.

Mr. KLUGMAN. I was saying the police commission came out with a very ambitious plan, "The Third Report," a few weeks ago and in the area that would be our area, community relations, it plans to increase the amount of training devoted to community relations training and to involve the minority community in the development and giving of the training.

Mr. CONYERS. Wait a minute, you are going to involve more community people in training for police community relations?

Mr. KLUGMAN. That remains to be seen. This is what the plan lays out. We have met with the department and have offered our assistance.

Also, the commission set up a black advisory committee to function for a few weeks and a Spanish advisory committee which is being formed now and we are working with those committees.

Mr. CONYERS. Let's take an example not speaking about the Los Angeles area. What do you do in a situation where there is an intense police intransigency, where there is an insular situation where the police feel offended if you inquire into what in God's name they are doing shooting so many people? You know that is the situation. You are telling me about the emotional factor of the citizens over one case, but the fact may frequently be that that "one case" is No. 20 in a long list of "one cases" and their emotions may be heightened.

So it seems to me that frequently we have got a situation in which the problem is on the side of a Government agency which doesn't care what CRS or a congressional committee or the citizens or anybody else is saying. What is your approach in that kind of circumstance?

Mr. POMPA. Unfortunately, Congressman, we are sometimes limited by the receptivity from a particular department we are trying to deal with. One of the better known problem areas of the country, as you and I well know, was Philadelphia where we tried to work with that department and had no receptivity for the types of approaches that we might have been able to suggest to them to minimize the type of problems that exist there. So in actuality, we are limited in what we can do by the receptivity we get from the department or the community we are trying to assist—although there are very few incidences wherein the community is not receptive to the suggestions we make.

Mr. CONYERS. In these kinds of cases, Gil, and in school desegregation cases, you come into a situation in a city where the people that

are fighting desegregation don't want you in. If you are from the outside, that is bad news as far as they are concerned. They don't want anybody in. They say this is a local matter, what are you doing here? You are from Washington somewhere.

So I mean if you are limited to that frequently, you probably would be invited to leave nine times out of ten because they don't want you to help resolve the difficulty or they are afraid that your position may be different from theirs.

Mr. POMPA. Fortunately over the years, Congressman, we have been able to establish the type of credibility and develop the type of receptivity on the part of community groups, organizations, and in most cases, majority institutions, institutions involved in the educational process, and law enforcement, enabling us to function in those types of situations.

In desegregation cases, where the court has intervened and included us in its court order, we usually have the necessary clout to bring about participation on the part of all the institutions that might be under the jurisdiction of the court.

Mr. CONYERS. Good morning, Congressman Lungren, the floor is yours.

Mr. LUNGREN. Thank you.

From what I understand, Mr. Pompa, your organization really provides a facilitating function, which needs the assistance of the community and local officials.

In that regard, how do you mesh your activities with those of the U.S. attorney in a particular area?

Mr. POMPA. Part of our operational procedure requires contact with the U.S. attorney in the particular jurisdiction where we are involved.

Before we initiate service, we contact the U.S. attorney in that particular area to assure that he is aware of what we are about to proceed with, and to make sure that it is not at odds with whatever he or she may be doing regarding the issue.

We check not only with the U.S. attorney's office, but also with any other Federal agency that might be involved with that particular issue. For example, if the Civil Rights Division of the Department of Justice is involved in a suit against a particular police department that we are looking at, we generally defer to them before becoming involved, or at least check off with them to make sure we are not becoming involved in something that might wind up being counterproductive to their own particular interest.

Mr. LUNGREN. You mentioned in your statement that your caseload has increased by 122 percent with respect to requests for services from local and national minority organizations.

What period of time, and what type of complaints are involved in this 122-percent increase?

Mr. POMPA. We categorize the general area of police/minority friction as either harassment, brutality or police use of excessive force. Harassment generally includes those type of complaints that citizens have regarding the overpresence or the perception of overpresence in a particular area by the police.

Brutality is when an otherwise legal arrest is made, and in the process of making the arrest, the person is brutalized after the arrest has been made. Third, the use of excessive force is described as an

arrest being made using what is perceived or what might be perceived as more force than is reasonably required under the circumstances.

The 122-percent figure only represents an increase in cases dealing with allegations of police use of excessive force for fiscal year 1978 and fiscal year 1979.

Mr. LUNGREN. That is specifically in the area of the use of excessive force?

Mr. POMPA. Yes.

Mr. LUNGREN. Do you ever get complaints from the minority groups in these communities, on the opposite side of the coin, that there is a failure in that particular community to give enough attention to law enforcement; that is, a failure to give a particular area necessary police protection?

Mr. POMPA. Are you saying do we ever get complaints from the minority community or the general community?

Mr. LUNGREN. I am talking about suggestions that the police department seems to be failing to pay enough attention to the minority community.

Mr. POMPA. That is generally a root cause, one of the root causes of the police-community friction problem as we see it.

Mr. LAMB. Specifically as it relates to response by law enforcement. The response by law enforcement agencies is perceived to be much slower than in the majority community.

Mr. LUNGREN. Has it also been your experience that this is the major complaint?

Mr. LAMB. No; I said one of the complaints is lack of service and how that is being defined.

Mr. CONYERS. If I may interrupt for just a moment because what I think he is raising is what appears to be a contradiction in his mind. We have got two complaints, one about police abuse and being all over the place, climbing all over everybody, and the other side is not being there when they are needed. So he is saying, are these both major complaints? I think you really ought to expand on that because it is a very important point.

Mr. LUNGREN. Where you receive such complaints, what steps have you taken or would you like to take to work with the community and the authorities to remedy the situation?

Mr. POMPA. Well, it breaks down to a perception problem. We are basically dealing with the perceptions of a minority community vis-a-vis what the police are doing in a particular area. From a community relations standpoint, the minority community in those communities we have had responses from, perceive the presence of police as not being for the purpose of providing service, but for the purpose of keeping watch over them. This brings about the negative connotation that they have about police.

It eventually leads to wider negative feelings.

Mr. LAMB. Also, from my experience, most of the activities that police respond to are not enforcement in nature. Eighty-five percent of police response has been identified as being activities of a service type. Minorities are in need of that kind of service more than others. The request for more service does not mean they are requesting more service that might be in the form of more punishment. The request for

more service is the request for more service that the community feels is needed to safeguard and protect.

Along with what the director said earlier, I think the perceptions, as they exist within the minority community, and also unfortunately exist within the law enforcement community, sometimes will enable the officer to feel he is patrolling one community as opposed to protecting that community.

Mr. LUNGREN. Thank you very much.

Mr. CONYERS. Gentlemen, we could go on and on; we have only scratched the surface. But since I am going to invite you to testify in Washington anyway, we will let you off easy here in Los Angeles.

Mr. POMPA. I just want to ask if we sufficiently answered the question about what we do. If I could just take 1 minute to run you through it.

Mr. CONYERS. Well, you provide lubrication.

Mr. POMPA. Let me say it from this standpoint. About 2 months ago, we had a case in Idaho. Despite the cold weather, some 300 Hispanic citizens were complaining of police brutality. There were several arrests and the community was saturated with rumors and threats of intentions. CRS staff quickly responded to the problem, assisted in establishing a rumor control mechanism, met with both sides, law enforcement as well as the citizens themselves, and isolated the grievances.

We were able to provide conciliation which brought the parties to the negotiation table and, as a result, the Hispanic citizens, the police and the mayor of that community reached an agreement. The agreement was to establish a police community relations program and to start giving further attention to the Hispanic community.

Mr. CONYERS. So why don't you do it in Los Angeles so we don't have to keep coming out here? What is the problem for sitting the people down? We have observed that we have reasonable law enforcement people here. All we have to do is sit down and talk with them about the problem, bring it to their attention, discuss the matter rationally, calmly; we are all human beings. This is a civilization. What is the big deal about the west coast as opposed to anyplace else?

Mr. POMPA. It is my understanding, Congressman, that Mr. Klugman might be better prepared to answer than I other than the fact he had briefed me this morning about a situation along the west coast and some of the cases we have been handling. We have begun to work with the Los Angeles Police Department to a greater extent. In other words, the receptivity has been greater this year than I would say it has been in the past. Generally, we have not been closely working with the Los Angeles Police Department. Certainly not because we didn't want to, but for other reasons.

Mr. CONYERS. Do you want to add anything, Mr. Klugman?

Mr. KLUGMAN. As I indicated before, there is a very ambitious program that the commission has come out with; I think it is really too early to tell. If this program is carried out in its entirety, there is a lot of firsts in that program. It just came out a few weeks ago.

There are other cities on the west coast. We have done mediation in a couple of counties. We had a mediation agreement in Humboldt County with the sheriff's department and a couple of Indian tribes. In northern California there has been a long history of complaints.

In the Klamath situation, the sheriff did sit down and we worked out a very intricate, detailed mediation of those negotiations. In Fresno, Calif., we are involved in communications training. In San Jose a few years ago, there was an incident, a shooting and a man was killed. There were a lot of community meetings there which took the form of on-the-table negotiations and there have been several changes in the San Jose Police Department.

It wasn't formal negotiations. Part of the complaint was the people did not have complaint procedures. There was no place to register a complaint on the part of the community.

There have been more Hispanic officers in that area. A tremendous increase of 60 percent in the last 2 years of Hispanic officers has taken place. Good officers have been hired in the community and that has made a lot of difference. Each community is different and in Los Angeles, there are some new things happening. Whether this will have an effect is yet to be known.

Mr. CONYERS. Thank you very much for coming, Director Pompa, Mr. Lamb, and Mr. Klugman. We appreciate your coming and joining us at this hearing. We will be working with you in Washington as we go along. We appreciate your doing this.

Mr. LAMB. Thank you very much.

Mr. CONYERS. We would like our panel to come forward at this point.

We have the chairperson of the Coalition Against Police Abuse, Mr. Charles Chapple; from the ministerial organization called The Gathering, Rev. Milton M. Merriweather; Rev. Heber C. Jentzsch, a member of The Gathering; and Rev. Jesse Gray.

Why don't you gentlemen take a moment to determine in what order you would like to proceed. It is all right with the subcommittee to proceed any way you wish and we will respect that.

#### STATEMENT OF COALITION AGAINST POLICE ABUSE

Speaking on behalf of the Coalition Against Police Abuse, I would like to give a synopsis of our involvement and attempts to address the question of police repression as it pertains to the County of Los Angeles. For nearly five years C.A.P.A. have been involved in a day-to-day struggle against police killings, senseless brutal beatings, spying on peaceful groups, racist verbal insults, and rape of women and children. These atrocities are in fact escalating at a very alarming rate, with no response from Federal, State, or local government. The struggle for redress have taken many forms, demonstrations in the street, presentations to government bodies and officials such as Mayor Tom Bradley, Los Angeles City Council, Los Angeles County Board of Supervisors, District Attorney John Van De Kamp, Los Angeles City Attorney Burt Pines, Los Angeles Police Commission, Phillip Montes and Arthur Flemming of the Civil Rights Commission, and Andrea Ordín of the Justice Department have been aware of this problem for more than four years and have failed to act. These government institutions instead of giving the people a vehicle of redress when abused by the police, we find them instead in collusion with the police, condoning legalized murder, brutal beatings, illegal stops searches and seizures, denials of people's constitutional rights, on a day-to-day basis. The answer from these government institutions pertaining to this type of lawlessness is in the form of no indictments for law enforcement officers when they abuse the civilian population in this manner. The community have witnessed the shredding of 4½ tons of citizens complaints by high ranking officials of the Los Angeles Police Department and the City Attorneys Office. The statutory rape of several young females ranging between the ages the of twelve and fifteen, L.A.P.D. officers, the rape of an eight year old Black female, L.A.P.D. officers also, no indictments.

Here we sit once again giving presentations and testimony to a government body, with no solutions in sight except for the ones that we have set for our-

selves and that's the launching of the Campaign for a Citizens Police Review Board. The time for talk is over, the time for action is long overdue. The City of Los Angeles as well as the entire Nation have been appealed to by the people of poor working-class and minority communities, to address these gestapo police repressive tactics. If this committee is serious, it would look into the question of systematic genocide of minority people, and launch an immediate independent, objective investigation into these allegations of police abuse by L.A.P.D. and Sheriff deputies. Anything short of an independent investigation into this matter will show the same kind of insensitivity, and unconcern, as shown by local government officials. C.A.P.A. have no doubts if investigated, it will find a large portion of these allegations to be true, correct, and criminal in nature. Look into the cases of Dewayne Standard, Anthony Reeves, Gregory Williams, Eula Love, Barry Evans, Carlos Washington, Marvalene Snowdon, Mark Mozer, Brad Robbins, George Ward, Mary White, Cedrick Steward, Steve Cogner, Bill Gaven, Anthony Brown, Ed Ramirez, Jimmy Blando, Travis McCoy, Abel Gill, Janice Peck, Reyes Martinez, Ron Burkholder, James Huey Richardson, James Baldwin, Phillip Eric Johns, I could go on and on. If you spend the time and resources that you have at your disposal to look into these cases you will see for yourself the institutionalized coverups of murder and police crime that have been taking place historically for years. If it is this Committee's intention to come and just listen to what we have to say, with no intention to do nothing in the form of action, it will be revealed to the people, that your just another lackadaisical, morally bankrupt committee, that serve no purpose, to the needs of people in this inherently racist society. I would like to close this brief presentation by putting forth several demands to this committee. The Coalition Against Police Abuse would like for this committee to:

(1) Use it's influence to push for an objective, independent investigation, conducted by the Federal Civil Rights Commission.

(2) Insure that a transcript of these proceedings be forwarded directly to President Jimmy Carter, and Mr. Civiletti of the Justice Department.

(3) Recommend that the restriction of federal monies allocated to the Los Angeles Police Department not be lifted until it cleans up its act of racist and sexist hiring practices.

(4) Investigate the violation of the civil rights of citizens held in custody of county jails and detention centers.

(5) Investigate the unconstitutional and illegal spying on individuals, churches, and community groups, such as C.A.P.A., S.C.L.C., Rev. M. M. Merriweather, etc.

(6) Investigation of the Los Angeles District Attorneys office for lack of indictments of law enforcement officers, involved in questionable shootings and beatings.

(7) Investigate the shredding of four and a half tons of citizens complaints by high officials of the Los Angeles Police Department and City Attorneys Office.

(8) Complete investigation of the Los Angeles County Sheriff's Department for the many questionable shootings and beatings, and also the gross violations of people's human rights in the county jail system.

#### TESTIMONY OF CHARLES CHAPPLE

Mr. CHAPPLE. I guess I can open up. In speaking on behalf of the Coalition Against Police Abuse, I would like to give a synopsis of our involvement and attempts to address the question of police repression as it pertains to the county of Los Angeles.

For nearly 5 years, the Coalition Against Police Abuse has been involved in a day-to-day struggle against police killings, senseless, brutal beatings, spying on peaceful groups exercising their political rights, racist and verbal insults, and rape of women and children.

These atrocities are in fact escalating at a very alarming rate with no response from Federal, State or local government.

The struggle for redress has taken many forms—demonstrations in the street, presentations to government bodies and commissions such as Mayor Tom Bradley, Los Angeles City Council, Los Angeles County Board of Supervisors, District Attorney John Van de Kamp,



Los Angeles City Attorney Burt Pines, Los Angeles Police Commission, Philip Montez and Arthur Flemming of the Civil Rights Commission and Andrea Ordin, who spoke before you yesterday, have been well aware of this problem, for I know, the last 5 years.

All of these agencies have failed to act. These government institutions, instead of getting the people redress when abused by the police, have been in collusion with the police.

They condone legalized murder, brutal beatings, illegal searches and seizures, denial of people's constitutional rights on a day-to-day basis.

The answer from these government institutions to this type of lawlessness is in the form of no indictments for law enforcement officers when they abuse the civilian population in this manner.

The community has witnesses of the shredding of 4½ tons of citizens' complaints to high-ranking officials of the Los Angeles Police Department and the district attorney's office; statutory rape of several young women ranging between the ages of 12 to 15 years old by Los Angeles police officers and that is sustained.

As was mentioned yesterday, the rape of an 8-year-old black female child by LAPD officers in which a civil proceeding is in progress right now, has been in process for the last 5 years, yet no indictment of any law enforcement officers.

Here we sit once again giving presentations and testimony before a Government body with no solutions in sight except those ones we have set for ourselves and that is the launching of a campaign for a police review board to try to get some kind of redress.

The time for talk is over; the time for action is long overdue.

The city of Los Angeles, as well as the entire Nation, has been appealed to by the poor working class community and minority communities to address these gestapo police repressive tactics.

If this committee is serious, it will look into the question of systematic genocide of minority people and launch an immediate and independent investigation of the allegations of police abuse by the Los Angeles Police Department and the Los Angeles County Deputy Sheriffs.

Anything short of an independent investigation into this matter will show the same kind of insensitivity and unconcern as shown by local government officials.

The Coalition Against Police Abuse has no doubt that if you investigate, you will find a large portion of these allegations to be true, correct, and criminal in nature.

Look into the case of Duane Standard, a young man who was shot in the head in the back of a police car, while handcuffed; the case of Anthony Reeves, an unarmed 26-year-old young man, shot with his hands raised as reported by witnesses: Gregory Williams, unarmed, shot while at a dance at the Beverly Hilton and, of course, the case of Eulia Love that you heard so much about yesterday; the case of Barry Evans, a 17-year-old youth, shot in the back three times, unarmed; and the case of Cedric Stewart.

I could go on and on and name cases and the reason why I am doing that is because when the Protective League officer was here yesterday, he gave the appearance that everyone shot in this city is shot while conducting or in the process of conducting a crime and that is a flagrant lie.

I have numerous cases such as these that I can name and make available to you, where we can show a large number of people being killed in the city of Los Angeles void of any criminal intent or void of any criminal activity.

If you look into these types of cases, you will see for yourself the institutionalized coverup of murder and police crimes which have been taking place historically for years.

If it is this committee's intention to come to this city and listen to what we have to say with no intention of doing anything in the form of action, it will be revealed to the people that you are just another lackadaisical, morally bankrupt committee that serves no purpose to the needs of the people in this inherently racist society.

Mr. CONYERS. But on the other hand, suppose we do act?

Mr. CHAPPLE. I am saying if you do not act.

Mr. CONYERS. I am supposing if we do act.

Mr. CHAPPLE. Then you may be the Government agency who will be serving the needs of the people in this country.

Mr. CONYERS. That puts me in a nice little interesting box. Since I came out here voluntarily in the first place, and your suggestion is that if I happen to do all the things that you would like to have done, then you say well, maybe, I am serving my original purpose.

Mr. CHAPPLE. First of all, Congressman, I am not asking you to do a lot of things.

I am asking you to do one thing and that is investigate the allegations that are going to be made at this hearing. That is not a lot of things.

Mr. CONYERS. It is an incredible lot of things. Let's be reasonable about this with me because I am going to be reasonable with you.

When you suggest to me that we have about 20 murders to investigate in a subcommittee that has extensive jurisdiction, you conclude by saying that is not much. I would like to point out to you that this would be the first time in American history that any subcommittee could go into one city, as opposed to all the other cities that are demanding we come into, to conduct all of these investigations, report back to you, and you say I am not asking you for so very much. Well, it just so happens that there are about 10 other cities that are demanding that this subcommittee be there to do the same thing you are asking.

I would like you to put that into perspective.

Mr. CHAPPLE. I will put it into perspective, Mr. Congressman. I think this committee is a small committee. I very well understand that, but I do know that this committee has influence. I do know that this committee has a tremendous amount of resources at its disposal that community people or community groups do not have.

If you will let me sum up, it will take a few minutes, I might suggest to you how you could best do that. I am not asking you to go about the country investigating every murder. I think that is an illusion.

I am asking you, as you will see when I conclude, to use the influence that you have, that I think you have, to spark an investigation. I am not saying that you have to do it. I think you could use your influence, for example, to spark the Civil Rights Commission, which I think is a very well fact-finding agency or entity in government, to come into the city of Los Angeles and conduct hearings like they did in Houston, and in Philadelphia. This is what I am saying.

Arthur Flemming has been here and has had meetings with just about everybody that you are going to be talking to in this room. They were conducted last summer. You can confirm that with Mr. Montez. We have met with Mr. Montez several times.

There are a lot of things you can do in using your influence to get some type of help out of this hearing; that is all I am saying.

If you think that is asking too much, you know, hey, I am sorry, I don't agree.

I think there are a lot of resources that Government agencies have that they could utilize in this type of situation to get an objective opinion of what we are talking about. That is all we are asking and I don't think it is too much to ask from government.

When I speak of government, the Federal Government, I am not talking about this little committee. You see what I am saying? I know, I have been following you for quite some time. I know you have a tremendous amount of influence as well as all the other Congressmen.

That is all I am asking and I still don't think it is asking too much.

I would like to sum up. It will only take me a few seconds to do that and I can go to the other gentlemen on the panel. I will be available for any questions you may have for me afterwards.

I would just like to sum up by saying that the Coalition Against Police Abuse would like this committee to, No. 1, use its influence to push for an objective, independent investigation conducted by the Federal Civil Rights Commission. This request was also made to Mr. Arthur Flemming and Mr. Montez when we went through this same type of proceeding a few months ago.

No. 2, insure that a transcript of these proceedings be forwarded directly to President Jimmy Carter who thinks we have such a nice human rights thing in this country; and to Mr. Civiletti of the Justice Department. I think you have influence to do that.

No. 3, recommend that the restriction of Federal moneys allocated to the Los Angeles Police Department be lifted until they clean up their act of racist and sexist hiring practices.

No. 4, investigate the violations of civil rights of citizens held in custody in county jail.

No. 5, investigate the unconstitutional and illegal spying on individuals, churches, community groups such as CAPA, SCLC and churches like Reverend Merriweather's; undertake an investigation of the Los Angeles District Attorney's Office for the lack of indictments of law enforcement officers involved in questionable shootings of persons; investigate the shredding of four and a half tons of citizen's complaints by high officials of the Los Angeles Police Department and the city attorney's office.

No. 6, Investigation of the Los Angeles District Attorneys office for lack of indictments of law enforcement officers, involved in questionable shootings and beatings.

No. 7, Investigate the shredding of four and a half tons of citizens complaints by high officials of the Los Angeles Police Department and City Attorneys Office.

No. 8 and finally, a complete investigation of the Los Angeles County Sheriff's Department for the many questionable shootings, killings, and also the gross violation of people's human rights held in the county jail.

I do think you have the influence to do that and spark these kinds of investigations.

[Applause.]

Mr. JENTCHZ. Congressman Conyers, I think what has happened here is that you are faced with the onerous task of listening to frustration of groups of people who have fought for years and years and years for reform in the city of Los Angeles. If there is anger expressed, anger is expressed from the feeling of that frustration.

We don't mean to group other groups together to make each of you the same, but the pleadings we have brought before various committees within our own structure in the State and locally have met little or no change.

The situation is one of incestuous relationships between the Los Angeles Police Department, the city attorney's office, the district attorney's office, even the city council wherein the Police Protective League here is the heaviest contributor of moneys to the city council.

How can the city council take action against the police department or try to restrain that police department when they are dependent upon the Police Protective League for their funding and their office.

To go further into it we, the people who pay our taxes, are paying for our own demise because we pay those policemen and that money is paid into that police union, and that union uses that money to attack the very people who are paying the taxes.

To take it further, that police union then goes up and lobbies in California at the State level to make it legal to destroy the files every 5 years on police officers who have been involved in beatings.

They have their own type of activity that destroys the very basis of free information that is necessary in a democratic society.

We are not here to say that the information which has been presented to you is the end of all information, but we see that without some sort of activity, some sort of exposure, some sort of control, that same kind of incestuous relationship is going to continue.

We look at the sequence of those actions: From the Federal level, there is funding. The funding is the one issue that can somewhat limit the activities of the police department until they clean up their act.

We are not saying that it is all the police. We are saying that if you look, it is about 3 or 4 percent. But the police department and city attorney's office and the district attorney's office destroyed the very fundamental information which showed that activity, which showed it is 3 or 4 percent of the police department, and we are denied the opportunity to remove those individuals from the police department who are continually committing those crimes.

That is the situation. We hear all these government agencies. All these government agencies are here basically to protect their jobs. They don't care about the people and this is another activity that we see. The activity simply is, they form another committee. We will study the techniques of counterinsurgency campaigning. It is a technique to create buffer groups between the individuals who have responsibility to take action by putting these little groups out there and trying to say, well, that group out there is going to do something more about it.

They are doing nothing and it is just another group and another group and another group.

So the anger that you hear today is the anger of frustration. It isn't against you or against Mr. Lungren, but it is an anger which is not just in Los Angeles. You are going to hear this in every city you go to across the country.

But Charles Chapple and CAPA, Reverend Merriweather and others who have been involved in the community for years know the problems and we come with the wisdom of that knowledge to this committee. Unfortunately, we have not been listened to enough because of that continued incestuous relationship.

There is much, much more to this issue—the sequence of how it happened, the sequence of why the brutality. We can address that; we have the information. We know. We have analyzed it.

The computerization of information is a whole substudy of what happens here. When a person is arrested in the street and they charge him with robbery, or they charge him with attempted rape, and then it is found out that he didn't commit that, that is continued in his record. It is not erased.

The next time he is picked up, the police call in and check on that and say we have a criminal on our hands and they beat him up. He is obviously a criminal, isn't he?

It is point after point after point. We have testified at State level. We have testified at local level.

There is refusal from the police department to erase these records. They say it takes too much money.

They have got \$450 million to kill people and a few million dollars to start erasing some of that stuff. [Applause.]

We come to you with that kind of frustration.

I will show you the intelligence manuals, how these police are trained. I will show you how they use computer intelligence to destroy an individual's reputation, a Congressman's reputation. The FBI has done it.

What are we supposed to think? The police department in Los Angeles is the most puritanical, the most saintly, the most incredibly holy people on Earth. When the FBI can try to kill Martin Luther King in conflicts between black groups, when the CIA can be involved at that same time, are we to believe that the Los Angeles Police Department is so holy, so incredibly honest?

Chief Gates, butter wouldn't melt in his mouth. We are supposed to believe that?

I am a religious man. This is a religious man. There are other ministers in the community who are religious people.

I find it stretches our incredible imagination that the police department in this city is more holy than our own commissioners.

There is much, much more to the Police Protective League, their activities, and the funding of the city council which is an issue that should be examined.

We bring the problems to you. You are faced with the onerous task of addressing them. But the same problems we bring to you, you will hear throughout the community and other parts of the country. We don't have an issue against you as a person.

We are now having to bypass our own officials, our own people, our own Justice Department level in the State of California, but it looks like it will have to come to the Congress if there is to be justice in

the United States, if there is supposed to be some form of human understanding.

We, the people, know; we have been there. We are in the streets.

Charles Chapple here has been abused and harassed. He didn't bring that up. They tried to put Reverend Merriweather in jail because of his continued efforts. We can bring up instance after instance of hundreds of thousands of dollars of money, Federal money, State money and local money being used by the police department to try to destroy the very groups that are asking for that social change. That is counter-insurgency in reverse.

We have a Constitution and it guaranteed us certain rights. Unfortunately, Chief Gates has not read it, nor Van de Kamp, nor Burt Pines.

Unfortunately, we don't know whether or not the public order and intelligence division of this particular city is used to try to suppress the few in this community who wish to do something about the political structure. Hoover has used it.

We have a document here which I will leave with the committee which shows the continued relationships of the LAPD in testifying before Congress for trying to limit these groups, and there are many, many churches listed in those groups. They are Episcopalians, Catholic, Methodist; they are all kinds of religions.

So you have inherited that. I hope that somehow answers the frustration that Charlie feels, the frustration we all feel and that is why we are here. [Applause.]

Mr. Conyers. Thank you.

Reverend Merriweather.

Reverend MERRIWEATHER. Just a few months ago, October, I was in Washington. I went to Washington because of what you have heard here today and was just preparing to go back again when I found out that you were coming here. I thank God for that.

Believe you me, what you heard is true. And believe this, what you heard from the police department is a lie. We can prove it.

As Reverend Jentchz said, we have no confidence and we have reason for not having confidence in our local government because they deceive us.

When Mayor Bradley appointed the police commission, the police commission promised us that if we brought people in who had been beaten up by the police department, they would have a private investigation.

And when we brought people into the police commission office, we brought the people in, in person, who had been beaten by the police department.

The police commission refused that day to investigate those people. There they were all beaten up by the police for nothing. Then, what did they do? They told us, "I'll tell you what you do. You don't have to come down here anymore. We will send the commission out to you."

The commission has the first time, after an accusation is made, to come back to anyone and make an investigation.

Just yesterday I had to bring another young man in. He had been beaten up by the police for no reason whatsoever.

This is what I am saying. If we can't get it done here and you don't believe it can be done there, where can we go?

I have hundreds of people that come into my office weekly. I have a number of names, and I am sure the court department know it, of people that have been beaten by the police.

They have a thing going now that they beat them up and then charge them with resisting arrest and assault against an officer. This is a daily thing. And these people have no weapons whatsoever.

I have a young man who just lost his job by going to court behind being beaten by the police and charged with assault and resisting arrest.

What happens is that they are taking the people in our community and using them as guinea pigs.

They get the young punks on the police force and they have never choked out a person. Then they put them with a veteran and the veteran stands back while the young punk chokes Mack to find out if he can do it. They stand back and do nothing.

Then they come in my office, file a complaint, and say "Reverend Merriweather, I was beaten up last night. I was walking down the street and this is God in heaven truth." I can bring you every one of them, let you talk to them yourself. And Van de Kamp will take that case against the police officer. They go to court; the judge throws it out, but the man just spent \$500 getting out of jail. He doesn't get his money back.

Then another thing—the police department you call is more criminal than criminal.

When a man goes to jail, he has to borrow money to get out, then he is hungry. He is already poor. He is subject to anything just to get some money to keep him from going to jail. In the first place, he hasn't done anything.

Van de Kamp, Burt Pines, and Police Commissioner Gates, all know this to be true and they are not even trying to stop it; they know it. The judges throw the cases out. If the police beat up a young man and the judge says he is innocent, who the hell is guilty? Somebody is guilty. If he is innocent with a busted head, black eye, then who is guilty? He has been freed. The young man has been freed and that same police is right back that night and beats up somebody else.

This is a daily thing; this is nothing new. Van de Kamp knew it, Bradley knew it, the police commissioner knew it and yet they are doing nothing about it. I wish we could bring these people in here. We have the figures and Gates admitted this in a demonstration. Gates had people out there taking pictures, 42 pictures, he admitted. I have a letter that Gates wrote me, we were not taking your picture, we were just taking pictures for fear somebody would get in the demonstration that had no business in there.

Anyone has a right to demonstrate. Then the police commission promised publicly to let us see those pictures. We haven't seen those pictures as of yet simply because Gates tried to send Captain Hart himself just to show me the pictures.

I wasn't the only one involved in the demonstration and if he couldn't show them to everybody in the demonstration, I didn't want to see them.

I want to know what can this committee do about a black lieutenant by the name of Luther Carr—I hope he is here. He was here yesterday.

Luther Carr stood in our church parking lot—we have witnesses—

taking pictures and writing down license plate numbers of people going to our church all because I was involved in police beatings and I will be until I die because I am not afraid of any police, in any kind of way. [Applause.]

I am trying to show you how crooked our system is. When I went down to the police commission, five or six times. I was told, well, we are investigating. This has been over 3 years ago. They are still investigating the act of Luther Carr taking pictures of my members going in and out of the church and writing down license plate numbers. All he said was, "I don't have any pictures, I didn't do it." That is a lie. Why don't they call him into court and then have the witnesses—

Mr. CONYERS. Could we have you conclude, Reverend Merriweather, we want to hear from Reverend Gray.

Reverend MERRIWEATHER. Just one thing—it is hard to stop.

Mr. CONYERS. I can see that.

Reverend MERRIWEATHER. I am telling you the problem we have is our elected officials. We went to the police commission, and this is why we did this, because we have people that have been beaten up by the police. There can be four or five people standing around and the police will say "Get the hell out of here before you get the same thing." Then they go to court and they have no witnesses. Then when they are asked, who beat you up? I don't know. And they don't know. How do you know who beat you up when they choke you out and handcuff you.

We went to the police commission and they promised us they were going to do something about it. They haven't done a thing. Every time a police stops a citizen who is present in our neighborhood they say, show your ID card. What is he afraid of? Something has to be done about it one way or the other. Thank you. [Applause.]

Mr. CONYERS. Can we have order in the hearing room, please? We don't need any comments and we will appreciate not having any activities on the part of any of the witnesses because it usually creates a degeneration in the hearing process. I would like to continue the order that we have enjoyed for the major part of these hearings and have that order for the rest of the day, please.

Reverend MERRIWEATHER. Please forgive me, I forgot one main point.

In the county jail right now, I wish you could place the FBI or somebody in there. They have a place in the county jail where they take black men and Chicanos, put a bag or something over their face and beat them. When they come out of jail, they don't even know who beat them. They cover their face up. We have proof of this. Right now, if you could go over to the county jail, you would find men in that jail who have been beaten for nothing, and who are being beaten up right now. I am through.

Mr. CONYERS. Reverend Gray.

Reverend GRAY. Good morning, Mr. Chairman, Congressman and counsel. I am truly elated to have the opportunity to speak before you this morning. Before I get into what I have come here for, I would like to say thank you to God for allowing you to have a safe arrival here.

This is a declaration of my own. There are several statements that I will make that may seem somewhat bizarre, but it will be the honest to God truth and I can substantiate everything in a matter of seconds that I will mention to you in being here this morning.

I come here not just to complain against the government, but also I have a few things that have happened with individuals within this society that have hurt me tremendously and I know it is hurting many others which are in similar or worse situations than myself.

I will begin now.

I, Rev. Jessie Gray, declare that I am plaintiff in above case;

That on December 20, 1975, I was kidnapped at gunpoint by the Los Angeles Police Department and a Federal Bureau of Investigation officer who, in willing conspiracy conspired with the Los Angeles Sheriff's Department, illegally entered a friend's home and forced me at gunpoint against my own group and locked me up illegally off and on for a period of 1½ years up until October 27, 1977.

I was locked up in the dungeon holes or mentally retarded sections in six different penal facilities on the west coast and three different Federal penitentiaries in three different county jails in four different States on the west coast.

The reason for this was that the Los Angeles County Sheriff's Department had, on January 31, 1976, allowed more than several of their deputy guards out of the Los Angeles County Jail to take willful part in trying to take my life from me while I was waiting to be transferred to court, because I had on a plain county jail shirt under my street suit.

I never made it to court that day as I was immediately hospitalized.

It was shortly thereafter that one of the guards that had tried, unsuccessfully, to kill me contacted the LA County Hospital and requested that the doctors treating me take me out of the intensive care unit as soon as possible and send me immediately back to the Los Angeles County Jail to be placed in the mentally retarded section of the jail.

It was very shortly thereafter that I witnessed a murder of an inmate by some of the same guards that tried to kill me. Right after that the LA County Sheriff's Department with the support of the FBI made arrangements for me to be placed incommunicado because of my, "physical appearance and my condition and also because of my witnessing of the murder which had been listed as suicide within the county jail."

None of my family or attorneys or any other influential persons trying to make contact with me were able to reach me or see me. About a month and a half passed with several attempts by my attorneys to make the government bring me forth to prove that I was still alive or to show good cause as to why they wouldn't bring me forth after several of my injuries had healed.

They brought me back to the county jail in Los Angeles County. It wasn't too much later after that, in April of 1976, when I witnessed a second murder of an inmate in the county jail committed by the sheriff's deputies known as, pardon me, the good squad.

I declare under the penalty of perjury the foregoing is true, correct and to the best of my knowledge.

Ironic as it may seem, in my coming here today, I have come to make mention of and humbly request your assistance through whatever means available to you to help me with a situation here, that is in the United States, that would make and has been making what has been happening with the hostages in Iran who have been held 139 days today by their Ayatollah Khomeini look like nothing.

I am speaking of an individual being kidnapped against his will and held for 1½ years. I come here today with God at my side to reveal the truth that has been hidden for so long from not just the American people, but the entire human race.

Everyone should be made as fully cognizant as possible that the United States for which we live in is not infallible and that our form of justice system is indeed sick.

The criminal justice system is designed in such a way whereas once it is aimed at an individual, be he innocent or guilty, unless the individual has millions of dollars in cash or assets, the system will immediately, while being in the wrong hands, see that an individual goes through a three stage destruction operation.

Those stages are, No. 1, destroy all finances, cash and assets that could be used for defense.

No. 2, drain physically and mentally the individual's strength.

And No. 3, the most important of them all, is to destroy the individual's spirit. Because once an individual's spirit has been destroyed, if the system has made any mistakes or unjust actions against that individual, such as they did with me and many others, usually the person will not be blessed enough to recover as soon as I have if at all.

Mr. CONYERS. Reverend Gray, would you help me out here.

Reverend GRAY. Yes, sir.

Mr. CONYERS. We have some witnesses from yesterday that are here and they are going to testify. Since you have prepared an incredible documentation for which we are grateful, if you could make a summary, we will get into the main body of the allegations.

Reverend GRAY. I am ready for that right now.

Mr. CONYERS. Thank you very much. I appreciate all of your testimony on behalf of myself and I am sure, my colleague Mr. Lungren. We are not personalizing any of the remarks that are being made. If I began at this stage in my career internalizing the feelings that come off of police abuse, failure to follow the Constitution, racial discrimination and the problems that we have seen in all our lives, I wouldn't even be here. So we are here trying to fashion, if we can, a constructive method and remedy to deal with this problem. That is why we have been talking to everybody. That is why we have consulted with organizations that you feel have been unresponsive.

I must confess we have gotten more than we anticipated. We usually expect a lot and get a lot, but here yesterday and today, we have gotten more than we really expected to come forward.

So what I want to do is hold open this possible way to begin dealing with the really large number of matters that span across many jurisdictions and involve many potential violations of law, constitution and civil rights.

We want to hold open these matters for all the witnesses that have come forward and probably others who have not had an opportunity to testify before this subcommittee and ask that they submit, in as complete form as possible, the kinds of allegations that have been raised here by Charles Chapple, by Reverend Jentchz, by Reverend Merriweather, Reverend Gray and others, so that we can begin to put them together with the rest of this subcommittee.

Mr. Lungren and I are only a small part of a much larger body in

the Congress. What we want to do is begin to evaluate and begin to get them before the proper authorities which includes some of the recommendations that were made by yourself, Mr. Chapple.

What we need to do is have one place where all of these can come. We are going to need to consult with a number of organizations, the Community Relations Service, the Department of Justice, and the Civil Rights Division within the Department of Justice. We will want to consult with our own counsel on this subcommittee. The Congressional Black Caucus should be completely apprised of this activity.

It is beyond my ability and scope today, as a result of this hearing, to immediately tell you to which of those, or to others not named, these matters may be referred. It seems to me it would be a reasonable beginning and an intelligent disposition of what may amount to hundreds of matters, many of which are extremely complex and have been long in the process of being developed over a period of time.

So I throw that out as a suggestion for your consideration at this point, and I would yield for any thoughts or comments that my colleague, Mr. Lungren, may have on this subject matter.

Mr. LUNGREN. As the chairman and I have discussed, we are not capable at this point in time of taking evidence in detailed fashion on particular allegations. To insure that we are being responsive, we felt that the best procedure would be to have any such allegations documented and presented to the committee, so that counsel could review them. With the benefit of time and close scrutiny, they will be able to make recommendations as to what action, if any, should be taken.

I think that that would be far more effective than our trying to receive all of the testimony that witnesses wish to present here today.

Mr. CONYERS. Thank you, Mr. Lungren.

Reverend MERRIWEATHER. Can I just say this? Some of the things we have mentioned here today have already been reported. When I was in Washington in October, I went before Congressman Hawkins and I gave him 23 names of unarmed men who had been killed by the LAPD. The FBI called me and asked me could I give them further information. This is why I went there.

It is impossible for us to go through the police files and get our witnesses, this type of thing.

Mr. CONYERS. This is why we want to try to coordinate all these activities. Congressman Hawkins would be a part of it, and also your previous activities with the FBI. It would be important to know whom you were contacting, but we can't obviously begin to work all this out in a morning's hearing with a list of witnesses still waiting to be heard.

Yes, Reverend Gray?

Reverend GRAY. You may have already covered this yesterday, but could you or members of your gathering give us the process? You move from the hearing, then what is the logical process after the information is gathered?

Mr. CONYERS. We examine our hearings for any prospective laws that should be created at the Federal level; any oversight that should be conducted of the criminal justice system including the Department of Justice and the FBI; and any modifications or revisions of policy and procedure of the Department of Justice which is under the au-

thorization of the full committee of which both Mr. Lungren and myself are members.

There is literally a wide range of prospective activities that can come out of these hearings. As I explained to the media yesterday, we do not have a timetable. We can examine this as long as possible. We do not have a law or a plan for solving this. We came out here to get this information. We need to get it in other cities as well.

So we have a wide parameter of remedies that are at our disposal, but for these great number of individual cases, we propose to take care of them in the manner that has been already suggested.

Reverend MERRIWEATHER. If you investigate some of these accusations, and really find they are true without a shadow of a doubt, would you help us get rid of Van de Kamp and Gates?

Mr. CONYERS. I know many of you appreciate the fact the subcommittee is here.

Reverend MERRIWEATHER. That's right.

Mr. CONYERS. But the fact of the matter is when we go from city to city, it would become politically impossible for us to not only take the hearings on prospective or potential or actual violations of Federal law procedures, but then to get rid of officials that may be politically elected or appointed to office, would leave us with a trail of commitments all over the United States.

Reverend MERRIWEATHER. Watergate did.

Mr. CONYERS. Except where there are violations of law which may lead to them being removed by operation of law, there is little else that we would be in a position to commit ourselves.

Reverend GRAY. What is the time frame we are talking about in terms of the hearings across the country?

Mr. CONYERS. We have not even begun to close off the times that we will be going.

We are getting, as a matter of fact, a lot of requests from places, maybe more than we can ever get to, that may force us to close it off.

Mr. CHAPPLE. I have committed myself to Mr. Ed Jackson who was here yesterday all day. He has prepared a statement along with five copies. He was not able to come today.

Mr. Jackson is an exdeputy sheriff. He was a clerk in court for about 12 years. I told him that I would raise—

Mr. CONYERS. We will receive the document and review it and, if appropriate, we will include it in the record.

Mr. CHAPPLE. OK. Also, here are some news clippings that the gentleman wanted me to give to you. They are specifically centered around a lot of excessive force.

Mr. CONYERS. We will receive those, but we need to know who sent them and his address and phone number.

Mr. CHAPPLE. The gentleman is right there. He can give that to you.

GENTLEMAN FROM AUDIENCE. I represent the National Alliance Against Racist and Political Repression.

Mr. CONYERS. We don't need it right at this precise moment; it is just a matter of us all being in communication.

I want to express my appreciation to you. I know that citizen groups are the most difficult in the world to keep together. There is an element of struggle which you pursue that without the common cause of justice, and that is all you are seeking, it falls apart. What we are

trying to do is merely let you know that our people are concerned and recognize what is going on here, and to the best of our ability, we want to help you bring the best kind of, not just law enforcement, but a democratic society to all of the people here in this city and in this State and ultimately, if that happens, it may spread through the whole country.

I want to thank all of you for joining us today.

We have an open extension for communicating. We will be receiving through our counsel any of the materials that you submit pursuant to our agreement. We want to thank you again and we want to move on to our next witness.

Mr. CHAPPLE. Thank you.

Reverend JENTCHZ. Thank you.

[The four witnesses retired from the speakers table.]

Mr. CONYERS. The next witness is from the Berkeley Police Review Commission, Mr. Peter Hagberg. Is he here?

Mr. HAGBERG. Yes, I am.

Mr. CONYERS. Please come forward. We will receive your testimony into the record. I have had a chance to go over it and we would appreciate you making any additional comments and highlighting the major portions of your statement.

TESTIMONY OF PETER N. HAGBERG, INVESTIGATOR OF THE BERKELEY POLICE REVIEW COMMISSION

Mr. Chairman I would like to thank you for inviting me to come and speak to this Committee in regard to the ongoing problem of police-community relations which is faced day after day across this country, in good times and bad.

INTRODUCTION

There is probably no more pressing issue in the area of police work than the problems of police-community relations. Miami, Houston, and Los Angeles are just three examples of large metropolitan areas faced with police-community relations problems. These problems surface most dramatically in police shootings of unarmed citizens, who are often members of minority groups. But the genesis of crisis is less dramatic. It is created in the routine of day-to-day police work and the questions of the propriety of stops, the propriety of searches, the validity of bases of arrest, questions of courtesy and equality of treatment. It is these questions which are at the root of police-community relations and are the most important issues to be faced. When the issue is excessive force, the situation has already escalated out of control. And no amount of investigation, discipline or justification can bring back a dead man. Thus, when I have to investigate a fatal shooting, I know already that the investigation is too late.

The Berkeley Review Commission was established by initiative ordinance in 1973 by the voters of the City of Berkeley. It has two principal functions: first, to investigate citizen complaints against police officers, and, secondly, to review Department policies and practices without limitation. It was created out of forces and problems which I have just described: to wit, the claims and the reality of police excesses. At the time of its creation, unarmed citizens—both black and white—had been shot by the police, complaints of excessive force were constant, and complaints to the police resulted in little action and no relief. Even the Mayor was ignored by the police bureaucracy.

In the seven years since the creation of the Berkeley Police Review Commission, it has had a dramatic and telling positive impact on the quality of police service and the quality of police-community relations in the City of Berkeley. It has been in the forefront of a successful effort to integrate the Department and its command staff, to improve the quality of its training, its equipment, its efficiency, its effectiveness, and its attitude.

The result is an improvement in the relationship between the citizens and the police and between the police officers and the citizenry. At the present time, the Berkeley police officers have the overwhelming support of the citizens of

Berkeley. The crime rate has decreased; claims against the City for police misconduct have decreased.

I am not here to tell this Committee that every city should have a police review commission or that cities that adopt one should adopt one exactly like that in Berkeley; but I am here to explain to this Committee why the police review concept has worked in Berkeley and why it effectively addresses the core problems facing communities and police departments today. Most importantly, I am going to try to bring to this Subcommittee my experience and understanding of what those root problems are and why some form of civilian review is a primary, viable means of resolving these problems and why civilian review need not be feared by law enforcement officials who traditionally have opposed it.

Since July 1975, I have been the Investigator for the Berkeley Police Review Commission. It has been my job to investigate the complaints, which have ranged from unlawful shootings to lack of adequate service, from discourtesy to excessive force, from racial discrimination to inadequate investigation, from improper search to failure to search, from false arrest to failure to arrest.

EFFECTIVENESS

For the first two years that the Police Review Commission accepted complaints, 50 percent of those complaints involved excessive force. After the Police Review Commission began holding complaint hearings on a regular basis, the number of excessive force complaints dropped dramatically. In 1976, complaints of excessive force dropped to 27 percent of the total complaints. It dropped to 17 percent in 1977 and to 14 percent in 1978.<sup>1</sup>

There were no economic or political changes which explain this dramatic drop. By 1974, the streets and campuses of America, and of Berkeley, were quiet. Many cities continued to face severe problems around complaints of police excesses, including excessive use of force. In fact, our neighboring city, Oakland, California, has just adopted a civilian complaint board mechanism specifically because of the high number of complaints of excessive force and improper shootings coming from the minority community. In Oakland, nine black men have been killed by police in the last year—this compromised all the fatal shootings in that city by the police. The Oakland Police Department this year stated that 50 percent of its citizen complaints involve allegations of excessive force, as Berkeley's once did. Similar statistics may well be true of other cities. Berkeley is going in the opposite direction, not because times have changed but because the Police Department has changed, as has the relationship between the citizens and the police.

In the area of courtesy, it took two years for the Police Review Commission to get the command staff of the Department to recognize that discourtesy complaints were serious. Many complaints would have been avoided by simple explanations of procedures and of reasons for stops. This was particularly important to citizens who, after a period of detention, were determined to have had no involvement in wrongdoing. Once common courtesy was accepted as a requirement of the job, the conduct of police officers improved. At this point in time, the courtesy of Berkeley officers is well known and appreciated throughout the City.

At the time the Berkeley Police Review Commission was established, a large segment of the Black community felt they were being treated as second-class citizens. When I was first hired as Investigator, I received a significant number of complaints regarding stops and detentions without apparent reason on the part of police. Investigation of these complaints demonstrated that, while occasionally there were very good reasons for the stops, all too often these stops were based upon "hunches," vague or widely differing descriptions, presence in "high crime areas," or presence in areas not normally frequented by minorities. Interestingly enough, during this entire early period, not one White male had complained about being stopped without good cause. Subsequent to pointing out these discrepancies, these kinds of complaints decreased as the Police Department under scrutiny, made sure that its officers had good cause before stopping citizens.

At the time the Police Review Commission was formed, minority officers felt themselves in much the same predicament as many members of the minority community vis-a-vis the police establishment. They felt discriminated against. In 1974, there were only two minority sergeants and there was no officer above the

<sup>1</sup> This past year, the percentage of complaints involving excessive force has increased slightly to 20 percent.

rank of sergeant. The first large class of Black and other minority officers had entered the Department in 1973 under an affirmative action program. Many of these officers felt that racism existed within the Department, towards them as well as towards members of the minority community.

During this period the Police Review Commission was outspoken in support of affirmative action and integration of the command staff of the Berkeley Police Department. It pushed to action the former Chief of Police who wisely observed that institutional racism existed everywhere in society, including the Berkeley Police Department, but who had been stymied by the internal politics of the Department. One result of the Police Review Commission's efforts is the full integration of the Berkeley Police Department today. It now has minority officers at all ranks from Chief of Police, Captain and Lieutenant down to Police Trainees. The number of minority and women officers has also increased dramatically. While at times public friction increased as a result of these processes, the ultimate result has been a more unified Department with less friction, less animosity and less acting out of racial biases.

#### CREDIBILITY

In 1978, the Oakland Police Department did a study of various police complaint investigation mechanisms, including the traditional internal affairs mechanisms, ombudsmen, civilian investigations within a police department and the Berkeley Police Review Commission.

The survey of complainants was quite revealing. Only 20 to 25 percent of complainants using other mechanisms felt that the investigations were mostly or completely fair, thorough and impartial. However, 75 to 80 percent of complainants utilizing the Berkeley Police Review Commission felt that the Police Review Commission process was fair, thorough and impartial.

The author of the study felt that this high satisfaction rate must be the result of a higher rate of sustained complaints under the Police Review Commission process. Yet, the satisfaction rate was 80 percent while only 40 percent of the responding complainants had their complaints sustained.

This is the power of a credible process. Even citizens who do not prevail can gain both the satisfaction and understanding which comes from having their complaints fully and openly explored.

The rate of sustained complaints was also double that of other agencies studied.

On the one hand, this statistic belies the recurring statement of police officials that they are tougher on their officers than "outsiders" would be. On the other hand, it gives a clue to the effect of the natural bias at work when police officers investigate themselves.

Another clue is in the little known fact that many police department complaint review mechanisms will not sustain a citizen complaint unless there is an "independent witness" to corroborate the complainant's story. By "independent witness," police officials mean someone who is unknown to the complainant—thus, any friend or relative of the complainant is considered incompetent to furnish that corroboration. On the other hand, the accused officer needs no corroboration for his story.

It is natural for any group which investigates itself to give its members the benefit of the doubt. But this is precisely why many citizens do not have confidence in internal investigations of police and why their typically secret investigations fail to convince skeptics of their accuracy, no matter how fairly and thoroughly the investigation is conducted.

#### COMPLAINT PROCESS

I would like to explain for you how the Berkeley Police Review Commission complaint investigation and hearing procedure works.

All complaints must be taken in writing. Once a complaint is signed, the Chief of Police and any officer who is the subject of a complaint are notified that the complaint has been filed. Then, an investigation is conducted. That investigation includes review of the police reports of the incident, listening to the Communications Center tape of the Police Department that records all radio traffic in regard to the incident, talking to witnesses—both police officers and citizens who witnessed the incident or have information regarding it, and gathering all other relevant information in regard to the complaint. Ideally, and as time permits, any legal issues that are raised by the complaint will be briefed, as will the

relevant police regulations which control the officer's conduct and police procedures.

When this information is gathered, an investigative report is written. Copies of that report are sent to the complainant, the subject of the complaint, the Chief of Police, and to three members of the Police Review Commission who will sit as a Board of Inquiry. A Board of Inquiry hearing is scheduled at which the relevant witnesses are asked to attend and testify before the Board of Inquiry. The Police Review Commission has the power of subpoena, and it has an agreement with the Police Department under which witness officers are ordered to appear and testify when requested by the Police Review Commission. Both the complainant and the subject of the complaint have the right to be represented by counsel, have the right to present witnesses, cross-examine witnesses, and to present arguments.

Following the hearing, the Board of Inquiry makes a finding as to whether the complaint is sustained or not sustained and then submits its findings to the City Manager. The City Manager, who under the Berkeley City Charter has ultimate authority in regard to all matters of employee supervision and discipline, then makes a decision as to: (1) whether to sustain the complaint or not, and (2) what discipline, if any, to impose. Prior to making that decision, the City Manager receives input not only from the Police Review Commission in terms of its Investigative Report and Findings but also from the Police Department which submits its own report and findings to the City Manager.

The procedure has been effective not only in reducing complaints of excessive force but in improving the quality of police service and police treatment of citizens.

#### FUNDAMENTAL PREREQUISITES TO EFFECTIVE REVIEW

What factors have led to this success of the Berkeley Police Review Commission?

1. *Independence.*—The Commission functions independently of the Berkeley Police Department. Each member of the City Council appoints one Commissioner; therefore, the Commission tends to reflect the diversity of the community of Berkeley. It has a relationship with the elected officials of the City. Therefore, while it is an advisory commission only, it has a direct relationship with those who have the power to set policy.

2. *Independent Staff.*—The Commission has its own staff which is independent of the Police Department. One of the major criticisms of the internal police review mechanisms is that the officers themselves have a natural bias in favor of their fellow officers. This bias does affect investigations and their results. If a commission must rely on police personnel for its fact-gathering, that commission will in fact be totally dependent on those it is supposed to review and its major purpose is defeated.

3. *Open Process.*—The Berkeley Police Review Commission hearings are open and contemplate the full participation of both the complainant and the officer who is the subject of the complaint. This process assures a thoroughness and impartiality in the investigation and hearing process. The procedures guarantee due process to all parties and minimize the possibility of coverups. This factor is very important in terms of credibility in police-community relations. Most complainants persist in believing in the validity of their complaints, even those which have no basis in fact, until they are confronted with the contrary evidence and are provided an opportunity to rebut it. Few things harm police-community relations more than false, persistent rumors of police brutality.

One thing that will harm police-community relations more than false rumors is actual examples of police brutality and abuse which are ignored or covered up. For, when this occurs, it not only feeds the righteous indignation of the friends and family of the person abused, it also informs the officers who have committed misconduct that their abuse of authority will not be brought to account. This encourages further misconduct which continues the cycle of police-community antagonism which can ultimately lead to riots on the one hand and police shootings on the other. For the community becomes more and more hostile towards the police, while the police become more and more hostile towards the community.

Mechanisms have to be found to break this vicious cycle of mutual distrust before it explodes into the types of police and community violence which we have seen in the past. The Police Review Commission serves as a focusing mechanism, taking the conflict off the street and putting it in a hearing room where it belongs. The battle becomes one of words, evidence and testimony rather than



a resort to bluffs and threats of physical force. It is a process in which many people on both sides—both police and community members—may not have a great deal of faith or trust, but it is the very impartiality of the body, the fact that it does not represent the police or the complainant, that allows it to explore the issues without fear and without bias.

The Police Review Commission mechanism creates a system of checks and balances between the Commission and the Police Department which provides a sound basis for controlling abuses of power by either.

#### PROBLEMS WITH THE PRESENT MODEL OF POLICE PROFESSIONALISM

The City of Berkeley has a history of being in the forefront in the field of law enforcement. August Vollmer, Chief of the Berkeley Police Department from 1905 until 1932, is the father of modern American police professionalism and police organization in this country. He installed the first centralized police record system; he installed the first modus operandi system; he established one of the first police schools; he organized the first automobile patrol service; he installed the first redlight recall system and emphasized the role of police officers in traffic enforcement; he installed the first fingerprint system in this country; he installed the first handwriting classification system in this country; he installed the first lie detector instrument to be used by police in this country. He fostered police reform around the country, including Los Angeles where he served briefly as Chief of Police. August Vollmer and his ideas are important today because his ideas were so influential in creating the concept of police professionalism which, although altered in form, is the hallmark of police work today. Berkeley and other communities are now addressing the problems which police professionalism has brought.

It is the obvious merits of police professionalism that have brought this concept to such wide acceptance. Few now perceive its weaknesses which have so much to do with the alienation of police from large segments of our society. "Police Professionalism" has been used, all too often, as a concept to differentiate the police from other citizens rather than as a means to improve police service to the community.

The function of a police department is "to protect and serve" the citizens of the community, as the motto of the Los Angeles Police Department so aptly states. The community needs the police for a wide number of services, and the police department needs the citizenry as well. Police need citizens to report crimes, to provide them information about crime, to assist them in the apprehension of criminals, to assist in the conviction of criminals, to support their legitimate needs and actions, and to help them understand the community in which they serve. It is widely known that over 80 percent of all police work does not deal with the pursuit and capture of criminals but with more mundane matters, such as domestic disputes, traffic accidents, routine patrol, and miscellaneous service calls.

Police observe very few of the crimes that it records each year. Most are reported by citizens who call the police. The police apprehend very few criminals in the process of committing a crime. Most are apprehended on the basis of information provided by citizens and good police followup techniques. Few crimes are prevented by the presence of police. Most crimes occur in the absence of police and are prevented, if at all, by the good luck or preparedness of the citizens who are faced with the attempted crime activity. Therefore, the community input into good police service is very great indeed, whether or not there is a formal structure for its participation.

On the other hand, police work can give tunnel vision to the officers who are involved in the day-to-day pursuits of that activity. Police officers generally perceive that criminal apprehension is the most important function that they pursue; and, by training and experience, many officers learn and are taught to perceive conduct only or primarily in terms of the possible criminal perspective, aggressive officers may pursue their "investigations" accordingly.

The result can be disastrous for the police-community relations when law abiding citizens are treated as though they were criminals by officers who have not understood that their duty to investigate is compatible with decent respect for every human being, suspect or not. All too often when a citizen questions the command of an officer, his fact becomes evidence of interference with the officer in the performance of his duties rather than an indication that the citizen too has rights which must be respected.

The results can be catastrophic when an officer equates flight with proof of guilt when it may only be evidence of fear; or where the officer reacts to a gesture

as evidence of deadly peril when the movement is merely an effort to comply with a request of the officer.

It is these conflict situations which can cause difficulty for police officers, which can cause great problems in police-community relations, and which can produce unjust and sometimes tragic results. It is this kind of situation which the Berkeley Police Review Commission was designed to investigate and about which it is asked to make recommendations for the improvement of the Department and its policies, its practices, and its staff.

#### MORALE

There is no doubt that when the Berkeley Police Review Commission initiative passed in 1973 the Commission was faced with stiff opposition by the Police Association which was opposed to civilian review of any form. The Commission faced a number of lawsuits, the first of which challenged its very right to exist; subsequent lawsuits challenged its ability to investigate complaints. I believe that, at that time, the overwhelming number of officers were fearful of the Police Review Commission. They did not know what it meant; and they were told by their union leaders that the backers of the initiative wished to eliminate them and their jobs.

Six years later, it is my belief that the majority of officers accept that the Police Review Commission has a valid function within the City. They have come to realize that the Commission does not wish to eliminate the Police Department nor destroy police work. The Commission attempts to improve police service through civilian input into the workings of the Police Department; and one means of improvement is the complaint process which provides a forum for the thorough, fair and impartial investigation and hearing of citizen complaints.

For example, the Commission has been hearing witness officer testimony for over three years. When witness officer testimony was first required, the effort was met first with lawsuits and then with recalcitrance. Once an officer was disciplined for refusing to testify, witness police officers began testifying as a matter of course. Cooperation is now the rule, rather than the exception. In other words, firm action brings results and experience dispels irrational fears.

When one deals with the issue of police morale, one must understand that it is, in large part, a political statement of the speaker. Morale is affected by a wide variety of factors and affects different officers differently. Police departments are not monolithic. Many officers believe in community policing and are more comfortable with this approach than the now traditional aloofness which is fostered under the rubric of "police professionalism."

Morale is a complex issue. At any time, some people in the police department will have high morale while others will be low. Those whose attitudes and methods are being followed in the department tend to have a higher morale than those who disagree with the prevailing methods and attitudes.

Although morale of certain officers who feel inhibited by the new policing methods may be lowered, the morale of citizens of the City and of other members of the Police Department has increased.

#### CONCLUSION

If there is one thing to be learned from the Berkeley experience, it is that there is an identity of interest between the police and the community. 99 percent of citizens want police protection and police service. 99 percent of police want to provide that service. Most citizens support the police even if they question specific police actions or policies.

The issues are really whether good police service is being provided and how it can be improved. Some in police work would have us believe that only police professionals are qualified to determine that. If this were the case, the police would be as truly isolated from the citizens they serve as some police officials seem to feel. It is this alienation of the police from the communities they serve which causes many of the police-community conflicts. The "fortress mentality" fostered in many departments increases the feelings of isolation and fear which many officers develop. Unrealistic assessments of the role and importance of police in stopping crime and maintaining order increases the pressure upon, and isolation of, police officers.

But the fact of the matter is that the problems of crime and crime prevention are common to all citizens. The primary responsibility for the prevention of crime, the identification of suspects and the enforcement of laws resides with

the ordinary citizen, and the average citizen is perfectly capable of making rational judgments in regard to the fairness, reasonableness and propriety of police conduct. Indeed, if the average citizen is not capable of these judgments and if police officers are not capable of explaining the bases of their actions in a reasonable fashion, police and the rest of us are indeed on the brink of disaster.

#### TESTIMONY OF PETER N. HAGBERG

Mr. HAGBERG. Mr. Chairman, I would like to thank you and the members of the committee for inviting me. I am almost speechless at the testimony I heard both yesterday and today in that the analogy between what I hear here and what we faced in Berkeley 10 years ago is so close.

We have on the one hand citizens coming before you with incredible charges of brutality, racism and inability to get effective remedies from the established orders within government.

Whether true or false in these allegations, and as you mentioned difficulties you have, you don't have the capability right here and now to look into all those matters; whether true or false, they demonstrate an incredible degree of lack of trust and distance between segments of the community and the government agencies which deal with them.

Second, you have law enforcement officials who come before you, give you bland assurances that they are doing everything possible, that they have everything under control, that they are capable and are in fact investigating complaints that come before them and effectively administrating their departments.

What you hear are two stories of such great distance that it is difficult to believe that people are talking about the same thing.

We faced that in Berkeley 10 years ago and we established a police review commission by initiative ordinance of the people which has the power to investigate complaints independently and to review practices and policies of the police department without limitation.

Mr. CONYERS. Do you have any knowledge about the utilization of civilian review boards in places other than Berkeley so that we can honestly evaluate the difficulties and successes that they have had in other places as well as the city from which you come?

Mr. HAGBERG. Berkeley, I believe, is the model of a functioning police review board.

I don't have a lot of history but there was one in Rochester, N.Y.; there was one in Philadelphia; there was one set up, I believe, in New York, one in Washington, D.C. at one time.

I don't know the structure of them, what successes, what failures they had, but Berkeley's model is totally independent.

I work as the investigator. I am the person who investigates complaints. I am paid by the city and I am not connected with the police department. What I do is gather testimony from witnesses, witnesses who are civilians, witnesses who are members of the police department.

I review police reports; I listen to the communications center tapes in the police department; the radio traffic that occurs.

I gather other documents and other evidence that I can. I write an investigative report. That report goes not only to the members of our commission who sit as a board of inquiry who actually hear the evidence at firsthand—we have the testimony of witnesses, the testimony of police officers—but a copy of that investigative report goes to the

complainant in each and every case. It goes to the officer if there is one who is accused of misconduct; it goes to the chief of police.

After that hearing, findings are made, findings that are sent to all those parties and to the city manager of the city of Berkeley who makes a decision.

His decision in turn is sent back to the commission. Again it is public and again it is given to the complainant. In other words, our process is open.

The complainant and the community hear the evidence as to whether or not the allegations that are made in fact occurred, and the complainant and/or their attorney has the right to appear personally at the hearing, in fact is required to present testimony, and can cross-examine the witnesses.

In my prepared speech to you, I indicated that I felt investigating a shooting, or fatal shooting, that I knew the investigation was too late and that the problems that created that situation had already gone too far.

I would like to elaborate on that a little bit.

Shootings are not the problem; they are symptoms of the problems. The problems have to do with racism, institutional racism and prejudice which often leads to paranoia and fear, not only of that which we don't understand, but of those things that we are not familiar with. Particularly, in police work, certain attitudes have developed around police professionalism where they feel they are the only ones that understand what they do and why they do it because other people are not familiar with police work and do not understand the pressures they are under.

That very attitude creates pressures on police officers and police administrators which increases that distance, that causes them to feel there is a thin blue line between chaos and a society of law when in fact it is the average citizen who is law abiding, and all of us that are responsible for the law and law enforcement.

It is for fear of having other people look at what they do that causes them to try to appear to be superhuman, to be always correct and prevent them, really, from being able to admit to others, and to themselves, that they have problems too, that they are not always correct, that there are better ways to handle things sometimes than what has been done.

And because of this paranoid fear that closes police departments to outsiders being able to see what is going on, the police departments themselves lose the feedback and the input that could help them get better training, better knowledge and understanding of the community and the people they serve—to be better able to inform their officers as to how to handle situations, and to lessen the fear that many officers have that large segments of a community are opposed to them, opposed to law enforcement, dangerous to them and out to take their lives.

If they have an unrealistic perception of this kind, it causes them to overreact, a defensiveness that goes beyond a reasonable suspicion and caution which every police officer has to have because there is an important, dangerous job which 99 percent of all people support in the lawful efforts they pursue.

When that reaction takes hold, particularly in sections of the community with which the police officers are not familiar or they don't feel

safe, you can have the kind of situations which may develop into excessive force, shootings where the person in fact is unarmed and other situations that you have heard of today. I submit to you that there are bad officers and there are bad administrators, but that the problems underlying it are not the few people who are truly bad, but the very structure that has been developed that has caused police departments to become so defensive and so internalized that they are out of touch with the people that they serve.

Mr. CONYERS. What can be done about it?

Mr. HAGBERG. I believe, and that is why I took the job I took at a cut in salary and not working officially as an attorney although I have been one, is because I believe that police work and law enforcement is an important part of the government. I believe citizens get the kind of government they are willing to work for.

Many people talk about good government, but few people are willing to work for it; good ideas fall by the wayside because people do not take on the task of making them work. I put my money where my mouth was to see if this would work.

I believe that a civilian review process works. I would like to tell you why I think it works and how it can be done and was done in Berkeley because I think what you see from the outset here is that many people believe that internal mechanisms of review are untrustworthy and do not work.

The departments themselves in good faith, or not in good faith, I don't know, but assuming good faith think they are.

If you set out the civilian review mechanism with, take for example the individual complaints you have heard today and investigate them independently of the police department, and have them brought before individuals who are not a part of the police department, and who have no relationship to the complainant for a factual determination of what has occurred and whether it was proper or not; what have you provided? You have provided a mechanism by which it is possible for the complainant and/or the body to prove whether it happened or it didn't happen.

In other words, civilian review mechanism brings those facts forth.

It works because it is a mechanism that is able to prove in those situations whether it is in fact true that the police department does not know what is going on, or if it does know, it is acting in bad faith. That has happened most often in the Berkeley Police Review Commission around and through issues of law. Perhaps, because I am an attorney, I am very familiar with the law.

Police officers, one of their prime duties I think you all will agree, is law enforcement from which one would presume that officers are highly trained on what the law is and how it has been interpreted by court, what the constitution says, how it is interpreted by courts and that their superiors are taking great care to make sure they are kept up to date about that law and about its interpretation to insure that the officers are in fact following those mandates.

The fact of the matter is, officers get very little training in the law in their basic training, very few hours are spent on analysis of law, much less of the Constitution and the people's protection.

When they are put out there on the street, there are many things they don't know. I can remember the very first case I investigated in

which a minority citizen walked out of his house with a rifle which happened to be a collector's item. He was on his way to sell someone he had contacted.

Weapons are, needless to say, things that officers are fearful of. He was surrounded by several police cars. They confiscated his weapon. He protested that it was legal, that it wasn't loaded, that he knew what the law was, he was a collector and he protested in the street.

The officers did not arrest him at the time. They took his gun. They went back to the station. They wrote up a report charging him with illegal possession of a gun, a loaded weapon, because they found some bullets in a paper bag in the car, and of resisting an officer in the performance of his duties because he was protesting it.

They came back with a warrant a couple of days later.

He went to an attorney and the attorney said, "For 200 bucks, I can get this reduced to disturbance of the peace."

He said, "I can do that myself." He went to court, got it reduced to disturbing the peace and it came to our police review commission. We were just starting to function on complaints.

Under California law, a weapon is considered loaded when a bullet is in or attached to the weapon. It is not illegal to carry an unloaded gun that is not concealed from the public and I so wrote in my report.

Mr. CONYERS. I will have to ask you to accelerate.

Mr. HAGBERG. There is so much I can't do it. I guess I will just make a point, two points on that.

The District Attorney's Office and the Attorney General's Office had to be consulted before that was corrected.

The next point I want to bring out is that even though it was shown that the man was correct, they never went back to court to take away that guilty plea that that man had entered because he couldn't afford an attorney.

The point that I bring this up to you because 2 years later our commission has started to hear from minority officers who were also concerned with problems in the department that they felt involved discrimination.

I think you heard yesterday and today about information being withheld from the Los Angeles Police Department because of allegations of discrimination in hiring. I am not familiar with that. But I am familiar with Berkeley, Oakland, San Francisco where those same charges are made.

They have been made by the Oakland Black Officers Association when public hearings were held there; made by the San Francisco Officers of Justice and in Richmond. Discrimination seems to walk hand in hand as to officers themselves and as to the community.

As you go around the country and hear this, I wish you would keep this in mind because the bottom line, it would seem to me, of what you can do and how you should proceed is to first of all understand that there really are some new approaches in police work, that police organizations are not monolithic, that improving departments is complicated, that if you can get people into departments who have a broader base of experience and identify with the communities in which they serve, you can protect them from being eliminated if they have a hostile command staff to approaches that are being used. Then you can reward them for resolving situations in nonviolent ways that are helping the community.

And that very often the crying need for this kind of change may not be because of the ill will of people who are presently chiefs or in command, they may not have the understanding or background, or they may.

If changes need to be made, they generally will not be made by the people who have been acting the same way for 10 or 20 or 30 years and, therefore, some outside forces have to be brought to bear. That is what a review mechanism does.

It helps focus both the police department of the community on new suggestions and new mechanisms.

You, as Federal officials dealing with Federal agencies, I think there are several things you can do.

First of all, it is often said the FBI should come in to investigate claims of civil rights violations by local law enforcement. I would suggest to you that it is partly the same mechanism of police investigating police which is the problem that has been manifested here and I think you will find it elsewhere.

One thing you might take into consideration is that the Civil Rights Commission and other Federal agencies that are not law enforcement connected be given the task to investigate these things and investigate them thoroughly.

Second of all, the FBI itself is an organization that has had many accusations levied against it, rightfully or wrongfully, about how it has proceeded against citizens.

I think if you take a leadership position, there are many places in the country who have the same problems we have. The subcommittee might want to consider whether there should be some mechanism developed that the FBI can investigate Congress and the problem is who investigates the FBI.

I would say for our local FBI that we have had problems with it because many times the commission requested the local agent to come to it with information but the agent will not come before the commission.

We in Berkeley have a right to review all police department training. For example, we have a hostage negotiation team. The first team that was developed was more on the model of a SWAT team in Los Angeles and the training was by the FBI.

In Berkeley, the Police Review Commission has the right to review all training because training is so important. The commission found that training to be so violent that they recommended that it not be done and we got other training. I would suggest when you look at the training that you look very closely.

Mr. CONYERS. May I once again point out to you that although your testimony is extremely valuable and I am very supportive of it, we are under a time frame so that anything that is already in your printed remarks will be reproduced in full.

Mr. HAGBERG. I think I will stop now. Those remarks were not in my printed statement, but I knew you were looking for approaches to take. I would suggest, if you can, to come to the bay area. Oakland has just started a police review commission because some of these same problems have occurred in Oakland.

I wish you well. In the long run, just as we in Berkeley have reduced our excessive force complaints from 50 percent to somewhere under 20,

I think that properly done, you can have a mechanism that can be used that is very supportive of police work and can improve police community relations. I thank you very much.

Mr. CONYERS. We are grateful to you, Attorney Hagberg, for your dedication and your recommendation will be taken to heart. I think you made some very good points.

I just want to present two problems to you.

One, how do you see the dynamics of power and the people and the police impacting upon this change that is necessary? This is what all of these discussions turn on; how do we change something? It seems to me that we have examined here, I think very appropriately, the ratio factor in this matter. The politics have also been carefully considered and I think you have touched upon the police system in the sense that people have to want to contribute to change themselves or it will not just come about. So I am interested in you elaborating on those inter-related factors, if you will.

Mr. HAGBERG. I think that initially police systems are changed through actions that demonstrate that they need to be changed. In other words, let me go through the process.

Just as in civil rights, you start out not by changing people's beliefs, but you change their conduct. And once you change their conduct and the disasters do not occur they believe are going to occur, then they themselves will start to change their belief system and their conduct and they won't be in such conflict.

So in terms of citizens, they have a different belief system than the police.

Citizens tend to be unorganized. They have no method of focusing political power to have their belief systems as citizen's rights and constitutional rights before the public.

As it has been testified before, the Police Officer's Association is very powerful politically. In Sacramento their lobby (PORAC) is right across from the capitol steps with a big awning right out to the capitol steps. They are watching. And that is fine; they have political rights.

But citizens are not that organized. A police review commission at a local level helps that expression happen. Initially, police departments are not going to agree and in the end police departments are not going to agree with everything that the commission might say or recommend. The commission is not going to agree with everything the citizens want or recommend, but you start to have a dialog in a room about what are the parameters of the problem, what are the possibilities for dealing with it and you take it off the streets.

Then once you make the changes and you still have a good law enforcement system, if the crime rate doesn't go up and the claims against you don't go up, they go down, and your police community relations are better, the police officers themselves are saying this isn't so bad. People are coming to me and looking to me as a friend, not an enemy.

Mr. CONYERS. So I don't have to worry unduly about the Police Protective League's representative who testified yesterday that a citizen's police review commission would shut down the ability of the Los Angeles Police Department to function.

Mr. HAGBERG. I don't think you have to worry about that being true; that is not true. You might have to worry about the fact it will be said because it will be said.

Mr. CONYERS. Maybe I have to worry about that. They may do it anyway whether it is true or not.

Mr. HAGBERG. I don't think you have to worry about that.

Mr. CONYERS. I am reassured.

Mr. HAGBERG. My example on that would be in Berkeley when we first tried to get officers to cooperate, their police association position was adamant opposition.

Once the chief of police listened to all the legal arguments, took a stand and said if you don't testify, you are going to be disciplined.

The first time they said we have good arguments. He said, I don't agree; go back and do it. The second time they said we have good arguments. He said, you were wrong; go back and do it.

The third time, he said, you know, you are suspended for a day. Once it became clear that was his policy and that was enforcement policy, the officers came and testified as a matter of course and we have been having it for 3½ years. Thank you, Congressman.

Mr. CONYERS. Congressman Lungren.

Mr. LUNGREN. Thank you, Mr. Chairman. In prepared testimony, you indicated that you were here to give us information on how the board has worked in Berkeley, but not to suggest that that was the appropriate solution for here or any other city.

Yesterday, some people connected with the police department testified concerning an experience which goes back a couple of decades in Los Angeles, when they had some trouble with corruption in the department. At that time, it was a very politicized department and an effort was made to take the "politics," in the pejorative sense, out of it, so that it would be immune from the type of corruption that had occurred previously.

Because this department has a unique history of that nature, there is a very strong resistance to a civilian review board, that perhaps would not exist elsewhere.

Do you believe that there are ways to, as you say, open up the system to civilian participation in the department's review of complaints short of establishing a full civilian review board?

Mr. HAGBERG. I will go to your end question, but I would like to go back to your preliminary remarks about the Los Angeles Police Department because some of my remarks referred to that too.

I certainly can't say there are not other mechanisms that will also work. Our's works. I think there are specific reasons why it works such as its openness and independence which in fact I do believe are necessary for any process to be valid and to be perceived to be valid. Those are two issues.

I do not believe any process will be perceived to be valid unless it is open and independent. Now, Berkeley, as I said in my remarks, really created the modern police professionalism as it is known.

Arthur Vollmer became the first reform chief in the police department who set up the very concept that police should be professionals, should be well trained, and that you should be free of political influence.

What has happened is that obvious merits of much of what he stood for, much of what he believed, much of what was necessary has created other problems. At this point in time, there are politics in police departments not coming from the outside politicians; politics

is very much in there through police associations being the most powerful lobbying organization in many cities and probably one of the most powerful lobbying organizations in the State. Plus there are internal politics within the department, popularity, however you want to look at methods of advancement.

So to say that there shouldn't be politics in policing, we have to look at what we are talking about. I think everybody agrees that police should do their job without undue influence from anybody. But the idea that there is no politics in policing now in Los Angeles or anywhere else misses the point.

I think that is one of the underlying things that has to be addressed in creating basically a system of checks and balances in which police and law enforcement officials have their reasonable and just influence in that citizens also have their reasonable and just influence.

Mr. LUNGREN. Thank you.

Mr. CONYERS. Thank you much, Counsel, good luck in your activity.

Mr. HAGBERG. Thank you.

Mr. CONYERS. The next panel of witnesses will be the chairman of the Los Angeles Commission on Ad Hoc Mexican American Citizens Task Force, Mr. Gonzalo Cano and also Attorney Alex Jacinto, officer and member of the Mexican-American Bar and a practicing attorney who has done extensive work in the criminal defense field.

We welcome you both. Gentlemen, you are free to proceed in your own manner. I think we have covered a lot of the material you wanted to bring up.

STATEMENT OF GONZALO R. CANO, CHAIRMAN OF THE LOS ANGELES POLICE COMMISSION'S AD HOC MEXICAN-AMERICAN CITIZEN'S TASK FORCE

It has been said by a veteran elected official in California that "Money is the mother's milk of politics." I think this expression makes good sense and so I have coined a parallel expression of my own: "Politics is the thumb on the scales of Justice."

My contention is that Mexicanos (Mexican-Americans if you wish) mean to be political in their relationship with law enforcement in a manner and to a degree that they have never been before. One issue, crises oriented, short lived protest, no longer has the appeal to us it once had. We seek substantive change in law enforcement and we now know this calls for month to month involvement and years of citizen commitment to the task. If it is the only way open to us to win proper police protection and service, we will do it.

Webster's first definition of the word "politic" is: "having practical wisdom; prudent; shrewd." Webster's first definition of the word "political" is: "concerned with government, the state or politics." This is what we mean when we say that we mean to be political. It was a tactical choice, that was forced on us by the unyielding social-political climate we live in.

Aside from a few heroic individuals and recognition of sorts from this or that agency or organization, nobody has helped us with our law enforcement complaints or cared about our severe alienation from law enforcement.

Certainly the Federal Government has not helped. Their Civil Rights laws, according to their own lawyers, have limited jurisdiction, must be applied in only very select cases, are very difficult to secure a conviction with, and have very little sentencing punch. No Mexicano will ever forget what happened in the celebrated Houston, Texas, case.

In fairness, however, I should recall the work of U.S. Attorney Robert Meyer who in 1971 had the courage to file a civil rights complaint against four police officers from the Los Angeles Police Department and the San Leandro Police Department for the mistaken killing of two unarmed and completely innocent undocumented workers from Mexico. The facts of the case were shocking and frightening in their brutality but the case was lost in court. Subsequently, Mr. Meyer was fired by the then-President Richard M. Nixon after intensive pres-

sure from the Los Angeles law enforcement community. Nobody at the time missed the point.

Certainly state and local governments have not helped. The record clearly shows that state and county prosecutors have had little interest in severe police misconduct issues. The same goes for the courts and each year's grand jury panel.

Certainly the political parties and key political office holders have not helped (except that rare individual leader such as the late State Assemblyman Crown).

The reason for all of them doing nothing is the same. Mexicanos have very little political clout. Our appointed officials are few. Our elected officials are even fewer. We have no ability to vote as a bloc because of gerrymandering and our ability to raise money for our political candidates is poor.

To be perfectly candid, all levels of government have seen no political profit or spoils in serving Mexicanos better, but the times are changing. Now this traditional reasoning has two important flaws, though. One is basic and one is current. First it should be enough to say the administration of justice needs of Mexicanos can not be ignored without risk of weakening the U.S. Constitution for all. Second the number of Mexicanos (read all Latinos) is growing so large that their ever increasing size is a new kind of major political statement in and of itself. Concessions in recognition of this fact are now due.

It is my personal opinion that the terrible irony in all this is that Mexicanos have a better chance of securing immediate relief from the excesses of law enforcement by dealing with law enforcement directly—that is by exercising our political skills and pursuing our primary interests.

If we were meeting with law enforcement today the following topics, observations, and ideas would be what we would begin to throw back and forth:

Many of us have come to have a morbid fear of the extraordinary powers of a police officer when he is working a demonstration, conducting a routine street interview, or effecting an arrest. Our fear does not extend to all of law enforcement or its mandate to suppress crime and arrest criminals. But we are particularly disturbed by law enforcement's use of deadly force. If a police officer elects to use a lethal choke hold or to fire his weapon resulting in the death of a suspect or an innocent person, we do not believe that his actions will be objectively reviewed by his superiors, higher legal authority, or even by the community at large. The review process is today called second guessing a police officer—a real law enforcement no no.

No. 1. When a citizen of any color dies as a result of police gunfire, investigating authorities will make much out of his behavior just prior to his death if his actions were furtive, suspect, hostile, or illegal. This is as it should be. These facts are relevant and help us understand whether the shooting was justified or not.

But the converse is not true. When a police shooting victim is proven to be completely innocent of any wrongdoing, his innocent actions just prior to his death have very little merit in the eyes of the investigator. Instead emphasis is placed on the fact that the officer fired his weapon in the mistaken belief that he was acting in self defense.

No. 2. Nothing traumatizes the minority community more than an unsatisfactorily resolved police shooting of a minority person; nothing does more harm to the police image. Considering the high cost to all concerned it would seem that the police department would do all that it could to make repetition of the incident difficult.

No. 3. The lack of promising legal alternatives available to the family of a person killed by police gunfire—an incident the police themselves call an unfortunate accident—is deeply disturbing.

No. 4. Fear of questioning the conduct of a policeman involved in the shooting of a minority person under questionable circumstances because of the conviction that the inquiry itself will do real harm to all law enforcement is unacceptable today because recent wholesale state government and municipal funding cutbacks of all police agencies has made the fear picayune and no longer reasonable.

No. 5. Over a period of many years and countless administrations, this community has had few disputes involving police use of deadly force in the minority community, settled in court after a full trial. Something is wrong. Either federal and state law in these matters is not precise enough or the law enforcement needs of the minority community (regarding police misconduct) are not viewed as legitimate per se by local prosecutors.

No. 6. The combative rhetoric that comes forth from both the police and the

community following a disputed shooting of a minority person is for the most part racist and enlarges the radius of the problem tenfold.

No. 7. A real fear of being the victim of a serious criminal act has made the minority community as well as the majority community willing to cooperate with the police on matters pertaining to their safety and security, if given a genuine opportunity to do so.

No. 8. The encouraging record of SWAT units indicates that training and administrative leadership can reduce the use of deadly force as a necessary police tactic.

One question to the panel:

It is my understanding that before a civil rights violation can be proven against a police officer acting under the color of law, the prosecution must prove that the police officer not only took away the victims civil rights but that this was his purposeful intention. I am told that the intention aspect of the law is very difficult to prove.

My question: Could not the Congress strengthen this law?

I mean no disrespect but it seems to me there is very little Congress can do to give us help that would not take years to arrive. Except, perhaps, there is one thing you could do about a problem that has been known for years but about which there has been little knowledge or public discussion.

#### TESTIMONY OF GONZALO CANO

Mr. CANO. [In Arabic "Good morning"] Good morning. Going back to something that was said earlier by G. Pompa and Julian Klugman and I must say as a former employee of the Community Relations Service, I thought we did good work. We were very successful.

When Richard Nixon forced us to cut back, the agency closed its Los Angeles office. That was a mistake.

Mr. CONYERS. I wonder what you are going to say when President Carter balances the budget to fight inflation.

Mr. CANO. In CRS we used to identify, connect, report and then seek resources. But we found that whenever a problem arises and develops in a community like the Eulia Love shooting, the process has already taken place that makes that protest legitimate, and it only needs to be recognized. If it is not recognized, something very severe will happen.

That is a very good service because no one else acts in that role.

It used to bring about change. We have done lots of good things, interesting, positive things in this city and other cities.

Getting on to my report, I would like to say this, and I will be as brief as possible.

Mr. CONYERS. Yes, we would appreciate that you summarize because we are going straight through the lunch hour, and we have one other panel after you and, maybe, one other person and then we are going to close it down.

Mr. CANO. Mr. Congressman, I can't risk alienating you, but I am the only Mexicano that you have seen so far here and I think you ought to bear with me. I won't be long.

Mr. CONYERS. You can take a chance on that.

Mr. CANO. OK, I will take a chance.

It has been said by a veteran elected official in California that "Money is the mother's milk of politics." I think this expression makes good sense and so I have coined a parallel expression of my own: "Politics is the thumb on the scales of justice."

My contention is that Mexicanos, Mexican-Americans if you wish, mean to be political in their relationship with law enforcement in a manner and to a degree that they have never been before. One issue,

crisis oriented, short-lived protest, no longer has the appeal to us it once had. We seek substantive change in law enforcement and we now know this calls for month-to-month involvement and years of citizen commitment to the task. If it is the only way open to us to win proper police protection and service, we will do it.

Webster's first definition of the word "politics" is: "having practical wisdom; prudent; shrewd." Webster's first definition of the word "political" is: "concerned with government, the state of politics." This is what we mean when we say that we mean to be political. It was a tactical choice that was forced on us by the unyielding social-political climate we live in.

Aside from a few heroic individuals and recognition of sorts from this or that agency or organization, nobody has helped us with our law enforcement complaints or cared about our severe alienation from law enforcement.

Certainly the Federal Government has not helped. Their civil rights laws, according to their own lawyers, have limited jurisdiction, must be applied in only very select cases, are very difficult to secure a conviction with, and have very little sentencing punch. No Mexicano will ever forget what happened in the celebrated Houston, Tex., case.

In fairness, however, I should recall the work of U.S. Attorney Robert Meyer who in 1971 had the courage to file a civil rights complaint against four police officers from the Los Angeles Police Department for the mistaken killing of two unarmed and completely innocent undocumented workers from Mexico. The facts of the case were shocking and frightening in their brutality but the case was lost in court. Subsequently, Mr. Meyer was fired by the then President Richard M. Nixon after intensive pressure from the Los Angeles law enforcement community. Nobody at the time missed the point, and nobody has forgotten.

Certainly State and local governments have not helped. The record clearly shows that State and county prosecutors have had little interest in severe police misconduct issues. The same goes for the courts and each year's grand jury panel.

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The reason for all of them doing nothing is the same. Mexicanos have very little political clout. Our appointed officials are few. Our elected officials are even fewer. We have no ability to vote as a bloc because of gerrymandering, and our ability to raise money for our political candidates is poor.

To be perfectly candid, all levels of government have seen no political profit or spoils in serving Mexicanos better, but the times are changing. Now this traditional reasoning has two important flaws: One is basic and one is current. First, it should be enough to say the administration-of-justice needs of Mexicanos cannot be ignored without risk of weakening the U.S. Constitution for all. Second, the number of Mexicanos, read all Latinos if you wish, is growing so large that their ever-increasing size is a new kind of major political statement in and of itself. Concessions in recognition of this fact are now due.

It is my personal opinion that the terrible irony in all this is that

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Mr. CONYERS. Could you summarize, counsel?

Mr. CANO. All right, I will get to that.

I think it is quite clear the civil rights laws are not working and it is not working because this intention aspect of the civil rights laws has to be proven. It is not enough just to take away a person's civil rights, but you have to prove the purposeful intention. These facts have been known for years, and seems to me that this is one area of congressional action that you can do something about.

Mr. CONYERS. That was raised yesterday, this specific intention of the civil rights laws—

Mr. CANO. Sir, it has been raised for years.

Mr. CONYERS [continuing]. And there is some indication that that may be modified so that that incredible burden will now fall on the U.S. attorney in trying to prosecute under the civil rights statutes, and it is an excellent point, very well taken. We, also, appreciate your testimony and will incorporate it—if you will leave a copy—in full in the record where it will be printed out.

Mr. CONYERS. Let me now recognize the chairman of the Ad Hoc Mexican-American Citizens' Task Force, Mr. Gonzalo R. Cano.

Mr. JACINTO. You just did.

Mr. CANO. That's me.

Mr. CONYERS. Oh, OK, I am sorry.

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Mr. JACINTO. You pronounce my name Alex Jacinto.

[Spanish spoken.]

Mr. CONYERS. These accidents could happen anywhere.

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Mr. JACINTO. The point I am trying to make is that in Los Angeles County you have a high incident of people that do not understand English, and people that are getting worked over in the streets, they are getting hassled, and they don't know how to make a complaint, because they don't know how to communicate. That is the issue that

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I wanted to raise. Too, I'm going to be very conclusionary, because I recognize you have a time problem.

If you have a problem in not getting enough sleep, maybe you become a little bit edgy.

What I'm suggesting, in terms of the policemen that I see, in cross-examining daily, they constantly complain we get them out of bed in order to come down to testify because they were working late that night. All of a sudden it dawned on me one day, in doing this cross-examination, that, perhaps, one of the problems that we are having for short tempers and overreaction is a person that is not getting enough sleep. Drawing a gun or using a flashlight battery to whack a person over the head, their level of—patience level would be lowered. I don't know that this, in fact, is a contributory factor, but this is something that I have witnessed in terms of seeing officers daily, and cross-examining them, and getting them out of bed to come down and testify with reference to arrests, to beatings and what have you.

Now, it seems to me that Congressman Conyers really did touch on a point, that was in reference to the budget. Of course, we are going to have even less enforcement of law, properly and reasonably, if we don't have a proper budget; but, even with the budget that we have now, we have the complaints, and so it is really not a matter of just the money.

You have got to let me get a little bit more conclusionary. We are talking about dollars and cents in terms of being able to hire sufficient police to do certain things. Let's take, for instance, a soldier that is out in the front lines. He is taken back after a certain point in time for a little R and R, because these guys stay out in the field.

Now, if I sound like I'm not a defense attorney, it is not because I want to sound that way, it is because I want to make a point with you people—because I'm out there fighting constantly and defending constantly—but the thrust that has already been given to you, has already been placed in the record. What I am trying to do is give you some idea in terms of real life activity that goes on out there that hasn't come out here today.

If the police officers, whether it is the sheriff's department, the individual police departments in the different communities in Los Angeles County, or whether it is the Los Angeles Police Department, they don't have sufficient manpower that is going to effect the administration of justice. But, even without that, there is an attitudinal approach.

For instance, the latest case that I have is a case where a woman was picking up her children from a grammar school, and she was double parked, according to the policemen.

She couldn't speak English so that she couldn't present any identification. So she went with her two 6-month old children, in her arms, twins; two children she was picking up; and the other child that she had. Five children in totality. They were taken into the police station, locked in a cell for 2½ hours.

Now, there is no lack of sleep there. That's an attitude. That's a terrible attitude, and there is something wrong. Then, I write back to the U.S. attorney and say for her to look into the possible violation of civil rights, and not get an answer in 6 months, I think there is something wrong. Institutionally it's wrong.

There's another problem. You have public defenders representing people's defenses for civil cases, and when they get these cases, and these people are assaulted, whacked, and they are shot and beaten, and what have you, they are not complying with the statutory limit that is necessary to bring a civil lawsuit in a county. I'm not talking about Federal, I'm talking about into a State court.

They lose the statutory—the period runs, whether they are incarcerated or whether or not they are informed by the public defender.

So the public defender's office is doing a disservice by not informing these people that they have redress. The people that can't speak English do not understand it, the people that are terrified, are afraid to go to the police, they can't have any redress, because there is no communication. The only level of communication, we can have, are in hearings such as this, so we can get the television crews, so we can get the print media, to be aware of raising of consciousness of people because you have a tough job. You have got a tough job to sell to your constituencies, you have a tough job to sell to your colleagues, because they don't think it is going on, and unless you're experiencing it day in and day out, and see the same stories that are coming back, then you can accept that it is in truth a reality.

Perhaps, television getting into these courts is going to help a little bit so that the public can then become aware of what really is going on out in the community, because once you have the public recognition, then you can get the public backing in your efforts. And, I know you have got a problem.

Mr. CONYERS. Thanks, counselor.

Thanks, Mr. Cano. [Applause.]

Mr. CONYERS. Let me ask you this question: What are we doing in connection with the language barrier, because we have got the census coming up and there was supposed to have been some new approaches into all of the ethnic communities to make sure that people get counted in 1980.

Mr. JACINTO. Congressman, you asked a question and I don't think you are going to like my answer.

Mr. CONYERS. Oh, I'll like it.

Mr. JACINTO. No; you won't.

Mr. CONYERS. You tell me.

Mr. JACINTO. Because I don't have sufficient trust in the government to tell those people where they are and who they are.

Mr. CONYERS. Well, that's perfectly OK with me.

I would like to suggest, there are tens of millions of dollars in Federal programs that will probably not come into LA for people who follow your advice and don't get counted in the census.

Mr. JACINTO. Congressman, I did not give that advice.

I'm not going out telling them not to be counted; but I'm not going out telling them to be counted.

Mr. CONYERS. Well, I think they can read between the lines, counsel, as well as anybody else can and say, "Well, it must not make any difference to the Mexican-American Bar Association." So, they say, "Well, what is the difference, maybe I will, maybe I won't," which takes us back to the undercount in the Mexican community—Hispanic community, which is twice that reported, at least, of the undercount in the black community, which was 7.8 percent.

Mr. JACINTO. Congressman, the only thing that a correct count is going to do is create a bigger base for a politician to run for Congress. So you create a bigger base for people to get money so that the poverty pimp can go out and see how much they are doing for the people.

That's a bunch of nonsense.

Mr. CONYERS. That's the perfect reason for you to advocate that Mexican-Americans do not get counted, which is your prerogative. And like I told you before you gave me the answer, it is OK with me if that's your point of view.

Mr. JACINTO. No, sir, that's not my point of view.

My point of view, I don't have sufficient trust in the U.S. Government to suggest that they open themselves as to getting deported. I'm not talking about Mexican-Americans, Congressman; I'm talking about people that are not here with documents.

Mr. CONYERS. That's your prerogative as well. I'm not going to object. I haven't objected to anyone's remarks that have been heard, many of which I did not happen to agree with, but it is a point of view, and I respect your right to come before—

Mr. JACINTO. That's my individual point of view. That's not MABA's point of view. I am not speaking for MABA; I'm speaking about my point of view with reference to that.

Mr. CONYERS. Very good.

Mr. Cano?

Mr. CANO. He is a lawyer, and I am just a voluntary citizen-worker; that's all.

Mr. CONYERS. Did you want to comment on the question?

Mr. CANO. On the vote?

Mr. CONYERS. On the census count.

Mr. CANO. I hope this time—The last time around, in 1970, there were five definitions for Asian and not one definition for Mexican-American. This time there is.

I hope—it is my own personal opinion—that as many of us get counted as possible.

Mr. CONYERS. I thank you both for joining the committee.

Did you want to ask any questions?

Mr. LUNGREN. No.

Mr. CONYERS. Thank you very much.

We now call Paul Hudson of the NAACP, and Mrs. Lola McAlpin-Grant of the board of police commissioners, and Prof. Reginald Alleyne.

We have your prepared comments that will be incorporated in the record at this time.

We want everybody to be identified. Well, we certainly know who is sitting in the center, and we now need to separate Professor Alleyne from Paul Hudson.

That leaves Paul Hudson.

Why don't we ask Ms. McAlpin-Grant to be our first witness this morning?

Welcome before the subcommittee's hearing in its closing hour; you are among the last, but not the least.

Ms. McALPIN-GRANT. Thank you very much, Congressman Conyers and Congressman Lungren.

TESTIMONY OF LOLA McALPIN-GRANT, MEMBER OF THE POLICE COMMISSION'S STEERING COMMITTEE AND TASK FORCE SUBCOMMITTEE

Ms. McALPIN-GRANT. I want to say, first of all, that my name is Lola McAlpin-Grant, and I'm representing the police commission's steering committee and task force. I'm not on the board of police commissioners. I was asked to present a statement on behalf of those two committees.

We are very grateful to have this opportunity, this morning, to talk about what we believe is an extremely critical issue—Federal issue; namely, police community relations and within that issue, concern over the police use of deadly force and, particularly, in minority communities. We have submitted to you a written statement and, for that reason, I would want to allow you the opportunity to ask us any questions that you might have. I know that there has already been a number of people who are confused about our role, and I think it is important that we make it clear, for your committee's consideration, that we are not a part of the police department, we are not a part of the police commission, we are an advisory committee to the police commission, and then within the advisory committee there is a task force of six members.

This task force has been designed to provide an investigative unit for our steering committee to go in and look at the police activity, and look at citizens' complaints. We are looking at the employment profile of the police department, and we are concerned about the combat zone militaristic appearance of police officers in minority communities. We want to look at the length of time these police officers have been assigned to minority communities, particularly those officers who had a number of complaints levied against them within the community.

The committee is concerned about the psychological evaluation screening process used on new recruits and, in followup, on the part of the department for officers in trouble. We are concerned about the attitude of the police department toward minority communities and, in turn, the attitude of the minority communities toward the police department, and we have seen a complete breakdown, in our view, of communication between the department and minority communities, but we hope to try to find out what recommendations we can make to the commission to change policies and practices and rebuild that line of communication.

[Material referred to follows:]

STATEMENT OF LOLA McALPIN-GRANT ON BEHALF OF THE LOS ANGELES POLICE COMMISSION'S STEERING COMMITTEE AND TASK FORCE SUBCOMMITTEE

My name is Lola McAlpin-Grant. I have been asked to present to you a statement on behalf of the Los Angeles Police Commission's Steering Committee and Task Force Sub-committee.

First, let me say that we are grateful for being invited to give testimony on a matter of such grave concern to us.

A few years ago, Police Commissioner, Samuel Williams, held a series of discussions in his law office with Black leaders in Los Angeles concerning the serious problems of police shootings and the deterioration of police-minority community relationships. It was decided that what was needed was an Advisory Committee of minority leaders to provide input to the Police Policies and Practices. A series of delays prevented the Advisory Committee concept from being a reality, until recently.

The tragic death of Eulia Love on January 3, 1979, caused many of the leaders of minority communities to come forward to express the outrage which existed in the Black community over the unfortunate shooting of a Black woman when they had been called to respond to a civil dispute about turning the gas off in her house, and the fact that the police officers were neither disciplined by the Police Department nor held to answer to criminal charges by any prosecuting agency of our government. However, even if there had not been such a tragic event in Los Angeles, this Steering Committee would have been formed because it was so necessary.

While the Commission is the head of the Police Department by charter, functions as a Board of Director, and has the responsibility for making the policies, the Steering Committee was designed to provide advisory opinions for policy changes which are perceived necessary to rebuild and improve police relations within the Black community. It would serve to aid the Commission in recognizing the need for new policies and revising old policies governing procedures and training, particularly concerning the use of deadly force.

In April 1979, the Steering Committee was formed as a long-term and on-going group of fifteen leaders in the Black community to provide a needed communication link with the Police Commission. The Committee has determined that one of its functions is to research existing policies and practices of the Police in a number of areas, including the training of police, discipline of police officers, the policies regarding the use of deadly force, and the use of other means of force, causing bodily harm, death, and/or property damage. The second function is to research the causes of existing community attitudes towards Los Angeles police. The third function is to consult with professionals, experts, and other resources to determine what changes in police policies and procedures should be recommended. The fourth function is to provide those recommendations to the Commission.

In June 1979, to assist both the Commission and the Steering Committee, three consultants were hired to thoroughly study the Eulia Love shooting and explore what led to such an incident, to develop specific recommendations concerning police shooting review procedures and to raise other issues for further study. The three consultants had a deadline of August 15, 1979, in which to provide a preliminary report for consideration and adoption by the Police Commission.

In August 1979, the Steering Committee, worked very closely with me as one of the paid consultants to the Police Commission concerning police-community relations, voted to elect six of its members to a special subcommittee or Task Force to conduct inquiries into specific police-community problems. The six members of that Task Force are—Professor Reginald Alleyne, UCLA School of Law; Mr. Jim Cleaver, Executive Editor—Los Angeles Sentinel; Dr. Claudia Hampton, Director of Human and School Community Relations Office, L. A. Unified School District; Ms. Mary Henry, Executive Director, Avalon/Carver Community Center; Mr. John Mack, President, Urban League—Los Angeles; and Ms. Lola McAlpin-Grant, Assistant Dean—Loyola Law School.

The issues to be assigned to the Task Force were to be determined in a priority order by the Steering Committee. The Task Force is expected to fully investigate these issues, document its findings, and make recommendations to the Steering Committee. The Chief of Police was requested by the Commission to assign a commander-level facilitator to assist the Task Force.

In January 1980, the Steering Committee met and determined that the first priority issue for investigation by the Task Force is process for handling citizen complaints concerning police misconduct. The other issues for investigation by the Task Force include the following—

- a) To examine the interview process for new recruits to the department;
- b) To examine the ethnic breakdown of the Police Department;
- c) To review the psychological evaluation and screening procedures for new recruits;
- d) To study attitudes that the Los Angeles Police Department has no problems and that the problems are primarily those of the community;
- e) To explore "combat zone", militaristic appearance of the Police Officers in minority communities;
- f) To review the repeated citizen complaints against officers within the South Bureau.
- g) To study the length of police officers terms of duty in the minority communities, particularly those officers who continuously are complained about.

Those community leaders, primarily Black, on the Steering Committee view the Committee and the Task Force concept as positive steps towards rebuilding

of police-community relations in the minority communities. If these concepts are successful, it is our understanding that the Police Commission will adopt similar models in other communities, thereby broadening the base of community input into the work of the Police Commission.

The success of these efforts will depend on the willingness of the Police Department to work with the Task Force in coming to grips with problems in spite of the suspicion and mistrust that may have existed on both sides.

The Task Force members and the Steering Committee have taken the position that all of the information needed to assist the Task Force in reviewing and revising policies and procedures will be made available. On the other hand, the Task Force members are leaders of the minority community who have positions of responsibility and whose integrity would be at stake if the program fails. The members of the Task Force will continue to have an open mind in this matter until such time as it is proven that this concept will not work. At that time the Task Force members will advise the Steering Committee to consider making other recommendations.

It is important to point out that neither the Steering Committee nor the Task Force constitute a civilian review board. In fact, the members of the Task Force and Steering Committee vary in opinions as to whether or not a civilian review board should be adopted in Los Angeles. In light of the revision of the police shooting review proceedings as outlined in the Eulia Love report No. 2 and until such time as we have adequate information on that, we are not able to take a position in favor or against a civilian review board.

Finally, the Steering Committee is not taking the place of other minority community groups, especially those that have worked for many years on the problems of police shootings in minority communities. We simply wish to communicate with them and work with them wherever possible. Certainly we acknowledge the need for their continued existence. It is our hope that all community groups will recognize the need to work together so that our attentions may not be diverted from the critical needs and issues facing the leadership in the Black, the Brown, and other minority community. Working together is the only way to solve the problem of police-community relations.

Thank you.

#### TESTIMONY OF PAUL HUDSON, PRESIDENT OF THE LOS ANGELES BRANCH OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

Mr. CONYERS. President of the Los Angeles branch of the NAACP, Mr. Paul Hudson.

Mr. HUDSON. It is difficult for me to know how to proceed. You have my written testimony, so I assume that you will not want this read?

Mr. CONYERS. No; definitely not.

Mr. HUDSON. Then, I will highlight what I think are the important points.

Mainly, I was trying to point out in this written testimony the frustration that exists in our community, and just like there was a nuclear disaster right before the movie "China Syndrome" was released, it just so happened on the 6 o'clock news last night that there was a classic example of exactly what I am trying to portray in this statement.

And, I don't know whether you were able, after the hearing, to see the 6 o'clock news, but there is a case in which there has been an indictment by the district attorney's office, the first since 1973, and there was a criminal act by a police officer.

The case revolves around a gentleman that was a gas station attendant and he had a shotgun for his defense.

The police officers saw him with the shotgun and shot him.

Now, the reason I brought up this example is because the district attorney feels that there was no warning by the police department,

no identification that they were police officers, and that they have a case against the police officers for the killing of this gentleman.

The Police Officers Protective League position is that this is a wild-eyed shotgun-wielding man. The Los Angeles Police Department's position, official position, is that they investigated and if they had found criminal liability, they would have brought the case to the district attorney.

As one spokesman for the black community, all I can say is that the community looks at this situation and says the police department disavows any criminal liability. The Police Protective League thinks the guy had it coming, and the district attorney, for once since 1973, which is 7 years, is following up and is finally coming up with an indictment. It just builds frustration.

The point I want to highlight, and the news media always jump when a black person says this, but it is getting to the point where I cannot avoid saying something, the frustration level and distrust, evidenced by the people testifying here today, in my opinion, is beginning to raise to the level of a pre-Watts riot type of situation. It is not only this city, but in many cities across the country and there is only so long that people can accept a do-nothing attitude on the part of the police department and not erupt.

The question about an independent review board, I support an independent review board, I'm not afraid that the police department will stop servicing our community or stop working in the city of Los Angeles. Unfortunately, what is being proposed by the police as an alternative is the controlled expansion, which has greater stopping power. The bullet builds police confidence, but no one is really doing anything about public confidence.

My final point is to apologize for not making it here yesterday. I was not aware I was supposed to be here yesterday and avail myself for questioning.

Mr. CONYERS. Good.

Thank you very much.

[Material referred to follows:]

#### TESTIMONY OF PAUL C. HUDSON

Hello, my name is Paul Hudson. I am President of the Los Angeles Branch of the National Association for the Advancement of Colored People, Co-Chairman of the Black Leadership Coalition, a member of the Police Commission Steering Committee, and an attorney.

This Committee has requested statements regarding police-community relations and the use of deadly force by law enforcement officers.

Black citizens of Los Angeles are approaching a frustration level and distrust of law enforcement officers comparable to the frustration and distrust that existed prior to the Watts riots.

Frustrated with a system which allows the police to police themselves, and as a result Blacks do not see therefore they do not believe that officers are disciplined for abuses perpetrated against Blacks.

In a report from the LAPD's Community Relations Section, the authors described the frustration by noting:

"The frustration comes from a general belief that the Department not only turns a deaf ear to complaints of police wrongdoing, but that it encourages or at least tacitly approves such wrongdoing. They believe the Department's routine manner of handling complaints of this type is biased and untrustworthy. They accuse the Department of using rationalization tending to justify the involved officer's actions and disciplining a guilty officer much less severely than would be done if he had violated only a minor Department regulation."

The failure to discipline the officers involved in the Eulia Love shooting only serves to highlight a system which has historically failed to adequately document complaints, objectively investigate and aggressively prosecute those officers which have abused their authority, infringed upon the individual rights and dignity of Blacks and shown indifference and hostility toward those intended to be protected.

Frustrated with the harassment and societal suspicion. You cannot live and work in the Black community and not experience an attitude of assumed suspicion by those officers who service our community.

It is incorrect to state that only criminals are subject to such suspicion and treatment. Eulia Love was not a criminal. Her criminal conduct resulted from the improper procedures used by the LAPD officers. I have experienced police harassment. Ministers have been stopped and suffered the indignities associated with police harassment. For example, stopping, questioning and frisking without justified probable cause. I say justified because what is probable in the Black community is not equally probable in white communities. Thus officers assume probable cause with greater frequency in our community than in white communities primarily because of poor relations, mistrust and misunderstanding between police and community. The police aide and abet those that would have us believe that Black communities are jungles of crime and violence.

Blacks are frustrated with police oriented solutions. At the same time the police find money and support for SWAT, helicopters and controlled expansion rounds, they say they are forced to reduce community relations staff because of budget cuts. How can our community trust and believe in the LAPD, when the perceived answer to the Love shooting is a bullet with greater stopping power?

Finally, frustrated with the number of Blacks that have died at the hands of police. Right or wrong, within policy or not, justifiable or unjustifiable, every time a Black is killed by police a counter suspicion is created, i.e. the police did not have to kill. Eulia Love had a knife, Dwayne Standard was handcuffed, Ferdinand Bell was unarmed, Alvin Whitehead unarmed, Cedric Steward had one hand handcuffed, Carlos Washington unarmed, Michael Gavin had a knife, Steve Cogner unarmed. Without more the assumption is death could have been avoided.

What answers are being offered and what solutions are needed?

The Los Angeles Police Commission is to be commended for its efforts to improve investigation, adjudication, training and community relations in the wake of the Eulia Love shooting. It is unfortunate that such a tragedy precipitated the review and recommendations, but if Black lives will be saved as a result then Ms. Love shall not have died in vain.

Public confidence in the police must be improved. This will only be accomplished if the public plays a greater role in police policy, training and adjudication. A Police Steering committee is not enough, although it is a positive start. Trust and confidence will develop from active, informed and substantial involvement by Black citizens in the process. In addition, someone must be employed or assigned to respond to and investigate complaints. Someone the community trusts and knows. Action builds confidence and trust, not promises.

Don't promise change, implement change.

#### TESTIMONY OF REGINALD ALLEYNE, PROFESSOR OF LAW AT THE UNIVERSITY OF CALIFORNIA LAW SCHOOL, LOS ANGELES

Mr. CONYERS. Professor Alleyne of the University of California Law School in Los Angeles, welcome to the subcommittee panel.

Mr. ALLEYNE. Thank you very much, Mr. Conyers. I sincerely appreciate the invitation to appear here. I was not certain of the day I was to appear, but couldn't make it yesterday and took a chance today that I would be able to make a few remarks this morning.

I'm fully aware of the fact that the subcommittee has my prepared statement, and I, therefore, shall not read it. I'm, also, anxious to watch UCLA and Purdue, so I'm going to move along fairly quickly.

There are a few points in my statement that I would like to summarize for you and, then, I particularly want to focus on the five recommendations which appear at the end of my statement.

I believe that the core of the deadly force problem that has been described by many witnesses is simply the inability of most of us to find out what the nature of the problem is, and I think that until we are able to do that, it will be difficult, even for this subcommittee, with the power of Congress behind it, to make rational decisions bearing on a solution.

We know from the number of scholarly studies that have been made that it is difficult to find out exactly, or reasonably exactly, just how many citizens are killed or seriously injured by the police annually. The conclusions of most scholars, who looked into this question, conclude that the number of killings is seriously understated and that the data that we have is simply inaccurate.

Most internal police investigation work, as many witnesses have suggested, is shrouded in secrecy, and Los Angeles is no exception.

Here in Los Angeles, for example, the city police department has a police shooting review board, which is charged with the duty of investigating shootings. I deplore the fact, and I think it is quite unfortunate, that none of the reports of the shooting review board are public documents. They are all maintained secretly. They were maintained secretly before the Love shooting, that you heard so much about. The Love report was an exception because of unprecedented public pressure that that report be released, so we now know that the secrecy policy will continue and that the shooting review board reports will continue to be regarded by the police as nonpublic documents.

The second point that I want to make is that we are constantly reminded that impartial investigations of police shootings are conducted by the district attorney. I think the impression that the district attorney is conducting a neutral, impartial investigation which will clear all facts with respect to a shooting, is a false impression, as one speaker has already indicated.

When the district attorney makes an investigation of a shooting, the investigation is conducted to determine really one basic fact: that's whether or not there is sufficient evidence to justify a prosecution.

Now, there is a great range of police misconduct that is in violation of departmental policies, or that should be deemed in violation of departmental policies, that does not amount to a crime. And because of this, when an investigation is conducted—are conducted by the police—by the district attorney—I'm sorry—and the judgment of the district attorney is that there shall be no prosecution, the police department really gains a tremendous and unwarranted public relations victory, because the impression conveyed to the media, as a result of that decision by the district attorney, is that the police did nothing wrong and that everything they did was correct.

And, if I may allude briefly to the Love case, which I know you heard a lot about—I will not repeat the facts in that case, except to note that Mrs. Love was backing into her house to get away from the officers who confronted her and had drawn guns, and the officers, instead of retreating or, at least, allowing her to retreat, followed her up the walk, in the direction of her doorway, and thereafter the confrontation between the police officers—two of them—and Mrs. Love, who had a knife, resulted in her death. The decision of the district attorney was that there should be no prosecution.

Why?

Because the district attorney focused only on the instant at which Mrs. Love raised her knife and began to throw it, and the instant at which the two officers fired their eight shots, six of which struck Mrs. Love.

There was no focus by the district attorney—I'm not suggesting there should have been—on the issue of whether the officers should have followed Mrs. Love and whether they should have engaged in conduct that did not allow her to retreat.

That is but one example of a case in which the criminal laws may not have been violated, but where officers, nonetheless, used very poor judgment.

Turning to my recommendations, first, I believe that Congress should take some action to require uniform and detailed reporting of police-homicide statistics. I think it is vital that we learn the real rate of police homicide in the United States.

Second, while the manner in which internal investigations of police homicides are conducted is a matter primarily of State and local concern, I think the Congress, in conjunction with the executive branch of the Federal Government, must find means of inducing law enforcement agencies to make public the results of internal inquiries into the use of deadly force, including the facts, conclusions reached and any disciplinary action taken against an officer.

State laws, like California Penal Code section 832.7 make it illegal for officers' personnel records to be turned over to any member of the public. I think that when that law is attacked, in terms of its constitutional validity, I think the United States should intervene in the case and join as a party plaintiff, and urge that that law, and laws like it, be held unconstitutional, because they unduly infringe upon the citizens' right to know how their government operates on a matter having a direct impact on the right to life as described in the due process clauses of the U.S. Constitution.

Third, I suggest that if State and local law enforcement agencies remain unwilling to produce for public use internal investigation reports on officer-involved uses of deadly force, then a special unit of the Justice Department's Civil Rights Division, not the FBI, but a special unit of the Justice Department's Civil Rights Division, should investigate each such case on the assumption that violations of Federal civil rights laws may have taken place.

My next to last suggestion is that Congress should seek to amend the Federal civil rights statutes by eliminating all intent requirements not commonly found in State homicide statutes. Any police homicide that would be unlawful under State law, whether prosecuted as such or not, should be a violation of Federal civil rights statutes, as a governmental deprivation of the right to life, as described in the due process clauses of the U.S. Constitution.

My fifth and final recommendation would be that Congress should provide, at both Federal, State and local levels, funds required to conduct research leading to the development of alternatives to deadly force. I suggest that both tactical and weapon-type alternatives to lethal force may be discovered for use in accomplishing some law enforcement objectives now accomplished exclusively by the use of deadly force.

If this were a subcommittee of the State legislature, I would have recommendations that bore more directly on the issue of how police departments are administered, but I have the handicap of knowing what limitations are placed by the Constitution upon the powers of Congress; the recommendations that I have suggested are somewhat peripheral concerns of the Congress.

Again, I want to thank Mr. Conyers and Mr. Lungren and, certainly, Mr. O'Neal for allowing me the privilege of testifying before this important subcommittee of the Congress.

Thank you.

[Material referred to follows:]

PREPARED STATEMENT OF REGINALD ALLEYNE BEFORE THE HOUSE SUBCOMMITTEE ON CRIME OF THE HOUSE COMMITTEE ON THE JUDICIARY

I am Reginald Alleyne, Professor of Law at the University of California Law School, Los Angeles. I am appearing at the invitation of Representative Rodino, and I first want to thank him and the members of the House Committee on the Judiciary for inviting me to testify before the Subcommittee on Crime.

The subject of the Subcommittee's inquiry—the use of deadly force by law enforcement officers—is now occupying the attention of increasingly large numbers of Americans. This growing concern is a result of what appears to be a drastic and largely unexplained rise in the number of deaths caused by law enforcement officials, and an attendant rise in media interest. The problem of excessive and deadly force by law enforcement officials is easily described, but solutions are not easily formulated. I am pleased that this Subcommittee is seeking means by which the Congress of the United States might contribute to a possible solution.

I think it would be an inefficient use of the Subcommittee's time for me to dwell on examples of unnecessary death or injury of individuals caused by law enforcement officials acting within the scope of their authority. Detailed accounts of excessive and deadly force are certainly pertinent and are an important concern of the Subcommittee. I am assuming, though, that the Subcommittee's files are already filled with graphically described accounts from both citizens providing examples of excessive and deadly force by law enforcement officials and from law enforcement personnel who are anxious to convey to the Subcommittee how difficult and dangerous police work can be.

On the assumption that the Subcommittee's concerns have a focus on the question of how to reduce the number of incidents of excessive and deadly force by law-enforcement officials, I have some observations on the problem in its broader contexts. I make them with some awareness of the constitutional limitations and historical political practices that make it impossible for the federal government to deal with local police administration, except in indirect and peripheral ways.

I believe that at the core of the deadly-force problem is the inability of most of us—even those with direct concerns—to determine the extent of the problem. In the main, we are in the dark in respect to both the quantitative and qualitative aspects of the issue.

We do know from some scholarly studies that statistics on police-involved homicides are not helpfully accurate and tend to be understated. I am reasonably certain that the Committee's attention has already been invited to the revealing study by Professor Lawrence W. Sherman of the School of Criminal Justice, State University of New York and Robert Langworthy, Research Assistant at the Criminal Justice Research Center in Albany, New York, and in which the authors say that "this country simply does not know how many of its own citizens it kills each year under the authority of the state." The authors of that study cite several factors which contribute to this unusual absence of important data: (1) They cite the failure to include sufficient data on death certificates, particularly the lack of any description of who caused a death, as a necessary supplement to information on how a death was caused; (2) they describe the willingness of some coroners to accommodate law enforcement officials by downgrading and

<sup>1</sup> Sherman & Langworthy, *Measuring Homicides By Police Officers*. Journal of Criminal Law and Criminology, Vol. 4, No. 4 (1979).

deemphasizing forensic evidence of an unjustified use of deadly force; (3) they describe the wide-spread practice of police departments refusing to make public the results of police-conducted internal investigations of the use of deadly force by police officers. The authors sensibly conclude that "without some approximation of the actual number of events that fit some consistent definition of police killings, it is difficult to address the public policy issues raised by those events at the national level."

While time does not permit a more detailed analysis of the police-homicide reporting problem, there is an aspect of the matter on which I would like to comment: the problem of how the public goes about finding out the results of police-conducted investigations of the use of deadly force by the police. I believe that this Subcommittee, the parent House Committee on the Judiciary and the House of Representatives, will not be able to rationally exercise the constitutional authority of the Congress to act on these matters until the scope and nature of the problem are fully understood. I believe further that this understanding will be out of reach until files maintained by police departments on internal investigations of deadly force cases are publicly made available, examined and analyzed.

I say this because it appears that a critical component part of any inquiry into the use of deadly force by law enforcement officials is the matter of how police departments are responding to police homicides. It seems fairly obvious that if police-conducted inquiries into the use of deadly force by police officers are inadequate, the use of excessive and deadly force by officers will not be discouraged and may in many instances be encouraged.

Most internal police investigative work is shrouded in secrecy. Here in Los Angeles, for example, Los Angeles City Police Department shooting review board reports are secret documents that are not available to the public. Thus, as matters stand in Los Angeles, a citizen may find out what attorneys, physicians or building contractors do to avoid examination of public records of disciplinary boards that monitor allegations of misconduct by licensees under their jurisdiction. But no member of the general public may find out what police officer might be a danger to the community, as evidenced by their records of misconduct or deviation from departmental policies. The public may not determine how effectively police departments are policing police officers.

It is possible to determine how many Los Angeles City police officers are disciplined each year because of complaints filed internally by police officials or from outside the department by citizens. But the public is unable to determine what names go with the dry statistics. If in fact the internal investigation system operates fairly and objectively, only the police are able to tell. Their policy of secrecy quite naturally casts doubt upon assertions by police officials that the system is operated fairly and objectively. In these respects, the appearance of fairness and objectivity is virtually nonexistent.

Only an open, formal fact finding hearing for all deadly force cases in which the essential facts are open to reasonable dispute, will make the inquiry into the use of deadly force both fair in fact and fair in appearance.

The single exception to the Los Angeles City Police Department's policy of maintaining shooting investigation and other use of force reports as secret documents, was the highly publicized shooting of a black woman, Eulia Love, on January 3, 1979. The Subcommittee is no doubt familiar with that case and I shall not repeat the facts. The point I wish to make is that the *Love* case gained such widespread publicity, and so aroused the black community in Los Angeles, that the Los Angeles Police Commission, under unprecedented public pressure, felt obliged to release the shooting review board report on Eulia Love. But other shooting review board reports are still not public documents; none has been released since the *Love* shooting and it does not appear that future reports of that kind will be released to the public.

The secrecy problem has been compounded by the California Legislature. In 1978, the California Legislature enacted Evidence Code Section 832.7, which makes officer personnel records "confidential" unless they are sought by discovery action in court proceedings or used in grand jury or district attorney investigations. This most unfortunate and, in my view, very harmful law, has been interpreted as providing all police departments in California with the ability to maintain secret records of disciplinary action of the kind that are always made public in the cases of public officials like judges, legislators, governors, mayors, councilmen, etc., whose activities greatly bear on the manner in which citizens may conduct their daily affairs.

Shooting review board reports, incidentally, are not actually personnel records within the meaning of Evidence Code Section 832.7, but they are nonetheless secretly maintained.

We are constantly reminded that impartial investigations of the use of deadly force are conducted by district attorneys. And here in Los Angeles, highly publicized special units of the Los Angeles County District Attorney's office investigate most officer-involved shootings. The impression conveyed to the public is that a separate and independent investigation by the District Attorney clears up all questions concerning an officer-involved shooting. Actually, these investigations are not nearly as valuable as they appear to be. The single, narrow question before the District Attorney when he makes such an investigation is whether there is sufficient evidence to prosecute an officer for the commission of a crime. District attorney investigations do not ordinarily consider the broader question of whether the investigated officer's conduct was in violation of police department policies and hence unjustifiable, even though the conduct of the officer was not criminal.

The point is that there is a wide range of activity that, by reasonably objective standards, officers should not have engaged in and which, at the same time leads to a death that does not amount to an unlawful homicide. For example, in the *Love* case, at one point during her confrontation with the police, Mrs. Love was backing away from the officers and into her home. Instead of letting her retreat into her home, the officers followed her with guns drawn; she had a knife. Eventually, she was shot and killed by the officers. The District Attorney's investigation focused entirely on the interplay between Mrs. Love and the officers at the time she allegedly raised her hand to throw her knife at the officers. He therefore concluded that the officers fired in self defense. In deciding whether or not to prosecute the officers, the District Attorney did not consider that the officers could have avoided this shooting had they permitted Mrs. Love to back away and retreat into her home.

I believe that police officers in Los Angeles are seldom prosecuted and almost never convicted unless their involvement in a shooting or other use of deadly force resulting in death amounts to premeditated first degree murder. When an officer's conduct falling short of that standard results in no prosecution, the police department gains an unwarranted public relations victory, for the impression created by the media is that the decision not to prosecute means that the officer did everything that was correct and nothing that was wrong, even though departmental policies of the police may have been violated or the officer otherwise exhibited poor judgment, as illustrated by my earlier example of the *Love* case.

I would like to close my remarks with some recommendations for the Subcommittee, none of which, I'm sure, is at all novel.

First, I believe that Congress should take some action to require uniform and detailed reporting of police-homicide statistics. It is vital that we learn the real rate of police homicide.

Second, while the manner in which internal investigations of police homicides are conducted is a matter of state and local concern, the Congress, in conjunction with the executive branch of the federal government, must find means of inducing law enforcement agencies to make public the results of internal inquiries into the use of deadly force, including the facts, conclusions reached and any disciplinary action taken against an officer. When state laws like California Evidence Code Section 832.7 stand in the way of that objective, the United States should intervene on the side of plaintiffs in any law suit filed to challenge the constitutional validity of that law; the federal government should argue that Evidence Code Section 832.7 unduly infringes upon the citizens' right to know how their government operates on a matter having a direct impact on the right to "life" as described in the due process clauses of the United States Constitution.

Third, if state and local law enforcement agencies remain unwilling to produce for public use internal investigation reports on officer-involved uses of deadly force, a special unit of the Justice Department's Civil Rights Division (and not the Federal Bureau of Investigation) should investigate each such case on the assumption that violations of federal civil rights laws may have taken place.

Fourth, Congress should amend the federal civil rights statutes by eliminating all intent requirements not commonly found in state homicide statutes. Any police homicide that would be unlawful under state law (whether prosecuted as such or not) would be a violation of federal civil rights statutes, as a govern-

mental deprivation of the right to "life," as described in the due process clauses of the United States Constitution.

Fifth, Congress should provide at federal, state and local government levels funds required to conduct research leading to the development of alternatives to deadly and lethal force. Both tactical and weapon-type alternatives to lethal force may be discovered for use in accomplishing some law enforcement objectives now accomplished exclusively with deadly and lethal force.

Finally, if this Subcommittee were a committee of the State Legislature or of the Los Angeles City Council, these recommendations would go to matters that more directly influence police policies on the use of deadly force. But Congress in many peripheral ways can prompt a reduction in the number of officer-involved deadly force incidents. The lives of many citizens and many law enforcement officers, as well, can be saved as a direct result of changes as outlined here, and as an indirect result of the increasing respect for law enforcement activity that will inevitably follow those changes.

Again, thank you for the privilege of testifying before this important Subcommittee of the Congress.

Mr. CONYERS. Well, thank you all.

The civil rights statutes are being considered right now for some modification to relieve the tremendous burden that is placed on the U.S. attorney in trying to prosecute. Yours go a little bit further than has been suggested, but I think it is quite appropriate, and these other recommendations will be given consideration.

I would like you to be provided by counsel with some of the recommendations in the form of the civil code to which you might want to react. I think we have been presented with a very good statement from both of our other witnesses.

Are there any clarifications you would like to make in terms of your distinction between the commission, the steering committee, and their responsibilities and relationship to the police department.

Ms. McALPIN-GRANT. I think it would be appropriate to say that the steering committee was appointed in April, primarily by Sander Williams, who is a black commissioner on the Los Angeles Police Commission, and he has received the support of other police commissioners for what he is attempting to do. He had intended to do this, apparently, several years ago and a number of things prevented it from happening then. The Eulia Love shooting and concern of the public, particularly minority leaders, for the horror of what had happened to Eulia Love, brought the activities of the steering committee in focus and immediately established it.

The task force, as a result of report No. 3 of the Police Commission on Community Relations, is an attempt to provide a vehicle for community input; but, more specifically, for an investigative group to assist the commission in coming up with procedures and practices. They have been asked to work with the police departments and, in fact, a commander has been assigned to provide all of the information that we feel we need to do the work we have to do. We have not, as yet, been denied any particular information, however, we are open on this and we are going to wait and see what happens. There are six people on the task force and many of them have a rather responsible position in the black community and would not like to jeopardize their position because of some less than candid operation of the task force. So we are hopeful and positive, but we are going to see what happens.

Mr. CONYERS. And our thanks to you, Mr. Hudson.

I know the NAACP gets inundated with citizens' complaints, particularly of police problems, and it is, usually, from my experience with

the various chapters, way beyond your command to come up with volunteer lawyers who can even begin to handle the nature and complexity of these kinds of matters. So it is very important that you are here, representing not just the local organization, but the national concern that the NAACP has for these kinds of matters. So we greatly appreciate your presence here with us today.

Mr. LUNGREN?

Mr. LUNGREN. Thank you, Mr. Chairman.

I do not wish to be repetitious on this, so let me ask the three of you this question:

It has been mentioned that because of budgetary constraints, the Los Angeles Police Department does not have community relations officers in every assignment at the present time. Evidently, the entire community relations program had to be cut back. Have you perceived any different attitudes on the part of the police department that are in any way connected with that factor? Do you know if there has been any impact whatsoever?

Mr. HUDSON. It would be my opinion that would make a difference if you have a cutback in community relations staff. And I would—

In my opinion, community relations staff plays an important role in bettering community-police relations, but it would be a mistake to that factor as a sole factor for the tension and frustration that exists in our city, and I would not agree with the police department that they have to make budget cuts with community relations staff. I think it is a question of priorities, just like with the Federal budget where you make a decision with military spending, and food stamps spending, you have a budget, you have priorities, and I don't think the police department puts a priority on community relations. I think that's an even more greater problem.

Ms. McALPIN-GRANT. I'm sure they have officers who have been assigned to do the task of what is known as community relations officer in the department. We have yet to find out exactly who these officers are, but we are under the impression they have assigned some regular sergeant level or lieutenant level officers to handle that. However, I do have to say that a number of community people have reported that they do feel that community relations officers are the one major link that they have with the various divisions, so they don't appreciate the fact that these officers no longer exist in various communities.

On the other hand, I'm not so sure people would go to the community relations officer if they thought they had a complaint. In fact, my impression is that those people were so frustrated with the whole complaint process within the department that even the community relations officer was not able to do anything. What we hope to do is look into that very closely, the task force, and see if we can make any recommendations even if they include providing some outside vehicle or medium by which citizens can complain about police review or misuse of force.

Mr. ALLEYNE. I agree with Mr. Hudson and it is probably regrettable that these funds no longer are available.

However, I might qualify that concern for the community relations division of this department by saying that we will have tensions between the black community and police department whether or not there is a community relations department, so long as there is, ap-

parently, no fear and, apparently, objective means of looking into the citizen complaint of the police in this county.

Mr. HUDSON. I want to second that motion.

The community relations department is not going to make a substantial difference. As a member of the steering committee of the police commission, I feel the steering committee is not going to make a difference in terms of tension and frustration in our community. The community has to perceive there is someone outside the police department that has the ability to redress their grievances. They have to know they can take their complaint to someone other than the sergeant at the desk; and they have to know that someone, other than Chief Gates, is going to discipline the officers. Otherwise, there is no faith in the system, no faith in the community relations officers, and no faith in the steering committee.

Mr. ALLEYNE. I would like to reemphasize that I'm not sure I heard it recently, but under the present policies of the Los Angeles Police Department, it is not even possible to find out what officers were disciplined for what, so that after one files a complaint, presently, it is simply not possible, because of the confidentiality of personnel records, to determine what the outcome of the police department's investigation was, along with what happened to an officer, other than rumors that an officer was thought to have been disciplined.

Mr. LUNGREN. Was that true for the complainant?

Mr. ALLEYNE. That's true for the complainant.

Ms. McALPIN-GRANT. Well, the complainant receives a letter informing them by number that an officer has been disciplined or has not been disciplined, and the outcome of the case is known by that means. But a person does not receive, from the time they file their complaint, a copy of the written complaint that is eventually investigated.

It is simply reported to the sergeant at the desk who takes that information down and goes through the interview. The person never knows that they may be reinterviewed about that particular complaint and never sees a copy of the written complaint. They receive a receipt, which is about a 3-by-5 card, which says, "We received your complaint," and acknowledges their appreciation for it. Then they receive a letter, at the end of the process, telling them they were sorry that it happened, the officer has been disciplined or not disciplined, as the case may be.

Mr. LUNGREN. Can one then make an inquiry to the department for more detail?

Ms. McALPIN-GRANT. Not by the citizen, unless they file a suit and attempt to gain discovery of those records in a civil proceeding.

Mr. LUNGREN. Thank you.

Mr. CONYERS. We are grateful for your appearance, and we trust you will continue to make those contributions that you have made toward a resolution.

Thank you all very much.

We want to receive a statement from the Citizens' Committee on Police Repression, from Mr. Don Haina.

Oh, we have it already. It will be incorporated into the record, without objection.



**CONTINUED**

**2 OF 4**

Then we have the Director of the Committee on the Study of Public Policy, Mr. Morris Kight. Would you make a quick summary for us, please?

**TESTIMONY OF MORRIS KIGHT, DIRECTOR OF THE STUDY OF PUBLIC POLICY**

Mr. KIGHT. Yes. Let me do that, if I may, Congressman Conyers. However, having come here and hearing so very much pain, hearing reports of such an enormous amount of injustice, I move to write a much fuller statement than I had originally prepared and send it to you.

Mr. CONYERS. We will receive it into the record.

Mr. KIGHT. Let me at least orally get into the record certain matters of my own observation.

One is that this is an election year, and all 435 members of Congress stand for reelection this year.

If you two are candidates for reelection, you are remarkable, courageous persons for coming out to California, confronting this kind of injustice and not being able to be on the campaign trail.

If all of that is true, I thank you both very much.

Also, I urge you, as Members of Congress, if you could, through your good offices, not to let the stampede toward inflation, the stampede toward war, the stampede toward attention to the injustice in other countries and not injustice at home, detract from the fact that we have certain domestic problems of some size, and that inflation could easily wipe us all out.

If we use all our money for war, there will be no attention made to the human matters that are here today, and while we abhor injustice in other countries, we need to do something about it at home.

What I think we are hearing from the many witnesses who are coming before you, is a pattern of mass lawlessness on the part of the law enforcement agencies in this country, and for a very long time, an enormous number of people have simply been shut out of law enforcement and, indeed, have been the victims.

For example, we mentioned the imprisonment of the Japanese in wholesale numbers in California during World War II.

The committee that I represent is a group of gay people, lesbian women and gay men, some of whom are graduates in personnel administration, some in public administration, but all graduates of what has happened to us in the city of Los Angeles.

Let me just mention for the oral record, if I may, until relatively recent times, one of the things we have confronted is the automatic attitude of law enforcement agencies in Los Angeles County that we were status offenders; that by the very nature we were violators of the law. Not true.

All it took to cause someone to suffer street detention, and arrest, and massive injustice, was, "You're gay; aren't you? You're queer; aren't you? You're a dike. You're a fag." That was really all it took.

That's a terrible law; a status that all persons must be exactly alike; namely, heterosexual, and we are not.

So we have been making some significant changes in that attitude. Not because of any great rush of intellectuality and justice on the part

of the police department, but because of a movement, a radical liberation movement, which is, in essence, public attitudes.

We also have had to combat the manufacture of statistics by the Los Angeles Police Department. One of them, a remarkably clever man in getting on radio and television and in the public forums, and, being, in particular, before Congress, and, indeed, travels all around the world at the auspices of various right wing groups, introduced into the record that there were 30,000 young males being held helpless slaves by us in Los Angeles. This is not true. When they finally released that figure to the Los Angeles Times, I held an instant news conference and said it was not true. And the cameras weren't at all sure, and the printing media weren't at all sure that I knew what I was talking about.

I said, "If you don't believe me, if you don't believe it's a lie, why don't you go down to 150 North Los Angeles and ask if it is a lie?"

They came next door and were told, "Well, even if it is a thousand, it is too many."

Now, get the automatic lie.

Mr. CONYERS. Well, without going into the validity of your assertions, which I have no reason to doubt, it does stray somewhat from the subject of police violence and the subject matter that brought us here.

Mr. KIGHT. Thank you very much.

Mr. CONYERS. You are welcome.

Our final witnesses are S. Deacon Alexander of the National Alliance Against Racist and Political Oppression, Michael Jackson, and Ernestine Stewart. You are the closing witnesses for today.

We understand that you were here all of yesterday and all of today. So the committee has made an exception to allow you to make a brief statement, which you can amplify with documents and any written materials as subsequent.

**TESTIMONY OF S. DEACON ALEXANDER, MEMBER OF THE NATIONAL ALLIANCE AGAINST RACISTS AND POLITICAL OPPRESSION**

Mr. DEACON. Thank you, Mr. Conyers and other members of the hearing.

Ms. Stewart is not here. A family member of Eulia Mae Love, Pat Peters, is here, if that would be in agreement with you, we can continue on that basis.

Mr. CONYERS. What is the thrust of your statement?

Mr. DEACON. I have in terms of a document, the autopsy report of Eulia Mae Love, which you might want to take back with you and review. The reason for that is, since we are the final panel, I think it is very important that we not forget Eulia Mae Love, and William Gavin, and Cedric Stewart.

But, first of all, around the whole issue of Eulia Mae Love, I want to remind you about the remarks that Andrea Ordin made yesterday in having a handle in terms of dealing with Federal intervention and local matters.

If you were to go over this report; that is, the report made by the county sheriff, I think there is ample information right here wherein

you don't need a handle in terms of the whole issue of civil rights violation of Eulia Mae Love. We are talking about a word that is beginning to be used in the community, and it is not misconduct, Mr. Conyers, but the question of public execution and murder.

I feel that the case of William Gavin is probably the most dastardly of crimes committed on the human race in terms of the United States of America in the last 10 years.

Eulia Mae Love and William Gavin, what makes these cases extremely similar, is that there has been a false escalation of conflict.

By that I mean that when a police officer or sheriff's deputy arrives on the scene, you have a situation where they can either escalate or de-escalate the situation, or they can remain neutral in terms of a position.

I think we should talk to the eyewitnesses, Mr. Conyers, which has not happened in this hearing, either yesterday or today.

Mr. CONYERS. There is a good reason.

We are not here to—

Mr. ALEXANDER. To have a trial, I understand that.

Mr. CONYERS. To conduct a trial would be impossible; we would be here for weeks on each case.

Mr. ALEXANDER. I understand that. That's one of—

Mr. CONYERS. That's what I have been assiduously trying to deter from happening.

Mr. ALEXANDER. There is no problem with that.

I feel that it is necessary, however, if you are going to conduct a fair and complete hearing, not to get into the details of each case; that would be an impossible thing to do.

I feel, though, it would be a great loss for you to leave this town and not take any steps to address issues surrounding the two most important cases; that of Eulia Mae Love and William Gavin.

That is not to say that other cases, such as Carlos Washington, and those that have been mentioned, are not just as important. But as far as we are concerned, we feel that there has to be a breakthrough on the question of civil rights violations; and when you talk about the issue of Eulia Mae Love, you at least have the community's concern and awareness. Of course, when you talk about the issue of William Gavin and what happened there, it is the most incredible thing, Mr. Conyers, that you have ever heard of since the Emmett Teal situation in Mississippi.

What I'm saying, though, is that I feel you have to hear Mr. Jackson, who is going to talk about the issue of William Gavin, in terms of not only what happened, but what happened to that entire community on that December evening of last year at 109th and Vermont.

Mr. CONYERS. No. It is not my desire nor inclination nor ability to begin to sort out the more horrendous cases here. I have been hearing these cases a lot longer than you have. So it really doesn't do justice to the cases to rank them.

Secondly, we are not here to take eyewitness testimony on any case—that is not the purpose of the hearing.

Perhaps there are some other forums that we can put together under the auspices of the Congressional Black Caucus; but I cannot detail all the evidentiary matters in one case or the other, regardless of how pronounced the evidence is.

It really does disservice to the hearing and defeats the purpose.

Mr. ALEXANDER. I would definitely accept that.

Would you accept, in terms of evidence and in terms of a matter of record of the 2 days, the autopsy report of Eulia Mae Love and William Gavin?

Mr. CONYERS. We will take the material because we have already by virtue of an earlier agreement agreed to take it in matters involving all cases, including those two.

I would appreciate it if you could limit your remarks to the subject matter for which we are gathered here today and which embraces these cases, but not to the point of giving eyewitness testimony about these matters.

Mr. ALEXANDER. Certainly, Mr. Chairman. I would like to conclude, however, in remarking and returning to Andrea Ordin in terms of the handling of all of the testimony that I have heard over the period of the last 48 hours, is her inability to deal with this issue from a Federal point of view.

I find that quite unacceptable, and especially in light of the fact that she has had access to witnesses and testimony, of course, she could take that you could not take in your capacity.

The community has been listening to Ms. Ordin and to Mr. Van de Kamp, and I feel it is not necessary to go further than the official report given by the police.

The official report given by the police is almost a self-indictment, and I think when we talk about the cases, and I don't mean at all to link them, I don't want to do that, but there are some that are so blatant in terms of what happened, the major issue that I hope to raise in terms of what I think is happening in this community, in Los Angeles, is the idea of the multiple use of guns. In other words, the surrounding of a person and emptying the gun and this business of rapid-fire syndrome, I really believe is really—

Mr. CONYERS. That policy has been raised a number of times here, and I know that it has been reviewed on several levels, and it is critical to the whole question of this hearing.

Have you discussed with counsel connected with the Alliance about the Federal legal questions that are involved in Federal prosecution?

Mr. ALEXANDER. The counsel that is connected with the Alliance includes four members of the bar; all agreed that Ms. Ordin is probably central to everything, and that's what we have come to; that she is central in the sense that she is blocking by not doing anything.

Mr. CONYERS. Well, I would like you to have them refer to her testimony here yesterday, which raised certain difficulties about the civil rights statute and the requirement of the specific intent to violate on the part of the accused—the victim's civil rights—

Mr. ALEXANDER. That's my point exactly.

Mr. CONYERS [continuing]. Which is an incredible element of proof which she did not put into law, obviously, but which is frustrating. And that's why I would like your lawyers to refer to her testimony, and then we can carry on this colloquy and put it in a more legal perspective.

Mr. ALEXANDER. I would like to ask you a question, Mr. Conyers.

Mr. CONYERS. Please do.

Mr. ALEXANDER. In terms of events of the 2 days, I would like to

ask you: Will this hearing give recommendations to the Los Angeles City Council? Will they give recommendations, in any form, in terms of establishing a civilian review board, or any of the things that you have heard? And in what form would this recommendation come down?

Mr. CONYERS. Well, first of all, individual members may choose to make certain recommendations, however, we would not have any jurisdiction to make a recommendation to a council. What we are doing is reviewing the Federal input, the constitutional rights of those who have been victims of the police use of deadly force and violence, and to determine how the practices of the Civil Rights Division of the U.S. Department of Justice can all be altered in that regard.

In terms of gratuitously giving advice to any other local level of the Government, we would probably be subject to extreme criticism, especially if it was advice that they did not happen to agree with.

In other words, we don't really have that function.

And I realize that you need to have that done, but there is no way that we can gratuitously do that; but I would have to review that with all the members of the subcommittee, some of whom would not agree with me, and we need other mechanisms to facilitate that.

Mr. ALEXANDER. I think that you are getting the impression that we are literally in a very desperate situation in Los Angeles, and especially in the south central Los Angeles part, and that, you know, as far as we are concerned—from some concluding remarks—that any kind of direction that you could give to the Federal level, it is not only a question that would be greatly appreciated, but I think Mr. Charles Chapple and others, have indicated that we are really at the last straw in terms of some of these things that have been happening, and there is no way we are going to submit to any kind of threat, or anything like that.

But it has to be historically and sociologically speaking, we are really upset.

Mr. CONYERS. Thank you.

Michael Jackson, whose cooperation the subcommittee has appreciated, has been here throughout all the proceedings. We recognize him.

#### TESTIMONY OF MICHAEL JACKSON, LOS ANGELES, CALIF.

Mr. JACKSON. I do thank you, Congressman Conyers, and the rest of the committee.

I sat through the hearings, and I heard quite a few things I really did not agree with.

Some things I did agree with.

We've heard so many things about police abuse, but we have not really defined all the mechanisms of that abuse.

I listened to the police state their case yesterday, and they came up with valid points, and also valid contradictions to themselves.

We are now involved in unfair abuse committed on the law enforcement agencies by the communities, in which they were sworn by oath to protect and to serve.

We in the community are somewhat fascinated and troubled by what we see and hear, what we feel is entirely different from what the system computes as a violent, inhumane, mindless, social unacceptable group of misfits.

For years we have been bound by the systems from which its concepts did not include certain elements of society, as it has addressed itself today.

I truly believe in the system because it exists; saying that it doesn't exist is a lie. I also feel that with the reexamination of the method the system uses, then we can begin to make progress of constructive measures.

But here we are in 1980 and still the problem of police abuse exists.

Surely, this is not the only issue, yet it is the one which requires urgent investigation and a great need for Federal intervention.

For years we have been plagued with the use of excessive force by members of the Los Angeles County Sheriff and Los Angeles City Police Department. The acts of abuse, both physical and mental, are parts of the department's unwritten law of confining social, ethnical, and racial groups from declaring their rights as free people.

We find ourselves totally involved with the constant threat of being intimidated, brainwashed, and murdered.

For example, let us take the case of William Gavin. This case involved not only murder but included the acts of premeditation, psychological intimidation, house arrest, threatening of witnesses, brainwashing, covering up of evidence and intimidation of witnesses. This is also a great problem that we have to deal with in this community, other than the use of deadly force.

I witnessed the William Gavin murder. I saw quite a few things outside of the killing, if you remove the killing. I saw an unarmed man shot down.

He was shot 20 times by both members of the Los Angeles Police Department and Los Angeles County sheriff's. What makes this case unique is the method which was used. I identified it as psychological intimidation. People, at that time, thought this man was already under arrest; and I stayed because I saw something; I saw them psychologically breaking this man down, and they broke him down to where he would submit to anything or any orders.

Now, these are awful things that have been happening in our community. This man has dealt with the police before.

You will find that in the cases of not only *Eubia Love* and *William Gavin*, but in all of the other cases; first you have intimidation, then you have a method that comes into the operation after a killing has occurred, and that is intimidation of witnesses.

Now, as soon as the witness would step out and proclaim themselves as a witness, say a qualified witness, then they start with what we call intimidation. They discredit the witness in the media. It happened to me. They did not discredit me. It was just their opinion.

Another point that makes this case so unique, is that when you identify a murder and you call the law enforcement agencies, they know the person is bound to die at the hands of their officers, and yet they still do not respond until some 30 or 40 minutes later, after the man has died. Then I find that premeditation has to exist there.

Now, William Gavin's murder really—

Mr. CONYERS. Let me do this:

First of all, I want to say that you are doing what many citizens haven't done, and I think you have this subcommittee's admiration for your courage and your steadfastness.

This is not easy. You have been involuntarily drawn into an incredible drama, which has not even yet been fully resolved, and for that, I think the community is, no doubt, grateful to you for your coming forward, and so are we; but I would prefer at this point for you to make a concluding statement and, then, submit everything else. I want you to confer with your counsel as to what materials you should submit so that we don't inadvertently draw any line between what you need for future testimony in the court cases that are going to follow that would or might interfere with what you submit to the subcommittee.

So we appreciate, very much, your coming here before the subcommittee.

We want to express our thanks to everybody in the city who contributed to these hearings.

I must say that I received more than was expected in terms of the degree of the number of matters.

We received excellent cooperation from our Federal and county and municipal posts in helping arrange this. The media has been cooperative. The citizens' organizations have been extremely diligent in bringing these matters to our attention, and have recorded rather faithfully what I think will become an important part of our history in this struggle.

I would particularly like to thank my colleague Dan Lungren who has given a great deal of his own time to join me here over this weekend for this very important matter, and I would yield to him for any concluding comment he may choose to make at this time.

Mr. LUNGREN. Thank you, Mr. Chairman.

I would like to thank all of those who participated in these hearings for giving us a number of different perspectives on an issue that, obviously, is very controversial.

One of the last speakers commented that we have entered the 1980's, but there is still police abuse. So long as we have a human institution known as a police department, we are going to have police abuse, because there are human beings involved in it. The question is, of course: how do you attempt to minimize that abuse and how do you effectively create a force that fulfills the function for which it was created, but, at the same time, has a sensitivity and a due regard for the rights of the people that it serves?

It was not my intention, nor do I think the intention of this subcommittee, to indict any particular group or organization or to form judgments about any particular incident that may have occurred. That is not within the purview of our responsibilities. We are not a fact-finding court.

Some members of the community suggest that perhaps more people ought to be convicted than have been convicted, from whatever station of life they come. The fact of the matter is that our system makes conviction in some cases very, very difficult, because we want to protect the rights of those who might unjustly be accused. That element is operative in all aspects of law enforcement, no matter which side you are looking at: from the outside looking in, or from the inside looking out.

I do think that the testimony we have received has proved most interesting and, certainly, has flushed out an issue which confronts this

subcommittee and the community. For that, I appreciate the participation, attendance, and indulgence of all of those who are here.

Mr. ALEXANDER. I am glad that I was able to come here, and talk about a lot of these problems we talked about, because this is something that the community very rarely has the mechanism to do.

But we also have to realize this is not only a police problem, it is a community problem. This hearing has been going on for 2 days, and as we look around our room here, we do not see our local officials out here trying to solve this problem.

We have this problem that exists; we know about the police league, we can vote that out ourselves. It is something we are going to have to do ourselves, in our community, and our officials will have to deal actually with the problems, not with the glory of the job; we need to get our communities involved, and get them out of this situation and then something can be accomplished.

Mr. CONYERS. We owe a great debt to our subcommittee staff who have worked many weeks preparing for this, and they have taken a load off of the members; and I would like to say, for everyone who has testified here, that they will be able to receive a copy of these hearings in their entirety, once they are printed, and with those series of things, we pronounce these hearings adjourned.

[Whereupon, at 1:20 p.m., the subcommittee hearing was adjourned.]

## APPENDIX

INTRADPARTMENTAL CORRESPONDENCE,  
*March 18, 1980.*

To : The Honorable Board of Police Commissioners  
From : Chief of Police  
Subject : Progress Report Relative to Direction Contained in the Report of the Board of Police Commissioners Concerning the Shooting of Eulia Love and the Use of Deadly Force (Part III—Training and Community Relations)

Honorable Members, the attached report is submitted for Board information. It outlines Department progress made toward implementing direction by the Board contained in "The Report of the Board of Police Commissioners Concerning the Shooting of Eulia Love and the Use of Deadly Force, Part III—Training and Community Relations."

Respectfully,

DARYL F. GATES,  
*Chief of Police.*

Attachment.

### PART III—TRAINING AND COMMUNITY RELATIONS

#### SECTION II—TRAINING

##### *Item 1. The use of deadly force*

*B. Future procedure.*—1. An increased emphasis on when and where to shoot, i.e., target discrimination in addition to how to shoot, in revolver and shotgun ranges. (Page 5)

2. A modification of the ranges to provide officers with an assessment of the effect of each one or two shots, i.e., "Did I reach my objective," so that training is consistent with the stated policy of using minimum necessary force. (Page 5)

Status: Three of the existing six ranges at the Academy currently require target discrimination judgment. These include the new Safety and Familiarization Exercise (S.A.F.E.) Shotgun Range, the Development and Evaluation of Firearms Training (DEFT) Simulator, and the Practical Combat Range (Hogan's Alley). Each of these ranges is available for use by Department personnel. However, none accommodate a monthly qualification capacity and are used primarily for recruit and in-service training programs.

Of the remaining three ranges, one is used exclusively for familiarization of the shotgun. No discrimination or movement of targets is possible on this range. The other two ranges (combat and target) are the property of the Los Angeles Police Revolver and Athletic Club and are used for the Department's required monthly qualification program. Seventy-four percent of the monthly revolver qualification completed at the Academy is accomplished on the combat range with approximately 1,359,840 rounds fired each year.

Evaluation of various "systems" that may lend themselves to implementation of target discrimination training on qualification ranges has begun. To date, Advanced Training Systems and Caswell Equipment Company have been contacted. The electronics technician assigned to the DEFT Unit has also become involved and has material on order through Supply Division which should allow phases of the qualification program to become automated. An automated system will allow qualifying officers to discriminate between "friendly" and non-friendly" targets that have knockdown capability, thus enhancing controlled fire and target discrimination training.

In the immediate future, the Officer-in-Charge of the Ordinance Unit, members of the DEFT staff and the Commanding Officer of Training Division are sched-

uled to review and evaluate options available for modification to existing ranges and establish goals concerning the implementation of appropriate changes.

3. An evaluation as to whether veteran officers who had received most of their shooting training before the 1976 modifications require remedial training in target discrimination. (Page 5)

Status: Firearms training is divided into two basic components: When and who to shoot (target discrimination) and how to shoot. The modifications made to the 25-yard line course of fire during 1976 were made primarily to teach officers how to shoot at times and distances similar to actual shootings that were occurring in field situations. Target discrimination, or when and who to shoot, is taught primarily through classroom lecture and field problem techniques. These lectures on shooting policy were substantially modified with the advent of the new shooting policy in September of 1977. As a result of that policy change, every officer on the Department has received at least four hours of instruction on when and who to shoot. In light of this, there is no apparent reason to retrain senior officers on the 25-yard line techniques. Also, the shooting skills used on that line are essentially the same as those used on the Combat Range.

4. The cost effectiveness of expanding the DEFT simulator program so that it will remain open for extended training with an adequate library of enactments emphasizing shooting policy, with special emphasis on "minimizing the risk of death." (Page 6)

Status: Any proposed expansion of the DEFT simulator program must begin with a realistic appraisal of its present status as a training system. After 10 years of development, DEFT was made operational in 1979. During the first eight months of operation, 850 in-service officers and 150 recruit officers utilized the system with all participants indicating they were very satisfied with the quality of training in the simulator. This uniformly positive response, while not necessarily proof of genuine training effectiveness, cannot be ignored as an indication of the value police officers place upon the realism this system provides.

DEFT simulator training is time and labor intensive training. Full utilization of all the simulator design features requires a minimum of 20 minutes trainee-time and 20 minutes instructor-time, for a nominal personnel cost of two-thirds workhour for each individual exercise. The maximum capacity of the system in a three-hour period is presently five trainees an hour. Replacement of the obsolete computer terminal with a faster pair of units (approximately \$4,000) will nearly double that capacity. The City Administrative Officer has currently approved a Rule 11 deviation to acquire this equipment.

The simulator presently utilizes a library of four, 4 to 6 minute, color film enactments of field problems which contain critical decision points followed by tactical "mandatory-shoot" situations. The films are graded in difficulty from "clear-cut" to "damned if you do, damned if you don't." Three of the four films depend heavily upon uncertainty and surprise for their training value, while the fourth film depends more on technical difficulty and conflicting standards of judgment which provides a training value through repeated viewings.

The DEFT staff presently consists of one Sergeant II, one Police Officer III, and one Administrative Assistant (computer specialist). This is the absolute minimum staff required for administrative and technical support of the simulator operation; it does not reflect the practical manpower requirements for normal operations of a simulator training program. Budget requests for three additional Police Officer III positions have been requested for the 1980-81 fiscal year. This additional manpower will permit an expanded recruit training schedule and improve maintenance of the simulator and Practical Combat Range, but will not adequately support a significantly expanded in-service training program.

The simulator building has failed to meet certain Building Code requirements for final certification. Modifications of the building for code-compliance are pending subject to availability of funds.

Expansion of the DEFT simulator program to regularly scheduled operation over two watch periods (16 hours per day, 5 days per week) will require the following:

1. Replacement of existing terminal and VTR equipment as described.
2. Production of additional film enactments for the simulator library (production costs for these films are now estimated at from \$15,000 to \$20,000 each). The original system proposal specified a film library of 40 film enactments; however, a budget for creation of such a library over 5 years would approach 1 million dollars.
3. Staffing of the simulator program requires an increase from its present level to a minimum strength of one Sergeant II and six Police Officers III.

4. Building modifications necessary for achieving Building Code compliance must be completed if the number of personnel regularly using the building is significantly increased over the present low level use. (Cost approximately \$70,000)

The acquisition of these items, excepting the terminal and VTR equipment, has been denied in the Budget by the Mayor pending an evaluation by Data Service Bureau of system and maintenance requirements.

#### *Practical Combat Range*

Modernization and expansion of the Practical Combat Range to include sound effects, knock-down targets, and new problems were established Training Division goals for 1979 but could not be met because of manpower and equipment shortages.

5. Establishment of monthly qualification procedures in defense and disarming tactics; other than the use of deadly force. (Page 6)

Status: The development of an in-service qualification system in self-defense techniques has been the subject of considerable study and consideration by the Department for many years. In October 1978, the Department enhanced its remediation effort and implemented an annual four-hour Centralized Self-Defense Refresher Training Course which concentrates upon escalation, de-escalation of force philosophy, and approved defense and disarming tactics. All Department personnel below the rank of Lieutenant, who are likely to become involved in an arrest situation, are required to attend this training each year and demonstrate an acceptable level of proficiency. Additionally, a 100 percent score on the written exam, which includes philosophy on the use of force, including when to utilize each technique, and its effect, is required. To date, 5,108 officers have received this training and successfully demonstrated a thorough understanding of the use of force philosophy and its application.

To provide insight relative to the degree of retention officers maintain after attending this training, a random performance test was conducted in March of 1979. Ten percent of the officers assigned to Central and South Bureaus who received the training were evaluated. The results of the random testing indicate that, as a refresher course, the Centralized Self-Defense Program is effective. Those who participated had received the training at least 90 days prior to the test, and 92 percent demonstrated at least a minimum level of proficiency. This high retention rate is especially significant considering that the average officer tested has seven years with the Department and many participants did not receive training on the recently-developed techniques at the recruit level. Currently, Training Division is evaluating the training needs of the Department and attempting to prepare a "Phase Two" curriculum for the in-service Centralized Self-Defense refresher course.

To supplement the Centralized Self-Defense training program, an Office of Operations Notice, dated April 7, 1979, directed all commanding officers to provide roll call training on the use of force and self-defense techniques two days each deployment period. This not only provides additional training for the officers but requires supervisory personnel to maintain the level of proficiency necessary to conduct the training.

The establishment of monthly qualification procedures in defense and disarming techniques is currently under study. It is generally recognized that no matter what procedural approach is designed for this kind of qualification program the cost will be extremely high. For example, the Ordnance Unit, Training Division, currently qualifies in excess of 6,000 personnel in firearms on a monthly basis. This requires the operation of range facilities 378 hours each month which accommodates an average of 16 officers each hour. The major expense, however, would be in the area of overtime pay. Firearms qualification overtime cost in excess of \$95,000 between July and December 1978. Recent audits measuring the effectiveness of the centralized self-defense program, make it evident that further study is necessary before attempting to implement qualification procedures in defense and disarming tactics. The Personnel and Training Bureau is currently studying the feasibility of substituting self-defense and disarming tactics for firearms qualification on a quarterly basis. In determining the specific mode of the program and the tactics to be tested, personnel with self-defense expertise assigned outside of Training Division are being consulted along with the Training Division staff.

6. Establishment of a procedure to implement the Use of Force Review Board's detailed analysis of specific incidents in all training programs to ensure expedi-

tious and consistent departmental review of shooting policy and improved training methods. (Page 6)

Status: In July 1979, Personnel and Training Bureau and Training Division personnel formed a task force to propose changes in the review process for use of force incidents and to propose improvements in use of force training. The work of that task force was ultimately contained in the program approved by the Board of Police Commissioners for funding entitled Training, Attitude and Control Tactics (TACT). The proposed TACT Section of Training Division will be responsible for obtaining training information from the Use of Force Review Board and immediately integrating it into appropriate training programs. Additionally, the Section will be responsible for immediately transmitting the training information to training coordinators in the geographic areas, specialized divisions, and traffic divisions. These coordinators will ensure rapid dissemination of the information to field officers. Implementation of this program is dependent upon funding in the 1980-81 Budget.

Improved roll call training has been outlined in detail in the "Enhancement of Roll Call Training" program approved by the Chief of Police in December 1979. This program addresses improvements in decentralized training as follows:

Structures the duties of the Field Training Services Unit to provide improved training materials. The Unit now produces lesson plans for use by field supervisors when conducting roll call training,

Strengthens the Area training officer position,

Brings the Operations Bureau into the training process in an auditing capacity.

Provides a testing process to evaluate roll call training effectiveness,

Improves the process for determining what training materials will be produced by the field Training Services Unit.

7. Continued research into the use of intermediate (non-lethal) weapons and/or control devices which have the potential to significantly reduce reliance upon deadly force. (Page 6).

Status: Planning and Research Division is continuing to search for effective suspect control devices. The variety of items already tested include: chemical mace and two similar products, "stun guns" of the electronic and so-called "bean-bag" varieties, plastic shotgun pellets, tranquilizing guns, and a net to subdue violent suspects. The Tom A. Swift Electric Rifle (TASER) was preliminarily evaluated and is currently being examined by the Coroner's Office before a recommendation is made regarding its adoption. Additionally, Planning and Research Division is evaluating a non-lethal control device called "The Source." This device provides a static electrical charge. Its application to field incidents is under study by Training Division.

On February 1, 1980, the PR 24 "Monadnock" Baton was approved as an optional equipment item to provide an enhanced alternative to the use of deadly force. The PR 24 Baton basic training course has been integrated into the Centralized Self-Defense training and recruit training programs. The Uniform and Equipment Committee has also approved the use of an officer designed "Leg Grabber" to be used on an experimental basis in South Bureau. This device may permit officers to control violent individuals from a short distance. Another device under development with Department cooperation for possible field experimentation is the "criss-cross." This device is a dual-pole restraint instrument which may afford field officers the opportunity to restrain a violent individual on a team-work basis without having to apply control holds or engage in direct hand-to-hand physical altercations.

8. Development of a system of recognition for officers who resolve conflict through means other than the use of deadly force, when such alternatives are available and will not unnecessarily jeopardize officers' safety. (Page 6).

Status: Officers are currently recognized through the formal commendation process at the divisional and bureau levels when they resolve conflicts by means other than the use of deadly force. In addition, a Special Order is being developed which provides for awarding the Police Star when officers exercise exceptional judgment and/or tactics during stressful situations.

#### Item 2. Crisis intervention

B. Future procedures.—We have directed the Department to work with local accredited institutions in the development of crisis intervention training for all field officers. The first phase of the training will start May 1 and will provide psychological skills to training officers who will, in turn, train the officers under their command. The total program will be integrated with all training systems for City-wide implementation by September 1. (Page 8)

Status: Funding has been requested for the Pilot Program associated with Phase I. This funding request includes a Psychologist I position to coordinate the Crisis Intervention Pilot Training Program and subsequently integrate the training into the Academy in-service and recruit schools. A Request for Proposal (R.E.P.) has been prepared to enable the City to hire an outside vendor with a training package to include training for 50 Police Officers from selected areas as well as Training Division in order to form a permanent cadre at the Academy. The Department is also attempting to acquire Federal funding for the Pilot Program through the City Attorney's Office. This funding, however, does not include the essential Psychologist I position for Training Division. The Department has undertaken all necessary measures to specifically select the personnel to be trained and to coordinate the various space, personnel and logistical elements required for immediate implementation. Special efforts have also been undertaken to speed the processes necessary to obtain funding, issue R.F.P.'s and negotiate and finalize contracts with the selected vendor. These processes are for the most part beyond control of the Department. At this point, it appears that the earliest implementation date is May 20, 1980.

#### Item 3. Stress management

B. Future procedure.—The Commission is committed to a major emphasis in the area of stress management and has determined that the comprehensive program developed conceptually in 1977 should serve as the core program for the Department. The Department is therefore instructed to update and resubmit the Interdepartmental Task Force on Police Officers Stress Proposal and report to the Commission within 30 days for immediate funding considerations. (Page 11)

Status: The Interdepartmental Task Force on Police Officer Stress Proposal has been updated, and a "bare bones" core program was formulated. Budget requests for both personnel and equipment were prepared and forwarded to the Commission for approval. In its meeting of January 29, the Board of Police Commissioners decided not to proceed with the program.

1. Study of Officer Attitudes and Effects of Attitudes in Police Shooting Situations. (Page 11)

Status: This study is being designed with the intention of exploring a wide-range of possible contributory factors to police use of deadly force, some of which are attitudinal and personality characteristics of police officers. Under the supervision of Dr. Reiser, a Behavioral Science staff intern has reviewed relevant literature and discussed the issues of police use of deadly force with knowledgeable persons. Instruments for assessing attitudes and personality characteristics are now being selected or devised.

2. Evaluation of Psychological Training at the Academy (Page 12)

Status: The Behavioral Science Services Section staff is completing its evaluation of psychological training parameters for LAPD performance. Under Dr. Reiser's supervision, a staff member has selected classes, reviewed relevant training materials, and conducted extensive discussions with key Training Division personnel.

Specific recommendations for modifications in psychological training will follow in approximately a month. These will focus not only on content and teaching methods at the Academy level, but will also stress implementation and effective follow through of recommended programs for all classes conducted at the Academy including the integration of Crisis Intervention training.

3. Early Prevention of Emotional Emergencies. (Page 12)

Status: At the present time, the Behavioral Science Services Section is receiving and reviewing applications in order to select and contract with five psychological consultants. The staff has drafted a contract for this purpose, which is currently in an approval cycle. It is anticipated that the hiring of consultants will be completed within one month and their orientation training will commence as soon as possible thereafter.

Dr. Bebe Jacobson, Staff Psychologist, has developed an orientation program for the psychological consultants and is presently preparing the curriculum and teaching materials for the training of sergeants. Logistical information for assignment, coordination and interface with the consultants is also under preparation.

#### Item 4. Minority relations

B. Future procedure.—We are directing the Department to expand and revise its recruit and in-service minority relations training to shift the emphasis from theoretical analysis to a more practical, direct indoctrination into the realities



of life in a multi-cultural and changing community. An essential ingredient of this change is the utilization of community representatives and leaders at the Police Academy during recruit training and the opportunity during such recruit training for direct face-to-face discussions and frank exchanges concerning police-minority attitudes and problems. (Page 14)

Status: The recruit curriculum currently provides for one and one-half hour segments of live instruction in Black and Hispanic cultures and one-hour blocks of instruction in Asian and American Indian cultures. Moreover, on January 11, supervisors from the Recruit Training Section, Training Division, met with the ethnic culture instructors and with Dr. Nels Klyver, Behavioral Science Services Section. At this meeting, the ethnic culture instructors suggested the following revisions to improve the quality of training in minority relations:

1. Include all ethnic culture classes within a four and one-half hour segment.
2. Present all minority cultures in a panel discussion format. This would:
  - a. Increase class participation and promote discussion.
  - b. Decrease duplication; i.e., the instructors would not repeat the same information in these subject areas.
  - c. Improve instruction through infusion of ideas from every cultural perspective.

The instructors decided to meet periodically and before each panel is seated in an effort to stimulate discussion of key issues.

The suggestions made by the ethnic culture instructors will be evaluated by Training Division's Curriculum Evaluation Committee in the near future. The Police Commission's directions will be incorporated into the curriculum of the current recruit class.

#### *Community Relations Conference*

The Community Relations Conference is offered in the 11th week of the recruit curriculum schedule. Representatives from the Community Relations Section, Office of the Chief of Police, present the class. The purpose of the class is to acquaint recruit officers with the Department's Community Relations policies and objectives with the goal that recruit officers will: (1) be made aware of the problems of diverse attitudes and how not to let them affect the officer's work as a professional police officer; (2) understand the nature of prejudice and resulting problems caused by it; and (3) clearly perceive that the Department cannot successfully do its job without support from the people. The conference is one hour.

#### *Recruit Interpersonal Relations Conferences*

The Interpersonal Relations Conferences are designed to include recruit officers in dialogues with representatives from various ethnic communities. Attitudes in various communities regarding police officers and law enforcement operations are discussed. Guests are invited on the basis of their involvement in community affairs and their genuine interest in continuing good police-community relations. Each guest leads a conference group. Possible police-community relations problems are examined. The recruit officers all participate and contribute to the exchange of ideas and opinions. A minority captain acts as the conference moderator. The conferences have proved so successful that they have been expanded from one and one-half hours to two and one-half hours. The Interpersonal Relations Conferences are presented in the 16th week of the recruit curriculum.

During 1979, conference participants have been administrators from the Hispanic Urban Center; Dr. Bohler, Minister and former Board of Education member; and Ernie Nishamura, community activist and Recreation and Parks employee. Due to sporadic hiring in 1979, a permanent cadre of conference participants has not been established; however, a list of future recruit classes is being developed.

#### *Item 5. Response to business disputes (pages 16 and 17)*

Status: Planning and Research Division is currently reviewing all source documents concerning policy relative to officers intervening in business disputes to confirm compliance with the direction of the board of Police Commissions. Additionally, recruit and in-service training procedures are being reviewed to verify that the instruction is appropriate.

#### *Item 6. Handcuffing procedure (page 19)*

Status: The Department has directed that additional instruction be given with respect to the circumstances under which handcuffs may be utilized. At present,

the Los Angeles Police Department has a discretionary handcuffing policy which applies to both felony and misdemeanor arrestees. The policy is clearly set forth in:

#### Manual Sections

- 4/217.30 Use of Handcuffs
- 4/217.32 Handcuffing of Misdemeanor Prisoners
- 4/217.34 Handcuffing of Belligerent Arrestees
- 4/217.36 Handcuffing Mentally Ill Persons

Special Order No. 55 (Discretionary Handcuffing) November 15, 1976, and Training Bulletin, Volume IX, Issue I (Handcuffing Procedure)

Training Division employs three methods of application to relate this policy to recruit officers. First, the Physical Training/Self-Defense Unit teaches the policy during its handcuffing classes (at the beginning of the session). Second, the subject is covered in classroom lecture during the classes "Discretionary Decision Making in Law Enforcement" and "Police Professionalism." Finally, Academy Staff members discuss the topic generally and specifically with recruits during formal and informal sessions.

#### *Item 7. Evaluation of officers for remedial training (Page 19A)*

Status: Area/division commanding officers currently monitor all altercation reports and personnel complaints and evaluate the need for training and/or other administrative action. As a part of this review process, commanding officers may recommend that Personnel Division prepare biographical profiles which contain information concerning employee psychological fitness when necessary. Information contained in the biographical profile report is evaluated by the concerned commanding officer and may result in a request for a comprehensive psychological examination of the employee.

To enhance this procedure, the Training, Attitude and Control Tactics (TACT) program provides that commanding officers are to continue reviewing individual altercation reports and personnel complaints regardless of their final disposition and take whatever action is appropriate whenever problem areas are identified. This evaluation may be enhanced by convening a board which involves the employee's immediate and lieutenant level supervisors as well as the area/division Training Coordinator.

### SECTION III—COMMUNITY RELATIONS

#### *Item 4. Assignment to minority areas (page 29)*

Status: The Department has reviewed its assignment system and determined that the articulated objective of the Board of Police Commissioners can best be met by review conducted at the division level by division commanding officers subsequent to measuring the work performance of individual officers. The Department currently holds division commanding officers responsible for the performance of assigned personnel and Department systems provide methods by which problems of job performance and behavior can be identified and evaluated to determine whether or not reassignment would be an appropriate administrative action. The Department is also afforded the added evaluative resource of City psychologists to assist in determining suitability of personnel assignments based upon individual records of performance and behavior. The design of a selection system to pre-determine suitability for uniformed assignment would be legally subjective and susceptible to legal challenge. The entry level selection process coupled with Academy training provides adequate screening for assignment of personnel to any uniformed position in the Department. Performance in assignment should continue to be the basis for determining assignment suitability.

### THE REPORT OF THE BOARD OF POLICE COMMISSIONERS CONCERNING THE SHOOTING OF EULIA LOVE AND THE USE OF DEADLY FORCE

#### PART I—THE SHOOTING OF EULIA LOVE

##### I. INTRODUCTION

This section of the Commission's Report presents the results of an examination and evaluation conducted by the Board of Police Commissioners of the events leading to the death of Mrs. Eulia Love on January 3, 1979.

On April 17, 1979, the District Attorney notified the public of his decision

that no criminal charges would be filed against the two police officers involved in the shooting. The sole issue resolved in the District Attorney's report was whether the officers committed the crimes of murder or manslaughter; this necessarily included the issues of self-defense and justifiable homicide.

Similarly, the United States Attorney for the Central District of California considered the matter from the standpoint of possible violations by the officers of federal law. On August 9, 1979, that Office announced its conclusion that there was no basis for prosecution of the officers under the Civil Rights statutes.

The Department's investigation and evaluation of officer-involved shooting incidents, unlike those of the District Attorney and the United States Attorney, is not undertaken for the purpose of resolving issues relating to criminal prosecution of the officers. Rather the Department's task is to analyze the existing Department policies and apply them to the facts of each case so that it may properly evaluate the conduct of its officers and determine what administrative action, if any, is required.

In the case of Eulia Love, the majority report of the Department's Shooting Review Board concluded that the actions taken by the involved officers complied in all respects with Department policies concerning the use of firearms and deadly force. A minority report of the Review Board concluded that the officers' actions were "in policy but failed to meet Department standards."

The Police Commission has completed an independent examination of the circumstances and reevaluated the Department's previous determination in light of additional factual information. The Commission concludes, in direct contrast to the majority findings of the Shooting Review Board, that the actions taken by the officers violated the policies of the Los Angeles Police Department governing the use of firearms and deadly force, and that the officers made serious errors in judgment, and in their choice of tactics, which contributed to the fatal shooting of Eulia Love.

## II. STATEMENT OF FACTS

The facts presented in this report combine the results of investigations performed by the Los Angeles Police Department's Robbery-Homicide Division (R.H.D.) and the Los Angeles District Attorney's Office (D.A.). At the request of the Commission, the Department reopened its investigation and the results of that supplemental investigation are included herein.

On January 3, 1979, at approximately 11:15 a.m., Mr. John Ramirez, an employee of the gas company, arrived at the Love residence. He identified himself and spoke to Mrs. Love at the door. He then went to shut off the gas at the side of the house. Mrs. Love approached Ramirez, advised him that she would not allow him to disconnect her gas, and hit him with a shovel, inflicting a contusion to his arm. He noted that she was "frothing at the mouth" and, as she prepared to hit him again, left the area. He went back to his office, at which time the Police Department was called. (D.A. 9-10; R.H.D. 1-2)

Sometime between eleven and noon, Mrs. Love went to the Boys Market to attempt to pay her gas bill. When she was informed that she could not pay her gas bill there, she purchased a money order in the amount of the minimum payment required to continue her gas service (\$22.09). (R.H.D. 12)

At 1:15 p.m., Mr. William L. Jones, an employee of the gas company, told his supervisor what had happened to Ramirez, and told him that he would be going to the Love house. The supervisor said that Jones should have the police accompany him. (R.H.D. 2-3) At 2:30 p.m., Ramirez was interviewed by the Los Angeles Police Department and signed an assault with a deadly weapon report (ADW). He was given a Victim's Report Memo. (R.H.D. 2)

Jones and Mr. Robert Aubry, gas company employees, went to the vicinity of the Love residence. At 3:59 p.m.,<sup>1</sup> Jones called the police dispatcher and asked for a patrol car to join them at the residence. They stopped down the street from the Love house in their separate vehicles. (D.A. 11; R.H.D. 3) Mrs. Love came out of her house and spoke to Aubry, who told her that he was not there to turn off her gas. She indicated that she would pay \$20.00, but that she would not pay the \$80.00. (D.A. 12; R.H.D. 3-4) She went back in her house, and two

<sup>1</sup> The times in this Statement of Facts differ from those reported in both the Department's investigative report and the District Attorney's report. The times used in this Report were taken directly from communication cards prepared at the time of the incident. These cards are on file at the Department.

or three minutes later came out with a knife, at which time she began hacking the branches of a tree on her front lawn. (D.A. 12; R.H.D. 4).

At 4:15 p.m., the police dispatcher put out a call for a car to join the gas company employees ("415 business dispute. Meet the gas man at 11926 South Orchard, Code 2.") Shortly thereafter, at 4:15:52 p.m., Officers Hopson and O'Callaghan acknowledged the call.

When the police officers arrived at the scene, they stopped their patrol car near the gas company vehicles and spoke to Jones. Jones advised the officers that Mrs. Love had hit one of their men with a shovel earlier that day when he tried to shut off the gas, showed them the Victim's Report Memo, and asked them to stand by while he and Aubry either collected the money or turned off the gas. (D.A. 12) The officers observed Mrs. Love as she walked back and forth on the sidewalk in front of her house with a knife in her hand and yelled at the gas men. The officers drove to the front of Mrs. Love's house and got out of the car, immediately drawing their guns. (D.A. 13) Mrs. Love appeared to be agitated and told the officers they were not going to shut off her gas. She uttered a number of obscene remarks. (D.A. 13; R.H.D. 5) The officers demanded that Mrs. Love drop the knife. (D.A. 13; R.H.D. 5) During this time, one of Mrs. Love's daughters, Sheila (age 15), came out of the house briefly, but went back in at the command of Officer Hopson. (D.A. 14)

When Mrs. Love began to back up towards her house, Officer O'Callaghan followed her. As she retreated, she was making thrusts towards him with her knife. O'Callaghan was approximately six feet away, and had his gun and baton out. At this point Mrs. Love's younger daughter, Tammy (age 12), came out onto the porch and then went back into the house. The policemen heard children's voices<sup>2</sup> inside the house at this time. (R.H.D. 6) Three witnesses, including Aubry, also indicated that Hopson signalled the gas company employees, as if to say, "come on" during the time Mrs. Love was retreating. (D.A. 15)

Mrs. Love stopped at the intersection of the walkway leading from the public sidewalk and the walk to her house, and faced the policemen with the knife in her right hand. O'Callaghan was, at this point, five feet west of her, and Hopson was ten feet southwest of her. (D.A. 16; R.H.D. 6) Hopson had his gun outstretched in both hands and was in a semi-crouched position. O'Callaghan had his gun in his right hand, pointed at Mrs. Love, and his baton in his left. Mrs. Love started to lower her right hand with the knife in it. O'Callaghan hit her hand with his baton and knocked the knife to the ground, backing away as he did so. She picked up the knife and drew her arm back as if she were going to throw it. At this time Hopson warned her not to throw the knife. O'Callaghan was twelve feet away and Hopson was eight feet away. O'Callaghan dropped the baton and moved into a two-handed, semi-crouched position. Hopson was still in a two handed, semi-crouched position. Each officer fired six rounds in a rapid-fire sequence, while the knife was thrown by Mrs. Love, wounding her eight times. (D.A. 16-25; R.H.D. 6-7) The order of these events is uncertain, as the events were almost simultaneous and witness reports are in conflict. The knife was recovered 68 feet away.

After the firing ceased each officer ejected the spent casings and reloaded his gun. O'Callaghan then returned to the police car and at 4:21:45 p.m. placed an "officer needs help" call and a request for a rescue ambulance. Hopson walked to Mrs. Love's body, rolled it to the left and placed handcuffs on her wrists. (R.H.D. 8)

The ambulance arrived at 4:25 p.m. (R.H.D. 8), and at 4:26 p.m. Mrs. Love was pronounced dead. (D.A. 25; R.H.D. 8)

Although there are no records of the officers' time of arrival at the scene, there are records that show that the officers were at or near Avalon and 120th Street when they accepted the call at 4:15:52 p.m. Empirical tests demonstrate that the average Code 2 (urgent but without red light or siren) driving time to the Love residence is two minutes and 11 seconds. Allowing approximately 30 seconds for the conversation with Jones, this would place the officers at the Love house at approximately 4:18:33 p.m. The time of death may be estimated at 4:21 p.m., allowing 45 seconds after the shooting for the officers to reload and place the call for the ambulance. Thus, the maximum period of time which could

<sup>2</sup> Neither the District Attorney's Report nor the Department's investigation indicates that anyone other than Mrs. Love's two daughters was in the house at any time during the incident.

have elapsed between the officers' arrival and the shooting of Mrs. Love was two to three minutes.<sup>4</sup>

The majority report of the Shooting Review Board (S.R.B.) relied upon the following in reaching its conclusions:

1. The officers left their vehicle with the intent to disarm Mrs. Love and arrest her for assault with a deadly weapon (S.R.B. 2).
2. The officers did not rush the situation but spent a minimum of seven minutes talking to Mrs. Love (S.R.B. 2).
3. The officers advanced toward Mrs. Love, instead of retreating, because they feared for the physical safety of the children inside the house. (S.R.B. 3)
4. Six shots were fired without pause and in rapid succession by each of the officers. (S.R.B. 3)

The following facts (which are discussed more fully later in this report) should be noted with respect to the conclusions contained in the majority report of the Shooting Review Board. First of all, there are no substantial objective facts to support the conclusion that the officers' intent at the time they left the car was to arrest Mrs. Love for an assault with a deadly weapon. Second, the seven-minute time period described by the Majority was based on erroneously reported facts. Third, there are no facts which support a reasonable basis for the officers' fear for the safety of the children, nor is there any substantial evidence that the officers advanced while Mrs. Love retreated because of fear for the children's safety. (D.A.28) Finally, as discussed below, rapid-fire discharge of twelve shots was improper in the circumstances, and in conflict with departmental policy.

One additional factor was raised by the minority report of the Shooting Review Board. This factor involved some uncertainty as to the position of Mrs. Love when the shots were fired. Contrary to the opinion of Dr. Jennifer Rice, the pathologist who conducted the autopsy of Mrs. Love under the auspices of the County Coroner's Office, the report of Dr. Richard Myers, a highly respected independent forensic pathologist consulted by the Department,<sup>5</sup> concludes that at least one of the gunshot wounds<sup>6</sup> was inflicted when Mrs. Love was on the ground. Although stating that it is not possible to determine the sequence of the shots, Dr. Myer's report concludes that the pattern of shots fired is consistent with the officers following a moving target down. The majority report did not comment on this issue.

### III. COMMISSION ANALYSIS

#### A. Justifications for shooting in majority report of the shooting review board

1. *Officers' intent to arrest for ADW.*—The first factor cited in the majority report of the Shooting Review Board in support of the actions of the officers was their intent to arrest Mrs. Love for assault with a deadly weapon. However, there is no substantial evidence in the record to support this intent; in fact, the record reflects the contrary.

First, the record indicates that the officers' purpose in being on the scene was to assist the gas company. The initial call placed by the gas company to the dispatcher asked for back-up assistance. (R.H.D. 3) The dispatcher's call received by Hopson and O'Callaghan instructed them to meet the gas man to handle a business dispute. (R.H.D. 4) When the officers arrived at the scene, Officer Hopson inquired of one of the gas company employees, "What will you need from us?" (R.H.D. 5)

<sup>4</sup> The time estimates were developed by Robbery-Homicide Division in its supplemental investigation, at the request of the Commission. Accepting these time estimates, the following time line can be established:

- 4:15 p.m.—Dispatcher puts out call
- 4:15:52 p.m.—Call acknowledged by Hopson and O'Callaghan
- 4:18:03 p.m.—Officers arrive at gas company truck
- 4:18:33 p.m.—Officers arrive at Love residence
- 4:21 p.m.—Time of death

Elapsed time (arrival to time of death): 2 minutes, 27 seconds

<sup>5</sup> Dr. Myers has been an attending Pathologist at Los Angeles County-University of Southern California Medical Center since 1950. He is also Director of Laboratories and Pathologist at Valley Presbyterian Hospital.

<sup>6</sup> The shot in question was labelled in the coroner's report as Gunshot Wound No. 6. The bullet recovered near the exit would be completely flattened on one side, indicating contact with a hard surface at the exit point. Although no concrete markings were discovered on the bullet, the only surface at the scene which could have caused this result was the sidewalk where Mrs. Love fell during the shooting.

Second, there are no facts indicating that the officers at any time told Mrs. Love that she was to be arrested for assault on Ramirez earlier in the day.<sup>7</sup>

Finally, Hopson's signal to Jones and Aubry during Mrs. Love's retreat indicates the officers' belief that it had become possible at that time for the gas company employees to proceed with their task.

2. *The seven-minute discussion.*—Although the Shooting Review Board stated that there was a seven-minute period during which the officers attempted, verbally and by use of a baton, to disarm Mrs. Love, the reported facts contradict this conclusion. At most, a period of two to three minutes transpired between the time the officers got out of their car and drew their weapons, and the time of Mrs. Love's death.

The Department's emphasis in training is on the use of minimal force and the attempt to deescalate and defuse a situation wherever possible. Great importance is attached, in both ordinary patrol training and SWAT training, to attempt to calm a potentially violent individual. In Eulia Love's case the officers were faced with a clearly distraught and agitated individual. The officers' decision to draw their guns and approach Mrs. Love with weapons pointed served to escalate the situation drastically.

3. *Danger to children.*—There are no reported facts to indicate that Mrs. Love's daughters were in any danger from her at the time the officers acted, or at any time. In addition, witness reports state that each of the daughters was outside of the house at least once during the incident, but returned almost immediately. No attempt was made to have either daughter leave the "zone of danger". Similarly, no attempt was made by the officers to get between Mrs. Love and the front entrance of her home, as the minority report of the Shooting Review Board points out.<sup>8</sup>

4. *Rapid firing of shots.*—The statements of witnesses with respect to the brevity of the period in which the shots were fired, and the conclusions of and Dr. Myers are, in general, consistent with the Shooting Review Board's conclusion that the entire series of twelve shots was in rapid-fire sequence. In this respect, we agree with the Shooting Review Board's factual findings.

#### B. Application of department policies to the Love case

Two central questions with respect to Department policy and procedure are raised by this case:

Were the decisions to draw weapons and to advance as Mrs. Love retreated consistent with Department policy?

Were the use of deadly force and the extent of deadly force used consistent with Department policy?

1. *The drawing of firearms and subsequent tactics.*—In analyzing the first of these questions, it is necessary to evaluate the knowledge of the officers at the time they made the decision to draw their guns, that is, at the time they arrived at the Love house.

At that time the officers knew the following:

- (a) Earlier that day when a gas man attempted to turn off the gas at her house, Mrs. Love hit him with a shovel;
- (b) Mrs. Love was agitated, as indicated by her pacing and her continual yelling at the gas company employees;
- (c) She had a knife in her hand; and
- (d) The gas company employees had requested stand-by assistance.

The factors that should be considered in assessing the action taken by the officers are the following:

- (a) Department escalation/de-escalation policy on using the least amount of force necessary;
- (b) The degree of danger presented to the officers and others;
- (c) Available techniques for disarming a person with a knife; and
- (d) Tactical effects of drawing and pointing guns.

<sup>7</sup> Penal Code Section 841 requires an arresting officer to inform the person to be arrested of the intention to arrest him unless there is reasonable cause to believe that the person is actually committing or attempting to commit an offense, or is being pursued immediately after the commission of an offense or after an escape.

<sup>8</sup> The minority report concluded, we believe correctly, that "(b)oth officers reiterated that they were afraid that Love would enter the dwelling and injure the children inside. I believe this statement, while not fallacious, was an afterthought added to justify their actions. To me, this statement emphasizes poor tactics by both officers. If the officers believed this, then either could have stepped over the hedge and onto the porch preventing Love from entering the house. Neither chose to do so, but rather continued advancing on the retreating Mrs. Love."

*a. Department Policy*

The training policy of the Los Angeles Police Department stresses the importance of gradual escalation in the use of force. The objective is to escalate or de-escalate to the minimum force necessary for control of the suspect. In employing such a procedure, officers should try to talk to an individual first, and then use gradually increasing levels of force in response to further actions taken by the individual. The display of a weapon, considered a high level use of force, is one of the last alternatives to be used. Only deadly force itself is considered to be a higher level of force.

The Department policy regarding the use of firearms authorizes the use of deadly force only in the following three situations:

- (1) To protect (the officer) or others from an immediate threat of death or serious bodily injury;
- (2) to prevent a crime where the suspect's actions place other persons in jeopardy of death or serious bodily injury; or
- (3) to apprehend a fleeing felon for a crime involving serious bodily injury or risk of deadly force when there is a substantial risk that the person whose arrest is sought will cause death or serious bodily injury to others if apprehension is delayed. (Department Manual Section 1/556.40.)

The policy on the use of firearms provides clearly that deadly force shall be exercised only when all reasonable alternatives have been exhausted or appear impracticable. With respect to the drawing of firearms, the policy states that there are limited circumstances in which a firearm should be drawn and emphasizes that officers must not draw their weapons without a reasonable belief, at the time of drawing the weapons, that it is necessary. In no case does a mere feeling of apprehension justify drawing of the weapon. The Department policy governing the use of firearms specifically states:

"Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling the situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use a firearm in conformance with this policy on the use of firearms." (Department Manual Section 1/556.80.)

The Police Commission's interpretation of that section of the firearms policy adopted in September 1977, includes the following language:

"An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified.

*b. Danger to Officers and Others*

In this situation, the officers were presented with a clearly distraught individual who had committed an assault with a shovel earlier in the day. However, no one was within any reasonable "zone of danger" or was being threatened by Mrs. Love at the time of the officers' arrival at the scene.

After getting out of the car the officers approached Mrs. Love but did not come within striking distance. They maintained a narrow separation from her, even when she retreated toward her house. However, during the retreat, they did motion for the gas company employees to approach. Had the officers believed that there was serious danger to themselves, they had reasonable alternatives available to minimize that danger; had they believed that there was serious danger to others, they would not reasonably have motioned others forward.<sup>9</sup>

*c. Techniques for Disarming an Individual with a Knife*

The usual techniques used in disarming an individual with a knife are baton strikes and kicks. Other techniques, such as the use of martial arts, are generally not maintained. In choosing a technique, officers are to consider the relative size of the individual, his or her mental state, and other similar factors. In any event, these techniques are to be employed before resorting to deadly force.

<sup>9</sup> As was pointed out in the Shooting Review Board's minority report, "(t)hat their fear were minimal is indicated by the fact that both officers fully exposed themselves and neither attempted to take defensive action".

*d. Tactical Effects*

By displaying their guns immediately, the officers severely limited their alternatives. It would not be reasonable to believe that Mrs. Love could be calmed by the approach of two police officers with drawn guns. Thus, the first result of the officer's actions was, predictably, an immediate escalation of the situation.

The effective use of baton strikes, the preferred technique, was eliminated as the events proved. The officer who used the baton to knock the knife out of Mrs. Love's hand was unable to retrieve it because he had a gun in one hand and a baton in the other. Thus, the decision to draw guns immediately meant that if the display of force was not sufficient the use of deadly force would be required.

Once the stage for the use of force was set, the officers continued to escalate the situation by their actions. By advancing on Mrs. Love as she attempted to retreat, they put themselves in a situation of increased danger.<sup>10</sup> The justification given for the continued pursuit (concern for the safety of children) was, as has been shown above, without basis in any of the reported facts.

The decision to draw and point their weapons immediately, and to advance as Mrs. Love retreated, locked the officers, before all reasonable alternatives had been exhausted, into a situation which precipitated the use of deadly force. Given the circumstances of the case, and the availability of tactical alternatives, the officers' actions demonstrated poor judgment, and poor choice of tactics, and violated the departmental policy which prohibits the premature drawing of weapons. The result of their actions clearly demonstrates the necessity for that policy.

2. *Deadly force—Its use and extent.*—We will next consider the situations in which the use of deadly force is authorized. The first situation is the apprehension of a fleeing felon. This justification is limited, but the limits are of no concern here, as Mrs. Love was not a fleeing felon.

The second situation, the prevention of a crime where the suspect's actions place persons in jeopardy of death or serious bodily injury, is also not applicable. At the time the officers left the car, Mrs. Love had not threatened anyone with her knife. The only threat at that point had been five hours earlier.

The final situation in which deadly force may be used, the protection of self or others from an immediate threat of death or serious bodily injury, is the only conceivable basis for its use in this case. However, at the time the officers left the car, Mrs. Love did not appear to be an immediate threat to anyone. There could have been no question of any need to protect her daughters at this time. Further, there is nothing in the record which indicates that she was advancing toward the officers or any other person at the time they left the car. The only use of the knife up until that time had been to hack the branches of a tree.

Approximately two and a half minutes later, when O'Callaghan knocked the knife out of Mrs. Love's hand with his baton and she picked the knife up and drew her arm back, the situation had escalated considerably. The shooting of Mrs. Love and the throwing of the knife followed immediately after Mrs. Love retrieved her knife. Although the inconsistencies in the witness statements about this series of events cannot be satisfactorily resolved, it would appear that the shots and the throwing of the knife occurred almost simultaneously. If at that time the officers were justified in using deadly force in self-defense—and the facts before the Commission do not enable us to make a final determination as to that question—it was in substantial part because they had themselves prematurely escalated the confrontation and placed themselves in a situation where the use of deadly force became necessary. Moreover, since we conclude below that the officers violated departmental policies by using rapid fire under the circumstances of this case, it is not necessary that we determine which specific shots violated those policies.

We next consider the officers' use of rapid-fire, which resulted in the firing of twelve bullets by the two officers.

Department policy and training with respect to shooting stress two basic concepts: (a) shoot to stop, not to kill; and (b) first-shot accuracy.

It is often difficult to shoot with great accuracy in an emergency situation; the training program therefore emphasizes shooting at the central body area, although such shots are more likely to be fatal. However, there is a concomitant emphasis on limiting the number of shots and attempting to stop the individual

<sup>10</sup> Department records show that, at least since 1907, no Los Angeles Police officers have been killed by suspects using a sharp object.

with the first shot. In any event, stress is placed on observing the effect, if any, of the first shot before refring.

Department policy requires in those rare cases where the use of firearms is necessary that the risk of death must nonetheless be minimized. To that end, the Department policy governing the use of firearms states:

*"Minimizing the Risk of Death.* An officer does not shoot with the intent to kill; he shoots when it is necessary to prevent the individual from completing what he is attempting. In the extreme stress of a shooting situation, an officer may not have the opportunity or ability to direct his shot to a non-fatal area. To require him to do so, in every instance, could increase the risk of harm to himself or others. However, in keeping with the philosophy that the minimum force that is necessary should be used, officers should be aware that, even in the rare cases where the use of firearms reasonably appears necessary, the risk of death to any person should be minimized." (Department Manual Section 1/556.35.)

The opinion of Dr. Myers suggests that the officers, in "following a moving target" continued to shoot after the threat of the thrown knife had ended. The disregard of single-shot accuracy and the use of rapid fire may have meant the difference between injury and death for Mrs. Love. This cannot be determined conclusively, however, in the absence of certainty concerning the order in which the shots were fired. In any event, and in light of Department policy regarding minimizing the risk of death, the firing of twelve shots in rapid-fire sequence was excessive and cannot be justified. Under these circumstances, the use of rapid fire was contrary to departmental policy.

#### IV. DISCIPLINE

We believe that the final departmental record and public record must reflect the conclusion that the officers involved in the shooting of Eulia Love violated applicable Los Angeles Police Department policies and standards. The question of whether these officers should now be ordered by the Chief of Police to stand trial before a Board of Rights, which has the sole authority under our City Charter to impose significant punishment, is a separate matter which has troubled the Commission greatly.

Prior to the Commission's study of the Love shooting, the Department conducted an investigation under the then existing rules and procedures. A Department Shooting Review Board reviewed the matter and the majority, again under the existing rules and procedures, found no violation of Department policies. Finally, the Chief of Police, who, under the Charter, has the legal responsibility for discipline, considered the matter thoroughly and decided that no discipline should be imposed. Under the then existing rules and procedures, the Chief's decision constituted a final determination regarding the issue of discipline. His final decision was communicated to the individual officers and to the public. The officers were entitled, under the then existing procedures, to rely on the Chief's final decision and to conclude that, since their case had been finally adjudicated by the Chief of Police, they could not again be placed in jeopardy.

Based on our examination and review of the Love shooting, we are in disagreement with the decision reached by the majority of the Shooting Review Board. Certain of the facts which affect our conclusion were not before the Chief of Police when he adjudicated the disciplinary issue. However, while the Commission might well have reached a contrary conclusion to that reached by the Chief even under the facts presented to him, we believe that any attempt to impose discipline at this time would violate the rights to due process of law to which the two officers, like all other persons, are entitled.<sup>11</sup>

For the reasons set forth above, we are not directing that the Chief institute disciplinary proceedings. We are, however, directing that a copy of our findings be placed in the officers' personnel files. We would also note, although it is not a basis for our decision, that referral of this matter, by the Chief, to a Board of Rights at this time would in our opinion be futile and would serve no useful purpose, since we are persuaded that the Board would not impose discipline upon the officers in view of the judgements regarding this case previously expressed by the Chief of Police and the Shooting Review Board.

We must add, in fairness, that the fault for the disastrous shooting of Eulia Love does not lie solely with the individual officers involved. A serious question exists in our minds as to how well the Department trained and prepared the officers to deal with the situation they encountered. We question also whether

<sup>11</sup> In addition, application of the equitable principles of laches and estoppel might well bar the Department from proceeding with disciplinary action at this time.

the Department should have sent its officers on the assignment which resulted in the fatal shooting, just because the gas company wanted to collect an overdue bill. These and other matters will be considered fully in later sections of this Report.

#### V. COMMISSION FINDINGS

1. The officers' premature drawing of their weapons, and their use of rapid fire under the circumstances of the Love case, were both in violation of Department policies. In addition, the officers made serious errors in judgement, and in their choice of tactics, which contributed to the fatal shooting of Eulia Love.

2. The Commission has reviewed the Department's policy on the use of firearms and finds that there are no inadequacies in that policy which contributed to the shooting of Eulia Love. On the contrary, if properly implemented, the policy provides sufficient safeguards against such a shooting. The Commission has concluded that further revision of the policy is not necessary at this time. The present Department policy is appropriately more restrictive than the requirements imposed by state law.

3. The Commission's review of the Department's investigation and evaluation of the shooting of Eulia Love reveals that many of the factors on which the majority of the Shooting Review Board relied in reaching its conclusions were based on erroneous or misconstrued facts. The Board's failure properly to exercise its fact-finding function, and to obtain and assess all available evidence, prevented it from giving due consideration to all elements of Department policies and standards.

4. In view of the Department's previous final determination, in accordance with existing rules and procedures, that no discipline would be imposed upon the officers, the Commission has concluded that an attempt to impose discipline at this time would violate the officers' due process rights. We are, however, directing that a copy of our findings be placed in the officers' personnel files.

5. Substantial changes are required in the system of investigating and adjudicating officer-involved shootings and other use of force incidents. This subject will be considered fully in a subsequent section of our Report.

6. Training standards and methods require reevaluation. This subject will also be considered fully in a subsequent section of our Report.

7. The Department's written civil disputes policy does not clearly prohibit officers from assisting in bill collection efforts or giving the appearance of providing such assistance. The Commission is adopting a revised policy in order to prevent a recurrence of the events which led to the officers' intervention in a dispute between the gas company and a customer delinquent in the payment of her bill. The revised policy will be included in a subsequent section of our Report.

8. The Commission has determined as a result of its review of the Love shooting that there are a number of other areas in which reevaluation or changes in Department policies, standards, or procedures are necessary. These additional matters will be considered fully in a subsequent section of our Report.

#### PART II—INVESTIGATION AND ADJUDICATION OF USE OF FORCE INCIDENTS

##### I. INTRODUCTION AND SUMMARY

The Police Commission has recently conducted a series of public hearings for the purpose of examining various issues relating to officer-involved shootings and other serious physical confrontations between officers and civilians. Perhaps the most controversial of these issues is how officer-involved shootings and other cases involving death or serious injury to civilians should be investigated and adjudicated. While the recent tragic shooting of Eulia Love has received an unprecedented amount of public attention, it is important to bear in mind that the Police Department is regularly faced with the necessity of determining the facts and assessing responsibility in officer-involved shootings. For many years each officer-involved shooting incident has been the subject of review and analysis by the Department's Shooting Review Board for the purpose of determining compliance with or violation of Department policies. It is a concern with the procedure followed in these cases generally, rather than an examination of a single incident, which leads us to the conclusions set forth in this Section of the Report.

The Police Commission has, for a long time, been considering informally what improvements might be made in the present system or whether, as some persons have suggested, a totally different system should be adopted. Several months ago,

the City Council asked the Commission to report publicly on certain aspects of this subject.

In the meantime, many individual citizens and citizen groups have renewed their demands that an independent police review board be established, and a drive to place an initiative measure on the ballot which would amend the City Charter and establish such an independent agency has been announced.

We do not believe that the present procedures ensure a thorough, impartial review of officer-involved shootings and death or serious injury cases in the manner contemplated by the City Charter; nor do we believe that there can or will be full public confidence in the results unless those procedures are changed. On the other hand, we do not believe that an independent police review board offers a practical or effective solution to the problem.

In this Section of our Report we set forth a procedure for investigating and adjudicating officer-involved shootings and death or serious injury cases which we believe ensures fair and just decisions and which, if implemented properly, will, over a period of time, earn the confidence of both the officers of this Department and the members of the public. That procedure will, as the City Charter contemplates, ensure civilian supervision and control over the operations of the Los Angeles Police Department in a critical area of public concern and at the same time preserve those basic elements of the present system which place in the Department the necessary authority to implement its policies and administer discipline in an orderly and effective manner.

While there has been a variety of proposals relating to independent police review boards, none adequately resolves the complex problems inherent in devising a system which ensures a complete, thorough, and impartial examination of facts, law, and Department policies by a governmental body which (1) is fully familiar with the policies, procedures and operations of a police department, (2) has the capacity to investigate and adjudicate the issues properly, (3) has the authority to implement its decisions effectively by causing necessary changes in Department policy and by overseeing the administration of appropriate discipline, (4) is a non-political entity and functions in a non-political and objective manner, and (5) can gain the necessary confidence and cooperation of the members of the Department and the public.

On the other hand, the Commission form of government, mandated by our City Charter, offers a reasonable and practical solution to these problems. That solution is for the Police Commission to assume responsibility for the final determination of officer-involved shooting incidents and death or serious injury cases. We do so willingly and with a recognition of our obligations, as head of the Department, to both the officers and the citizens involved.

We are persuaded by our own experience as citizens and Commissioners and by The Reports of the President's Commission on Law Enforcement and the Administration of Justice and the National Advisory Commission on Civil Disorders and the Causes and Prevention of Violence that a system of Police Commission Review, if properly designed and implemented, will provide an effective and impartial method of investigating and adjudicating officer-involved shootings and death or serious injury cases, and that the adoption by the Commission of such a system makes an independent police review board neither necessary nor desirable. At the least we believe that a fair test should be afforded the new procedures described in this Report before serious consideration is given to the use of any alternative system.

We should add that while we believe the changes we are instituting are necessary, we also believe that the system utilized in the past has produced fair and proper results in the vast majority of cases. The Los Angeles Police Department has led the nation in its efforts to develop procedures for thorough and objective internal review of officer-involved shooting incidents. Its voluntary actions have served as a model for other law enforcement agencies. The new system we are adopting has been developed with the full cooperation of the Chief of Police and his staff. Many of the concepts contained in this report originated directly from the Chief.

Nevertheless, the checks and balances inherent in Commission review are essential. While we are confident that in most instances it will be unnecessary for the Commission to exercise the full range of authority provided it under the new procedure, the mechanism we are establishing will ensure that in those cases where further action is required such action will be taken in a manner which will best protect the public interest.

The principal new procedures we are adopting in this Section of our Report are as follows:

- (1) The Police Commission will assume direct responsibility for the adjudica-

tions of all officer-involved shooting incidents and will make the final determination in all such cases. However it will do so only after receiving and considering a report from the Chief of Police which will provide a full review of the incident and will contain the Chief's proposed findings and recommendations. (The Chief of Police's authority to impose discipline will remain unchanged.)

(2) In cases where the Police Commission, after evaluating the report submitted by the Chief of Police, feels that an independent review is required, the Commission will conduct that review and issue the final report.

(3) When the Commission decides that an independent review is necessary, it may (a) employ Special Counsel to assist it in conducting that review or (b) use the services of a former Superior Court judge (to be selected from a panel of such former judges) as a Special Hearing Officer to conduct any further investigation which may be necessary and to submit proposed findings and recommendations to the Commission.

(4) The Commission will, when necessary, exercise its subpoena powers in officer-involved shooting cases so that testimony may be adduced from non-officer witnesses.

(5) The final report in officer-involved shooting cases will set forth and analyze fully all facts, policies and procedures as well as all findings and recommendations, and will be made available to the public.

(6) All interviews with officers will be taped in the same manner as interviews with civilian witnesses. The Department is directed to interview officer and civilian witnesses in a manner that is consistent with proper and accepted methods of investigation.

(7) The composition and function of the Shooting Review Board will be expanded for the purpose of ensuring proper fact-finding and the preparation of full and complete reports that will include all relevant investigative data. The report will serve as a basis for policy changes and improved training methods. The Board will be renamed the Use of Force Review Board.

(8) All cases involving death or serious injury to a person in custody of the Department, or resulting from contact with police officers, will be adjudicated in the same manner as officer-involved shooting incidents.

(9) The Commission will employ permanent independent staff as well as such additional professional personnel as may, from time to time, be required. This independent staff will assist the Commission in the performance of its responsibility to assure that a full, fair, and impartial investigation has been conducted in every case.

## II. INVESTIGATION OF OFFICER-INVOLVED SHOOTINGS

### A. Present procedure

Investigation of an officer-involved shooting commences immediately after the incident occurs. Officers at the scene of the incident request a supervisor to respond to the location and Detective Headquarters Division at Parker Center is immediately notified. When no gunshot wound has been inflicted, investigative responsibility is assumed by the supervisor responding to the location. When a gunshot wound has been inflicted, Detective Headquarters Division immediately dispatches the Officer-Involved Shooting Team ("OIS") and thereafter notifies designated officials of the Department, Police Commission, and District Attorney's Office.

OIS, consisting of eight investigators and one supervisor, is a specialized unit in the Department's Robbery-Homicide Division. In addition to its responsibilities in the area of officer-involved shootings, OIS presently conducts investigations in cases involving the death of persons while in the custody of Department personnel. In all cases investigated by OIS, the unit's concern is the circumstances leading to death or injury rather than with the investigation of criminal activity or the apprehension of suspects.

As a formal organizational matter OIS reports through Operations-Headquarters Bureau. In practice, however, OIS consults regularly and directly both with the Chief of Police and with the (Assistant Chief) Director, Office of Operations, in connection with officer-involved shooting incidents resulting in gunshot wounds. With respect to incidents encompassed by its jurisdiction OIS is principally responsible for the preparation of news releases relating to incidents it investigates.

The OIS supervisor and a team of two assigned investigators respond to each officer-involved shooting incident resulting in injury or death to either an officer or a citizen. Also responding to the location of a shooting incident are the involved

employee's division (Captain) and bureau (Deputy Chief or Commander) commanding officers. Prior to the arrival of OIS investigators divisional supervisors have primary responsibility for providing proper care and assistance to the injured, and for securing the scene of the shooting which duties include preserving all potential evidence and attempting to locate all potential witnesses. After their arrival OIS personnel assume complete responsibility for securing the situation and for directing subsequent investigation and interrogation. OIS oversees interviews with percipient citizen witnesses. As a routine matter citizens are interviewed separately and their statements are tape-recorded.

Police officers who are witnesses to or participate in shooting incidents are escorted from the scene to the division station to await questioning by an OIS investigator.<sup>1</sup> For the most part, officer interviews have not been conducted separately in the past nor have tape recordings been made of these interviews. Detailed written notes are made and retained by the investigating OIS officer.<sup>2</sup>

Upon completion of its investigation of incidents involving the infliction of gunshot wounds, the OIS team forwards a confidential report, in narrative form, to the Shooting Review Board. Where a weapon has been discharged but no gunshot wound has resulted, the supervisor of the involved employee responsible for the investigation submits a report through organizational channels to the Shooting Review Board.

#### B. Future procedure

It is the responsibility of those charged with investigating officer-involved shootings to explore and record the facts in a manner that results in a complete and reliable presentation of all relevant circumstances to the reviewing authorities. At present the Shooting Review Board undertakes an independent examination of evidence only in those infrequent cases where clarification of the investigative report is necessary. On those occasions the Board examines physical evidence and listens to the tapes of witness interviews. Since interviews with officer participants have not been tape-recorded the Board has not normally had access to their verbatim statements.

In the future, the statements of involved officers will be tape-recorded routinely by the OIS team. Further, the Commission has instructed the Department to interview officer and citizen witnesses in a manner that is consistent with proper and accepted methods of investigation.

The revised procedure will permit reviewing authorities to more closely assess the credibility of various witnesses to an incident and will furnish it with an increased capacity for verification.

### III. ADJUDICATION BY REVIEW BOARD

#### A. Present procedures

The jurisdiction of the Shooting Review Board presently extends to incidents in which an officer discharges a firearm. This includes all situations where the officer fires a weapon—deliberately or accidentally—whether or not a gunshot wound is inflicted.

The Shooting Review Board has a dual purpose. Its primary mandate concerns evaluation of officer-involved shooting incidents from the standpoint of Department policies. Secondly, the Board identifies alternative tactical approaches to various police problems and, when warranted, recommends review of tactics with the officers involved.

The timing of submission of investigative reports is controlled by the OIS team, Robbery-Homicide Division, in cases where gunshot wounds are inflicted. In incidents involving "misses", the division supervisor assigned to investigate is required to submit a report within one working day from the time of the shooting. Once the investigative report concerning a shooting incident is forwarded to the Board Coordinator, the Shooting Review Board is convened as early as possible consistent with the schedules of its members.

<sup>1</sup> Department Manual Section 3/796.25 ("Assignment of Officer Inflicting Gunshot Wound") provides:

"The concerned commanding officer shall remove from field duty an officer who inflicts a gunshot wound on any person. An officer shall not be returned to field duty except by his commanding officer, with the concurrence of the concerned group or bureau commanding officer."

<sup>2</sup> Retention of investigative notes made by OIS investigators represent a policy change effected by the Department after recent Police Commission hearings pertaining to the matter.

Board review of a shooting incident is conducted informally in round table fashion. The involved officer's commanding officer (Captain) presents the factual circumstances of the incident in summary form based upon the investigative report submitted to the Board. Questions are raised and disposed of in the course of the presentation and subsequent deliberations. The incident is discussed by the Board in its entirety and alternative tactics are examined. Various "resource" officers present are consulted to clarify tactics or other details of the incident under review. Further investigation may be conducted to ascertain factual circumstances not covered by the initial report.

In all cases, the Board may request the data (tapes and notes of witness interviews and so forth) underlying the investigative report but has not done so as a matter of common practice. It requests additional evidence and investigative data when there is a demonstrated need not satisfied by the investigative report. The Chief of Police has vested authority in the Board to summon the involved officer to testify as well as any other Department personnel in the possession of information material for proper evaluation of the matter. The involved officer, at his request, may voluntarily appear before the Board to testify on his own behalf. In practice, it has been uncommon for an officer involved in a shooting incident to either choose to or be compelled to appear before the Board.

After general Board discussion, an informal poll of voting members is taken and the particular incident is classified pursuant to the categories set forth in the Shooting Review Board Report (LAPD Form 01.67.0) Following the meeting, the Coordinator drafts the Board's majority report for review by the Board Chairman and, if necessary, the draft is circulated for review by concurring members. Minority reports may be prepared by the single dissenting voting member.

The present Shooting Review Board Report provides for a recommended classification of the incident by the Board as (1) in policy; or (2) in policy but fails to meet Department standards; (3) accidental; or (4) out of policy. These categories were established January 15, 1969 by the then Chief of Police Thomas Reddin. The Board's recommendation regarding the official departmental response to the incident can involve no action or referral to the division commanding officer for (a) training, (b) review of negligence in handling firearm, (c) appropriate administrative disapproval, and (d) review of (inappropriate) tactics.

Administrative responsibility for the review of matters within the jurisdiction of the Shooting Review Board rests with the Director (Assistant Chief), Office of Special Services. The Shooting Review Board Report is transmitted to that Office where a "final classification of shooting" is made. The matter is then referred to the division commanding officer (captain) of the involved employee to recommend an appropriate administrative response consistent with the classification of the shooting by the Director, Office of Special Services. These possible responses, include (1) none; (2) training-firearms, tactics, attitudinal; (3) divisional admonishment; (4) warning; (5) official reprimand; (6) voluntary relinquishment of days off; (7) suspension; and (8) Board of Rights.

The recommendation of the involved officer's commanding officer is returned to the Director, Office of Special Services, concerning appropriate action to be taken in response to the classification of the incident.

Any penalty involving suspension or discharge requires the direct participation of the Chief of Police who may initiate Board of Rights procedures to that end.<sup>3</sup>

#### B. Future procedure

1. *Jurisdiction and function of the shooting review board.*—With regard to incidents involving the discharge of a firearm, the Commission has concluded that jurisdiction of the Shooting Review Board is plenary and need not be redefined.

However, the jurisdiction of the Shooting Review Board (to be redesignated the Use of Force Review Board) will be expanded to include a review of incidents resulting in death or serious physical injury to persons in the custody of, or as a result of, contact with Department personnel. Such situations require review for the same reasons as an officer-involved shooting. In-custody deaths are presently investigated by the unit (OIS Team, Robbery-Homicide Division)

<sup>3</sup> The Board of Rights is the fact-finding and adjudicatory body mandated by the City Charter (Section 202) in cases in which the Department seeks to either suspend or remove an officer. By Charter, the Chief of Police may assess a penalty of up to 30 days suspension without referring the matter to a Board of Rights, but, in all such cases the officer has the right to demand a hearing before the Board. The Chief of Police may under no circumstances impose a penalty of discharge or suspension in excess of 30 days, but must refer all cases where such discipline may be appropriate to a Board of Rights.

which has investigative responsibility for officer-involved shootings. In the future, investigative reports concerning all death and serious injury cases will be forwarded to the Use of Force Review Board. Board inquiry and the subsequent report will follow procedures parallel to those used in shooting incidents.

The Use of Force Review Board will be responsible for making factual determinations concerning the circumstances of an incident within its jurisdiction. To perform this fact-finding function, the Board will examine all relevant investigative data and when necessary examine involved officers and other available witnesses.

In addition, the Use of Force Review Board will monitor the quality of supervision reflected in cases before it. The Board will continue its current practice of evaluating elements of supervisory conduct in light of specific cases. Additionally, it will direct its attention to broader patterns of supervisory conduct, thus assuring that the responsibilities incumbent on supervisors in the Department are fulfilled. For this reason each Review Board report will identify all supervisors (sergeant through captain) of the involved employee.

2. *Composition of the shooting review board.*—At present the Board is chaired by the Commanding Officer (Deputy Chief), Personnel and Training Bureau, Office of Administrative Services, or his representative. The second member is the Assistant to the Director (Commander), Office of Operations, or his representative. The third member is the involved employee's bureau commanding officer (Deputy Chief), or his representative.<sup>4</sup> Also present at the Board are an Academy training officer and the involved employee's division commander. While these officers do not vote, they assist the Board in measuring a particular incident against Department standards.

The composition of the Use of Force Review Board will be expanded to include five, rather than the present three, voting members. The Commanding Officer (Deputy Chief), Bureau of Special Investigation, Office of Special Services, will, in the future, serve as the fourth member. A line officer, drawn on a rotating basis from a designated panel, will serve as the Board's fifth member.

Expansion of the composition of the Review Board in this manner is deemed advisable on the following grounds. First, the increased formality of review proceedings and emphasis on the Board's fact-finding function suggest broader membership on the Board to ensure coverage of all pertinent points at the staff level. Second, the voting presence of a peer officer will provide additional perspective prior to consideration of the matter by executive authorities.

In addition, the Police Commission will periodically designate one or more of its members, or a member of its staff, to observe and report upon the proceedings of the Review Board. Such monitoring will enable the Commission to assure the public that the Review Board is functioning openly, fairly and in a manner best calculated to determine the facts.

3. *Nature of recommended findings made by use of force review board.*—As was apparent at the Commission hearing on this matter, the categories or "findings" providing for the assessment of officer-involved shootings by the Review Board are unclear and incomplete. In part, this is traceable to continued reliance upon classifications established in 1969, despite subsequent changes in the formulation of the Department's Use of Firearms Policy.

The principal difficulties with the present classifications are:

The classification fails to provide for separate assessments regarding the drawing and exhibiting of a firearm and the actual discharge of the weapon.

The classification "in policy but fails to meet Department standards" is unclear. The definitions<sup>5</sup> of this classification purports to pertain to the use of deadly force itself, i.e., the firing of the weapon. However, since the Department standards governing the use of deadly force are themselves defined by the shooting policy, a conclusion that a particular incident is "in policy but not up to standard" is, at best, analytically confusing and, at worst, productive of inconsistent results.

<sup>4</sup> Special Order No. 43 (December 1, 1978) provides that "(w)hen the involved employee is assigned to Personnel and Training Bureau, the Director, Office of Operations, shall appoint an ad hoc member to the Board of the rank of Deputy Chief, to fill the otherwise vacant position of the 'involved employee's bureau commanding officer.'" That Special Order also provides that in the event the Assistant to the Director, Office of Operations, is unable to participate as a member of the Shooting Review Board, the Director, Office of Operations, may appoint a substitute member from among Operations Deputy Chiefs.

<sup>5</sup> "In policy but fails to meet Department standards" is defined by Administrative Order No. 1 as follows: "Use of deadly force was lawful but fell short of Department standards and judgment, indicating a need for expression of administrative disapproval and may include some form of disciplinary action."

As applied by the Shooting Review Board, the classification is sometimes used to assess tactical decisions made by officers in incidents that culminate in the firing of a weapon. Even here, however, there is a difference of opinion regarding the class of tactics which is properly within the jurisdiction of the shooting review process. Some limit the evaluation to tactics employed in the course of the actual shooting, such as whether the officer has fired from a satisfactory position in such a way as to minimize the possibility of harm to innocent bystanders. Others extend the assessment to all tactical decisions made by the officer leading up to, as well as in the course of, the shooting incident.

A third related problem with the current categories is that they do not permit or require formal evaluation of the entire pattern of officer conduct in incidents of officer-involved shootings. Specifically, the present categories do not provide for those cases where the officer has placed himself in a position of an "in policy" use of deadly force by reason of a deficient tactical approach to a police problem.

In the future, the Use of Force Review Board will evaluate, in explicit and fact-finding fashion, each aspect of an officer-involved shooting. This will, at a minimum, include separate evaluations of the drawing and exhibiting of a firearm, the firing of the weapon, tactics employed prior to drawing and discharge of the weapon, and tactics employed during and following the discharge of the weapon.

The classification "in policy but fails to meet Department standards" will no longer be used to assess officer performance. In each review of an officer-involved shooting incident and in every case of in-custody death or serious injury, the Board will evaluate the incident in terms of four separate categories and make recommended findings as follows:

#### *Tactics*

A review of tactics utilized by the officer(s) before, during and following the use of force will be conducted to assess each officer's judgment, training and compliance with Department policies and standards. Recommendations may include no action or referral to the division commanding officer for training and/or appropriate discipline.

#### *Drawing/Reholstering of Weapon*

In incidents involving the use of a weapon, a recommended finding of in policy or out of policy will be made with respect to the initial decision to draw the weapon. Based upon its findings, the Board will then either recommend no action or referral to the division commanding officer for training and/or appropriate discipline.

#### *Use of Force*

A recommended finding of in policy, out of policy or accidental will be made with respect to decisions to use force. The Board will then recommend either no action or referral to the division commanding officer for training and/or appropriate discipline.

#### *Additional Considerations*

Events and actions involved in any particular incident which are viewed by the Board as suggesting the need for changes in Department policy or otherwise appear to require training and/or discipline will be commented upon and referred to the concerned departmental entity for appropriate action.

4. *Nature and purposes of report by review board.*—The Report prepared by the Use of Force Review Board will be submitted to the Chief of Police, with a copy to the Commission, and will be drafted to fulfill three distinct purposes.

First, the Report will summarize the investigation, including a list of the names of all witnesses interviewed and a description of all physical evidence. It will also summarize any actions taken by the Board in the course of its examination in addition to the review of the initial investigative report, including the calling of citizen and/or officer witnesses, the review of taped witness and officer statements and any additional investigation regarding specific factual issues.

Second, the Report will discuss in complete detail the reasons for and the analysis underlying the Board's findings and recommendations regarding the incident under review.

Third, when appropriate, the Report will identify changes in Department policies, tactical approaches, training procedures suggested by the review of particu-



lar incidents. The discussion will be in a form which lends itself to incorporation into Academy as well as officer roll-call training materials.

In the past, the Shooting Review Board Report has sometimes not been formal or detailed enough to fulfill each of the foregoing purposes. Requiring the Board to discuss and explain its findings will remedy the situation to an important extent. Equally important is the examination by the Board of tactical decisions made in the circumstances leading up to an officer-involved shooting. By measuring these decisions against Department policy, the Report prepared by the Use of Force Review Board will serve as the source of clearly articulated Department "standards". This will assist both the Department and the Police Commission in ensuring review of officer-involved shooting incidents in a manner which is uniform and consistent, which has direct application to departmental practice and which can earn widespread community acceptance.

5. *Use of force review coordinator.*—The Shooting Review Board Coordinator is currently a staff person in Personnel and Training Bureau. It is the responsibility of the Board Coordinator to monitor the progress of all officer-involved shooting investigations and Board meetings, to consolidate information involving officer-involved shootings for entry into the computerized officer-involved shooting system (under development by the Department) and to prepare drafts of the majority Shooting Review Board report for approval by the Chairman of the Board.

In view of the increased formalization of the process, the Use of Force Review Coordinator will be a highly specialized position. The Coordinator will assist the Review Board Chairman in preparing all relevant material. Factual circumstances and issues will be identified in a summary statement prepared by the Coordinator prior to the Board hearing. It will be the responsibility of the Coordinator to assist the Board in ensuring that all factual questions, as well as matters regarding departmental standards, have been adequately examined during Board review and all issues resolved clearly in the Board's report of its findings and conclusions.

#### IV. FINAL EVALUATION OF USE OF FORCE INCIDENTS

The purpose of the final evaluation of use of force incidents has been and will continue to be:

To define policy—and to redefine it in view of experience presented by individual incidents—so that members of the Department as well as the community understand what is expected in compliance with departmental standards;

To ensure thorough investigations of officer-involved shootings, in-custody deaths and substantial injury situations, so that all material evidence is gathered and presented in a fully reliable manner;

To assure a fair and comprehensive evaluation of each officer-involved incident resulting in death or substantial injury based upon review of all relevant factual circumstances, as well as pertinent Department policies and procedures; and

To assume complete responsibility for the results of the use of force review process and for the communication of these results to the community in a manner which merits public credibility and confidence.

Under the City Charter, executive responsibility in officer-involved shooting matters, as in other matters, is shared by the Chief of Police and the Board of Police Commissioners, with ultimate legal responsibility vested in the Commission which is the head of the Department.<sup>6</sup>

##### A. Present procedure

In the present operation of the shooting review process, the Shooting Review Board Report, containing the Board's recommendations, is transmitted to the

<sup>6</sup> The administration of internal discipline in the Department pursuant to Los Angeles City Charter Article XII Section 202 requires separate analysis. The official description of "The Functions and Responsibilities of the Police Commission" describes the disciplinary system as follows:

"The Board of Police Commissioners does NOT have the authority to remove a police officer. Article XIX, Section 202(1) of the Los Angeles City Charter provides that an officer may only be removed by a Board of Rights. However, Section 202 is NOT a limitation upon the power of the Board of Police Commissioners, *Perez v. Board of Police Commissioners* 78 C.A.2d 638, 646 (1947). In addition, the Board has the right to review the action taken by the Chief of Police pursuant to Section 202. (Article XIX, Section 202 of the Los Angeles City Charter)."

Director (Assistant Chief), Office of Special Services, who makes the final administrative determination with respect to an incident. Generally, the Chief of Police participates formally in the process only in those cases which involve imposition of a disciplinary penalty. The Police Commission's present exercise of its responsibilities in this area is even more limited. The Commission becomes involved formally only in isolated cases and then usually under circumstances of widespread public discussion. Even in those cases, the Commission's participation has been unstructured and unsatisfactory when measured against its Charter responsibilities.

There are several consequences of the shooting review process that are traceable to the present lack of a defined and continuous participation in it by the Department's executive authorities.

First, the Police Commission has not, on a systematic basis, examined Department standards and practices in what must be viewed as the most critical of Department activities. This has resulted in an important omission in the Department's policy formulation and review process.

A second consequence has been unchanneled participation of the Commission in the review process. Under the present system, neither the Chief of Police nor the Police Commission renders formal findings concerning an officer-involved shooting. The lack of any defined framework for executive consideration of a shooting must and does result on some occasions in unproductive analysis and dialogue in the aftermath of a shooting incident. The chief consequence is that the results of the shooting review process in difficult cases may not be communicated by the Chief of Police or the Police Commission in a manner which engenders confidence in either members of the public or the Department.

##### B. Future procedure

The system we are adopting provides for a more responsible role for the Commission in the use of force review process. It provides for direct participation in the decision-making process by the Commission as well as the regular monitoring of that process. The result is consistent with the responsibility and authority vested in the Commission by the City Charter.

In the future, in all shooting incidents and other cases resulting in death or serious injury the procedure will be as follows:

1. The Chairman of the Use of Force Review Board shall forward a report, containing proposed findings and recommendations, to the Office of the Chief of Police, with a copy to the Commission.

2. When the Chief of Police receives the Report from the Use of Force Review Board, he shall:

(1) Adopt, reject or modify the proposed findings and recommendations contained in the report; and within a specified period,

(2) Submit his proposed Use of Force Review Report to the Commission. The report will set forth his proposed findings and recommendations in a form suitable for distribution to the public, subject to the deletion of any confidential material. (The recommendations will cover the individual incident under review as well as proposed changes in Department standards and practices.)

3. When the Commission receives a proposed Use of Force Review Report from the Chief of Police, it shall either:

(1) Adopt, with or without modification, the findings and recommendations contained in the proposed Use of Force Review Report in which case such report will become final and will be released to the public, less any confidential material;<sup>7</sup> or

(2) Conduct an independent Commission review of the incident following which the Commission will adopt a Report of Use of Force Incident containing the findings and recommendations of the Commission, which Report will be final and will be released to the public, less any confidential material; and then

(3) Transmit the matter to the Chief of Police for appropriate action, consistent with the Board's findings and recommendations, which action shall be reviewable by the Commission.

4. In the event that the Commission conducts an independent review of the incident it may:

(1) Conduct an investigation of the matter by the full Commission in executive session; or

<sup>7</sup> The Commission may also refer the matter back to the Chief of Police for further investigation and further report and following receipt of such further report may take appropriate action under paragraphs (1) and (2).

(2) Authorize one or more Commissioners to conduct the investigation in executive session; or

(3) Refer the matter to a Special Hearing Officer designated by the Commission.<sup>8</sup>

In the above proceedings the Commission may require testimony under oath and may direct preparation of a transcript.

5. In the event that the full Commission conducts an independent review of an incident or authorizes one or more Commissioners to do so, it may:

(1) Employ Special Commission Counsel (through the Office of the City Attorney) and such investigative staff as is necessary;

(2) Examine in executive session the officer(s) as well as any witnesses to the incident, and any Department personnel possessing information which may aid in the evaluation of the incident.<sup>9</sup>

(3) Conduct any further investigation or take such other action as may be required; and

The Commission will then prepare and submit to the public its Report of Use of Force Incident.

6. In the event that the Commission designates a Special Hearing Officer that Officer will:

(1) Supervise such investigative staff as has been retained or assigned by the Commission for the purpose of its review;

(2) Examine in executive session the officer(s) as well as any witnesses to the incident and any Department personnel possessing information which may aid in the evaluation of the incident;

(3) Conduct any further investigation or take such other action as may be required; and

(4) The Hearing Officer will then prepare and submit to the Commission, a proposed Report of Use of Force Incident containing proposed findings and recommendations.

The Commission will then adopt or reject or modify the proposed Report of Use of Force Incident and submit its Report to the public.

Proper administration of the disciplinary system is key to any department's successful implementation of its policies. The procedure established in our City Charter for the Police Department, described earlier in our Report, provides a complex system of checks and balances involving the Board of Rights, the Chief of Police, and the Police Commission. There have been suggestions for changes in the Charter which would substantially increase the Commission's authority in general, and would significantly increase its ability to affect disciplinary decisions. For example a blue ribbon Charter Revision Commission appointed by Mayor Sam Yorty and funded by the City Council proposed in 1969 that the Chief of Police be removed from Civil Service protection and serve at the pleasure of the Commission. The Charter Revision Commission further suggested that the Police Commission become directly involved in the disciplinary process by serving as the final appeals body in disciplinary cases. We do not find it necessary at this time to consider any such changes either in the basic Charter relationship between the Commission and the Chief of Police or in the disciplinary process. We believe, rather, that there is room within the existing system, through the institution of improved procedures such as those set forth in this Report, for the correction of any imbalances which may exist.

With respect to the disciplinary system, the new procedures we are adopting for review of officer-involved shootings and other death and serious injury cases, necessarily require that no final decisions be made regarding the imposition of discipline until the Commission has had an opportunity to adopt a Use of Force Review Report or issue its Report of Use of Force Incident. In all cases in which the conclusions contained in a report might justify the imposition of discipline, the Chief of Police will report his intended action to the Commission prior to implementing his decision. We believe this procedure will result in a more efficient and consistent disciplinary process and will at the same time permit fuller consideration of essential issues prior to the time initial disciplinary decisions are made in cases where the basic public interest is involved.

<sup>8</sup> The Commission would in this case designate an individual as Special Hearing Officer from a panel consisting of former superior court judges.

<sup>9</sup> The language of this provision is drawn from Special Order No. 43 assigning a similar authority to the Shooting Review Board. With respect to securing the testimony of persons outside the Department, the Commission, when necessary, will exercise subpoena powers vested in it by City Charter Article VI, Section 89.

#### V. STAFFING REQUIREMENTS

The Commission recognizes that if it is to assume the responsibility for the final evaluation of officer-involved shootings and other incidents, it will require additional staff both on a permanent and a temporary basis. The Commission in some cases may need to retain either Special Counsel or a Special Hearings Officer, as well as highly qualified independent professional personnel. These positions would be filled on as needed basis only. Aside from these temporary appointments, the Commission will require two additional full-time permanent staff members, accountable solely to the Commission.

The first of these two positions will be filled by a qualified civilian whose responsibility will include the screening of all shootings and cases resulting in death or serious injury, as well as all serious allegations of police misconduct. This staff member will also be responsible for reviewing all reports to ensure that proper investigative and adjudicative procedures are followed.

The second position will be filled by an analyst who will be responsible for assisting the Board in modifying and developing policy for the Department.

In the opinion of the Commission, the expertise and autonomy required in these two positions mandate that they be independent of the Department and Civil Service and hired directly by the Commission on personal services contracts.

Pursuant to the report and resolution adopted by the City Council on July 6, 1979, the Commission staff shall have full and complete access to all Department resources and will be responsible to the Commission in a manner which is fully consistent with confidentiality.

The Board is requesting the City Attorney, the City Administrative Office and the Personnel Department to advise it in this regard. When the additional staff is hired the Commission will reorganize its staff, civilian and sworn, so that the additional staff may be secured at little or no increased cost to the City.

#### PART III—TRAINING AND COMMUNITY RELATIONS

##### I. INTRODUCTION

With the shooting of Eulia Love, the Los Angeles City Council and members of minority communities raised critical questions about police preparedness. After public hearings and further inquiry the Board of Police Commissioners determined that training standards and methods required reevaluation. To that end the Board, working with independent consultants and in cooperation with the Department, reviewed the propriety and effectiveness of Academy and in-service training, police-community relations and pertinent policies, standards and procedures.

##### II. TRAINING

The Los Angeles Police Department has long led the way in professional police training. One measure of the Department's leadership is its ability to learn from weaknesses and strengths of actual field performance and translate that knowledge into improved practices. Another is its commitment to continuous scrutiny of general training techniques, identifying those methods that need to be strengthened or changed.

The Commission, in cooperation with the Chief of Police and his staff, has examined recruit and in-service training and has identified seven areas that require attention. Revisions of these general and specific practices are designed both to increase officer safety and to better serve the public interest.

##### 1. The use of deadly force

###### A. Present procedure

"The Los Angeles Police Department has one of the most complete, if not the most complete, training facilities and curricula . . . in addition this Department has the most demanding of shooting qualification requirements," assessed Patrick Gallagher, Executive Director of the Police Executive Institute of the Police Foundation, on the completion of a recent informal survey of 29 police agencies.

Current in-service monthly firearms qualifications are based on major training revisions that occurred in 1974 and again in 1976 as a result of an extensive study by Training Division. Both qualification and bonus courses were revised with the intention among other things, to (1) avoid conditioning an officer to fire six rounds in sequence, (2) avert a conditioned response of firing all rounds at one target, (3) make target range practice conform more closely to actual shooting situations. To this end officers are no longer required to fire more than one shot

at any given target on any range, bursts of fire are interrupted, and shooting is alternated between targets. Nonetheless, in the qualification and bonus courses, shots are fired in fixed sequence—officers do not have discretion over when to stop firing.

Recruit training currently emphasizes speed and accuracy. Aside from classroom instruction in firearms safety and maintenance, and shooting policy, approximately 63 hours of performance training in the use of firearms are included in the Academy's 960-hour recruit training syllabus. A total of 50 hours is spent on the target, combat and shotgun ranges, where shots are fired under time pressure. Some seven hours of performance training are spent on the practical combat course where, unlike the target, combat and shotgun courses, officers must decide when to shoot at various pop-up targets, and how many shots to fire. Beginning with the March, 1979 recruit class, five hours on the shotgun SAFE range, which requires handling of weapons under stress and choice of correct targets, were added to the curriculum. Recruits are also training in the DEFT simulator where wax bullets are fired during enactments of crime scenes that are projected life-size on a screen.

Beginning in May, 1978 seminars in the new shooting policy were required of all sworn personnel. Courses in shooting policy and in supervisory responsibility at the scene of officer-involved shootings are offered as part of advanced officer training, supervisory development school, vice school, detective school, and field training officer school. Mandatory roll-call training incorporates periodic, regular reviews of policies covering the use of force.

Although in past practice a representative of Training Division has been present at shooting reviews, and necessary modifications have been made in recruit training, the impact of shooting reviews on in-service training could be improved. Information concerning shooting reviews has not been disseminated widely; informal roll-call discussions have taken place the day after a shooting incident without the benefit of a thorough analysis by the Shooting Review Board (renamed Use of Force Review Board). Formal in-service training in shooting, other than roll-call training and monthly qualification, has been given approximately once every four years.

#### *B. Future procedure*

It has been determined that shooting training should be modified to further reinforce that part of the 1977 Policy on the Use of Deadly Force which states: "An officer does not shoot with the intent to kill; he shoots when it is necessary to prevent the individual from completing what he is attempting." In order to reduce the possibility of excessive shots—that is, for officers to withhold fire when shooting is unwarranted—the following training areas are to be explored fully and recommendations are to be made. Within 30 days a progress report should be submitted to the Commission.

1. An increased emphasis on when and where to shoot, i.e., target discrimination in addition to how to shoot, in revolver and shotgun ranges.
2. A modification of the ranges to provide officers with an assessment of the effect of each one or two shots, i.e., "Did I reach my objective?" so that training is consistent with the stated policy of using minimum necessary force.
3. An evaluation as to whether veteran officers who had received most of their shooting training before the 1976 modifications require remedial training in target discrimination.
4. The cost effectiveness of expanding the DEFT Simulator program so it will remain open for extended training with an adequate library of enactments emphasizing shooting policy, with special emphasis on "minimizing the risk of death."
5. Establishment of monthly qualification procedures in defense and disarming tactics other than the use of deadly force.
6. Establishment of a procedure to implement the Use of Force Review Board's detailed analysis of specific incidents in all training programs to ensure expeditious and consistent departmental review of shooting policy and improved training methods.
7. Continued research into the use of intermediate (non-lethal) weapons and/or control devices which have the potential to significantly reduce reliance upon deadly force.
8. Development of a system of recognition for officers who resolve conflict through means other than the use of deadly force, when such alternatives are available and will not unnecessarily jeopardize officers' safety.

## *2. Crisis Intervention*

Distraught people whose underlying problems stem from emotional crisis rather than criminal intent frequently pose a threat to themselves and others. The Department is called upon around-the-clock to intervene in potentially explosive psychiatric, drug and alcohol-related emergencies. One Department estimate indicates that 80 percent to 90 percent of contacts made in the field are non-criminal. To help officers cope with the vast number of social problems they face in a heterogeneous metropolitan city of more than 2.8 million people, the Commission is directing the immediate implementation of Crisis Intervention training.

### *A. Present procedure*

Specific crisis management skills are not being taught in depth during recruit or in-service training. While there are simulation exercises in handling mentally disturbed and suicidal persons, Academy courses on patrol tactics, the mentally ill and crisis negotiation do not focus on intervention techniques. Courses on tactics deal mainly with officer deployment and safety; videotapes concerning mentally ill persons address legal and detention procedures; the course on crisis negotiation deals primarily with officers' responsibilities in situations where hostages are held.

### *B. Future procedure*

The Commission has determined that for the increased protection of persons in the community officers must be equipped with psychological skills to defuse crisis situations and reduce the necessity of force. For their own protection officers must not be exposed needlessly to personal danger because of a lack of specialized techniques.

The Department is instructed to complete the formulation of a long-range Crisis Intervention program that will provide routine training to all field personnel in psychological techniques applicable to the resolution of family disputes, as well as other conflicts that are primarily of a non-criminal nature. The first phase of the Crisis Intervention program—the training of training officers—is to begin May 1st. Thereafter, quarterly progress reports should be submitted to the Commission for transmittal to the Council covering the precise methods and training requirements at the recruit and in-service levels. In the final development of all aspects of the Crisis Intervention program, which should be fully integrated into the Los Angeles Police Department's total training system within nine months, the Department should consult with local institutions of recognized expertise in the mental health field.

## *3. Stress management*

Stress, when untreated, can result in major financial, emotional and physical cost to officers and the citizens they serve. The benefits of a comprehensive stress management program include improved police work resulting from better selection, improved morale among officers, reduction in costs and liabilities resulting from a decrease in potentially adverse police actions, significant reduction in costs associated with worker's compensation and disability pensions and sounder judgments by officers on when and how to apply force.

### *A. Present Procedure*

In 1977, the Commission convened an inter-departmental task force on police officer selection and stress management, with the following main components:

1. A pre-selection interview panel which will make final hire/no-hire recommendations based upon a background investigation and psychological evaluation.
2. A psychological services clinic within the Police Department which will provide: counseling, treatment; probationary evaluation; early identification of officers with stress problems; stress management training; and special medical intervention.
3. A continuing psychological evaluation program during the probationary period.
4. Ongoing research related to stress, with specific focus on anxieties connected with the escalation of force, and psychological assessment of police officers and candidates.

These recommendations were not funded at that time and no significant police stress management program is currently available.

### B. Future procedure

The Commission is committed to a major emphasis in the area of stress management and has determined that the comprehensive program developed conceptually in 1977 should serve as the core program for the Department. The Department is therefore instructed to update and re-submit the Interdepartmental Task Force On Police Officer Stress Proposal and report to the Commission within 30 days for immediate funding consideration.

These further programs are being undertaken by the Behavioral Science Section:

1. *Study of officer attitudes and effects of attitudes in police shooting situations.*—This project, initiated by the Department, is directed to an understanding of the role of attitudes in shootings and ways in which negative attitudes that affect those shootings can be modified. The Department should report the results of this study and implications for training modifications, on or before March 30, 1980.

2. *Evaluation of psychological training at the academy.*—At the request of the Commission the Behavioral Science Section is undertaking an examination of the psychological and behavioral concepts being taught at the Academy. A progress report with specific recommendations for curriculum changes, including course content, teaching aids and outside experts, is to be made to the Commission within 30 days.

3. *Early prevention of emotional emergencies.*—A staff of five part-time psychologists, each responsible for three divisions, is being hired by the Department to train supervisors to detect early warning signs of emotional distress. Supervisors will be prepared to offer brief counseling and make appropriate referrals.

### 4. Minority relations

The demography of Los Angeles has changed dramatically over the past decade. Population percentages, based on a 1977 survey by the Community Development Department, show that whites account for 52 per cent of the population, Hispanics 24 per cent, blacks 18 per cent, and other non-whites 6 per cent. Departmental estimates of the undocumented population would alter these percentages to whites 42 per cent, Hispanics 38 per cent, blacks 15 per cent, and other non-whites 5 per cent. Los Angeles, with burgeoning minority communities, provides a special challenge to law enforcement in dealing with crisis situations of an inter-personal nature. That challenge must be met, in part, with greater understanding of the attitudes and family relationships of the people who make up the minority segments of our population, as well as the assumptions and preconceptions of the officers who serve them.

### A. Present procedure

Approximately six hours of a 960-hour curriculum are devoted to awareness of specific cultures, as follows: Black culture, 2 hours; Mexican culture, 1.5 hours; American Indian culture, 1.5 hours; Oriental cultures, 1 hour; Jewish culture, 23 minutes. For the most part these segments are taught by lecturers who are police officers from minority communities. Jewish culture is taught by videotape. Small-group discussions are based on materials contained in the Department's Human Relations Handbook.

### B. Future procedure

The Police Commission is directing the Department to provide additional recruit and in-service training in ethnic considerations, shifting the emphasis away from lectures and videotapes toward an instructional format that will bring officers into personal contact with a cross-section of minority persons. The Department is instructed to prepare such a program. A progress report should be submitted to the Commission within 30 days. It should include the use of panels made up of minority persons and police officers to discuss economic and social community problems as well as such topics as "What it means to be black, Hispanic, Asian", "What it means to be a police officer", and how those feelings affect their interaction. Additionally, the curriculum should provide for officers' visits to minority communities and subsequent "rap" sessions at the Academy with representatives of minority communities, e.g., clergymen, businessmen, school officials, administrators of social service organizations.

To the extent that misunderstanding and misapprehension stem from racial prejudice, the Commission is committed to a renewed emphasis in the area of officer conduct. Research in community relations suggests that negative racial attitudes need not be translated into improper and unprofessional conduct. To

ensure this, supervisors are requested to make officers aware of the elements of their attitudes that may result in unacceptable behavior or may trigger hostile responses from persons in the environment. Bureau commanding officers are to be held responsible for the continuous monitoring of each of their Area's efforts to achieve positive personnel attitudes and professional conduct, and the success of these efforts.

### 5. Response to business disputes

The Police Commission has revised the Department's civil dispute intervention policy to specify more clearly under what circumstances and in what manner police officers will respond to the scene of business disputes, as follows:

1. The presence of police officers at the scene of a civil dispute can have an intimidating effect upon unsophisticated persons and is a tactic often employed by individuals and establishments seeking to avoid the more cumbersome civil process. Normally, officers shall not respond to the scene of business disputes where no crime has been reported. In those exceptional cases, where criminal activity appears imminent, a response may be made for the purpose of preserving the peace. Involvement by members of this Department shall be limited to preventing criminal activity and encouraging all parties to pursue appropriate civil remedies. Officers shall scrupulously avoid taking sides in any business dispute or giving the appearance that this may be the case.

2. Officers shall not respond to calls for the purpose of: Assisting with the collection of any bill; assisting with any repossession; assisting with the discontinuance of any service; or assisting in any eviction.

Exceptions may be made in the event of a request for assistance by a governmental agency whose responsibilities include executing civil processes.

Appropriate modification of the Manual of the Los Angeles Police Department and recruit and in-service training procedures should be made immediately.

### 6. Handcuffing procedure

The Commission has noted that in some instances persons have been handcuffed under circumstances which seemed most inappropriate. Our policy presently provides the following:

Handcuffing of misdemeanor prisoners is discretionary; however, in situations where an arrestee gives any indication that he might become belligerent, the arrestee shall be handcuffed with his hands behind him.

Normally, felony arrestees shall be handcuffed; there are, however, situations with extenuating circumstances which would make the handcuffing of an arrestee inappropriate, e.g., the arrest of an elderly person or severely disabled person. Such circumstances can best be judged by the involved officer who should evaluate all available facts concerning each arrestee and situation prior to handcuffing an arrestee. Factors involved in making this decision include, but are not limited to: The possibility of the arrestee's escaping; the possibility of escalating the incident; potential threat to officers and other persons; knowledge of the arrestee's previous encounters with law enforcement.

We see no need to change present policy but we recognize the necessity for officers to receive further training in the use of discretion, with special emphasis on those situations where the suspect no longer presents a threat to officers or others.

### 7. Evaluation of officers for remedial training

Area and division commanding officers shall continue to monitor all altercation reports involving officers under their supervision and evaluate the need for training and/or other administrative action. Additionally, these commanding officers shall formalize their review systems so that any officer experiencing three or more altercations within a twelve month period shall be made the subject of an in-depth review and evaluation. This evaluation will be made by the employee's immediate and second-level supervisors as well as the area/division commanding officers. Each of the incidents will be reviewed in depth by these supervisors, and remedial training will be recommended, when warranted.

## III. COMMUNITY RELATIONS

### 1. Statement of problem

The shooting of Eulla Love has served as a lightning rod for the expression of deeply felt hostility concerning various police practices in the minority communities of this City. In the months that followed the tragedy, public hearings conducted by both the City Council and the Board of Police Commissioners pro-

vided a forum for an outpouring of criticism, anger, fear and distrust, particularly by representatives of the black community.

Citizens testified about alleged excessive force and improper tactics and their conclusion that the Department does not hold officers accountable for wrongdoing. They described a police service that was not sufficiently responsive to minority needs. Above all they expressed dissatisfaction with the official evaluation of incidents conducted internally by the Department and questioned the ability of the police to police themselves. Renewed calls continue to be made for a Civilian Review Board as a remedy.

Although the Department made few public statements concerning the erosion of confidence between police and minorities before the death of Eulia Love, both individual officers and Department management were aware of a growing problem. In 1976 when the Department attempted to evaluate its effectiveness in reducing neighborhood crime, residents of South-Central Los Angeles proved more likely than others to rate the Department as "not very effective." Shortly after becoming Chief of Police, Chief Gates directed the Community Relations Section to assess police-community relations in the Hispanic and black communities to ascertain the extent of community tension and its causes. In its report one year ago the Department's Community Relations Section described the erosion of a vital base of community support:

"... a general feeling of dissatisfaction and frustration among a growing number of blacks and Latinos with the quality of police service in their communities. Their dissatisfaction stems from what they perceive as officers' demeaning, self-righteous, insensitive, and racist attitudes. These attitudes are communicated through verbal expressions of hostility, sarcasm, and aggression. The frustration comes from a general belief that the Department not only turns a deaf ear to complaints of police wrongdoing, but that it encourages or at least tacitly approves such wrongdoing. They believe the Department's routine manner of handling complaints of this type is biased and untrustworthy. They accuse the Department of using rationalizations tending to justify the involved officer's actions and disciplining a guilty officer much less severely than would be done if he had violated only a minor Department regulation. As a result, many complaints alleging improper and unprofessional attitudes and misconduct are reported to community service organizations rather than to the police. In the eyes of a growing number of people in these communities, the Department is indifferent and not responsive to the needs of minority groups. This is the major source of their anger and frustration."

In the past, residents of South-Central Los Angeles have been among the strongest supporters of the Los Angeles Police Department. They have consistently voted in favor of measures designed to increase officers' benefits and departmental resources—often by majorities far larger than those in other communities. Nonetheless, a serious conflict has been developing in the area of police-community relations. The depth of this conflict was harshly reflected in a public opinion poll following the death of Eulia Love. A Los Angeles Times survey taken four months after the shooting showed that only 30 percent of the citizens of the black community were satisfied with the way the Department was doing its job, a precipitous decline of 24 percent over a period of eighteen months.

The Police Commission does not accept the inevitability of antagonism between the Department and the black and Hispanic persons who look to it for protection and service. Committed to the lessening of police-community tension, the Commission has examined the problems described in the Department's study and verified by the representatives of minority communities.

In the foregoing section of this report we have established a number of changes in training designed to improve levels of mutual understanding, proper conduct and effective police service.

Toward that same end and as part of our further examination, we have conducted a preliminary review of citizen complaints against Department personnel. This preliminary review will be discussed in Section IV of our report to be released subsequently. Our preliminary review of the citizen complaint process may well lead to further changes in the administration and implementation of that process. In addition to these further changes, we are setting forth in this section specific steps the Commission has taken.

## 2. Direct Commission involvement in misconduct and serious injury cases

Citizen complaints against Department personnel—their nature, investigation, adjudication and ultimate disclosure to the public—are matters of utmost concern to the Commission, requiring direct involvement in the following fashion.

A. The Chief of Police or his designee shall report orally to the Commission on any case under investigation where there is a serious injury to any person and misconduct is alleged or indicated. This report shall be made at the earliest opportunity.

B. A confidential written summary of each case involving an allegation of serious misconduct against a member of the Department is being prepared, immediately following its adjudication by the Chief of Police, for consideration by the Commission in executive session.

C. The Commission shall cause an audit of investigations of alleged misconduct to be made routinely and in individual cases.

D. The Commission will participate directly in the review and final adjudication of incidents resulting in serious physical injury to persons in the custody of or as a result of, contact with Department personnel.

E. The Commission has recently taken a test case involving allegations of misconduct and has assigned a Commissioner to monitor the progress of the case and the effectiveness of the complaint process from beginning to end.

## 3. Accountability to the public

Minority persons questioned on the subject of police-community relations have stressed that the mechanisms for communication do exist but unfortunately the community feels that the lines are not open. In order to strengthen existing methods and find new avenues for accountability, the Commission will adopt the following procedures:

### A. Department's response to complainants

After the investigation of a citizen complaint has been completed, the complainant is notified in writing. In the past, the letter of notification has been brief, without explanation of the reasons for adjudication. The Board has determined that as a matter of future policy, a detailed statement concerning the results of an investigation and the conclusions reached with respect to a specific complaint will be furnished to the complainant. The nature of disciplinary action, if any, will be included.<sup>1</sup>

### B. Officers' business cards

In order to provide high level service the Department must hear from the people of Los Angeles. It is incumbent on the Department to assure the public that comments are received openly, that they are viewed by administrators as crucial to their ongoing review of police practices, that they are considered and used as a management tool in the evaluation of officers' performance, and that they are correctly acknowledged when acknowledgement is warranted.

Community Relations Guidelines, recently directed to all Commanding Officers in Operations on October 22, 1979, underscore this view:

"The only sure way to develop positive attitudes throughout the entire community is through the delivery of prompt, efficient and courteous police service which is truly responsive to the needs and expectations of the citizens we serve. The best way to be sure we are fulfilling our obligation to the public is to receive constant feedback which keeps us informed about how well we are doing in the eyes of the public."

To this end the Commission is directing the Department to issue business cards to each officer for distribution to the public in the course of official duty. These cards will include the officer's name and the name of the division to which citizen comments should be directed. The Department Manual will be amended to read as follows, effective immediately:

"When any person detained by a member of this Department is subsequently released without being booked or cited, the responsible officer shall explain the reason for the detention. Prior to the person's release, the officer shall provide the detained person with an official Department business card, complete with his/her name and division of assignment. Subsequently, the Department has the responsibility of returning the person to the place where he or she was originally detained."

## 4. Assignments to minority areas

The Commission believes that the Department correctly assessed some causes of citizen dissatisfaction with police service in its Community Relations report of December 4, 1978:

<sup>1</sup>We have requested an opinion from the City Attorney regarding the full, written disclosure of material to complainants. Such disclosure is dependent upon the concurrence of City Attorney.

"The inability of certain officers . . . to exercise patience and tolerance in dealing with minorities."

"Lengthy assignments in areas considered 'war zones' . . . in many instances lessen an officer's efficiency and creates within him a cynical attitude."

Generally, Los Angeles Police officers are well selected and trained but in any group individual temperaments will differ. Certain personal skills, while not necessarily better than others, are more suited to effective police work in minority communities. The Commission believes that assignments to communities where there is a serious problem in police-community relations, should in some instances be treated as specialized assignments and handled in a fashion similar to other assignments long recognized as specialized by the Department. Such an assignment philosophy should take into account the personal skills and abilities necessary to the rebuilding of trust between police officers and the minorities they serve. Similarly, individuals whose skills and attitudes are not particularly well suited to service in such areas should be identified and assigned to more compatible duties. We direct the Department to review its assignment system for the purpose of developing appropriate procedures to implement the above and to report to the Commission within 30 days.

#### 5. *Experimental community relations program*

##### *A. Steering committee concept*

The Board of Police Commissioners recognizes that the ability of the police to provide optimum service to the community is dependent upon continuing public respect and approval. When there is a serious erosion of that respect and approval, as recently documented in South-Central Los Angeles, a means of rebuilding mutual trust must be established. To this end the Commission has set up a steering committee representing a broad constituency of the black community, with the aim of improving police-community relations in 77th, Southeast and Southwest Divisions.

The steering committee has named six of its members<sup>2</sup> to serve on a special task force to conduct inquiries into specific police-community problems. The Department has instructed its Community Relations Coordinator, a Commander, to meet with the task force on a regular basis. Issues will be dealt with in a priority order established by the steering committee. The task force will present a specific problem facing its community to the Coordinator and both parties will agree upon a correctly written statement of the problem. That statement will be transmitted immediately and directly to the steering committee, the Chief of Police and the Board of Police Commissioners.

At no time will the Coordinator act as a buffer but will put all the means of the Department at the disposal of the task force in an effort to explore and resolve the question at issue. The task force will be expected to fully investigate its concern and document its findings. A complete sharing of all relevant information is essential to the success of this task. The only relevant information that will not be disclosed during the inquiry will be that which has been declared confidential by the City Attorney.

When an inquiry is concluded, recommendations and observations of the task force will be forwarded to the steering committee which in turn will forward them, with or without modification, to the Chief of Police and the Board of Police Commissioners, for their consideration.

Steps will also be taken to implement a similar committee/task force structure to address the needs of the large Hispanic communities throughout the city--with particular emphasis in the San Fernando Valley, Venice and Central areas.

##### *B. Expansion of community council*

An alternative approach to lessening police-community tension is the use of a citizen community council, representing a cross-section of citizens in a particular community, but working at the local level with an Area Commander. Problems in Hispanic-police-community relations have been identified in Harbor Division and a coordinating council set up to resolve the concerns that have been raised. In this particular instance, however, we have experimented with the expansion of the council concept by assigning a Commissioner who has been participating in the selection of council members and in subsequent meetings.

<sup>2</sup> Professor Reginald Alleyne, UCLA School of Law; Mr. Jim Cleaver, Executive Editor, Los Angeles Sentinel; Dr. Claudia Hampton, Director of Human and Schools Community Relations Office, Los Angeles Unified School District; Ms. Mary Henry, Executive Director, Avalon-Carter Community Center; Mr. John Mack, President, Urban League of Los Angeles; and Mrs. Lola McAlpin-Grant, Assistant Dean, Loyola Law School.

The Commission is deeply concerned about any breakdown in communications that threatens confidence in the Department. We want to try these two new approaches for a period of time, compare the results, and determine whether either, both or a combination of both is suitable for expansion citywide.

#### PART IV—OFFICER INVOLVED IN SHOOTINGS

##### I. INTRODUCTION

In any major metropolitan city eruptions of violence and the subsequent use of force by police officers who are charged by the people with maintaining order is inevitable. However, many of our citizens have raised the questions as to whether the Los Angeles Police Department's use of deadly force has been excessive or improper. In order to move these questions out of the realm of rhetoric and into an area of responsible debate, the Board commissioned a statistical analysis of the Department's use of deadly force. Toward this end, we undertook an analysis of every shot fired by officers of the Los Angeles Police Department from 1974 through 1978/9 in order to determine the frequency and results of shootings in Los Angeles, how shooting patterns in Los Angeles compared with those in other large cities, and the involvement in shootings of citizens of different race or descent in Los Angeles.

The data speak to that which is measurable. There are other complex factors involved in an officer's decision to shoot that are not quantifiable. While evaluation of police performance in statistical fashion is imperfect, the Board nevertheless considers it a valid tool in the process of self-examination directed toward the improvement of police service in our community.

The statistical analysis of officer-involved shootings was undertaken with the assistance of Marshall W. Meyer, Professor of Sociology at the University of California, Riverside, who was the Commission's consultant for this project. Professor Meyer designed the study, supervised the coding of departmental investigations of shootings into machine-readable form, and prepared the drafts of this part of our Report. Professor Meyer also conferred extensively with senior staff officers of the Department regarding this study.

Because of the caution with which one must view any statistical analysis, the Board of Police Commissioners sought a critique of a draft of this part of our Report from experts in the fields of sociology, statistics, and police administration. The following are quotes from their independent reviews:

"I have carefully read the statistical analysis of Los Angeles Police Officer-Involved Shootings, 1974-78. The report makes use of simple and universally accepted methods of analysis of the data and the author draws conscientious and carefully justified conclusions from the analysis. I can find no fault with the analysis, and the findings as reported are carefully justified on the basis of the data." Dr. Ralph Turner, Professor of Sociology, University of California, Los Angeles, President, American Sociological Association, 1968-1969.

"The report is clear and concise, and properly cautious in interpretation . . . extremely informative on a matter of the greatest sensitivity and seriousness." Dr. James F. Short, Jr., Director, Center for Social Research, Washington State University, Research Director, National Commission on Causes and Prevention of Violence, 1968-1969.

"In interpreting the data one would like to be able to assign causes or explanations to those discrepancies which are too large reasonably to be considered chance phenomena. It seems to me that there is no evidence in the data presented which would lend credence to one particular explanation." Dr. David O. Siegmund, Professor of Statistics, Stanford University.

"I think it is an excellent report, one of the best I have read on the subject, and could contribute not only to a better understanding of the problems in Los Angeles but also to serve as a guide to other police officials in other departments who want to define unnecessary use of force." Catherine Milton, Senior Author, "Police Use of Deadly Force," published by the Police Foundation, 1974.

Although the reviewers agreed as to the technical adequacy of the data, no consensus emerged from their comments regarding particular conclusions to be drawn from them. After considering their responses, the Police Commission with the further assistance of Professor Meyer revised the report so as to incorporate the available 1979 data and carefully limited its findings to conclusions that we believe to be clearly and objectively demonstrable. Beyond that, however, the material contained in this Report can serve as the basis for informed discussion and debate, which we hope will result in continued and expanded efforts to improve the safety and welfare of all of our citizens.

II. STATISTICAL ANALYSIS OF LOS ANGELES POLICE DEPARTMENT OFFICER-INVOLVED SHOOTINGS, 1974-1978/9

A. Overview of study

This statistical analysis of officer-involved shootings identifies historical patterns of such shootings in Los Angeles. The analysis complements investigations of individual shooting incidents in that it describes the frequency of different kinds of shootings as well as circumstances surrounding shootings and results of the shooting review process over a five to six-year interval.

The study was undertaken with the full cooperation of the Los Angeles Police Department. Complete access to all pertinent data was provided, and requests for information were always met with prompt and thorough responses.

This analysis relies entirely upon the Department's accounts of shootings presented in original investigative reports of shooting incidents and other departmental documents. No attempt has been made to reconcile these departmental records of shootings with other accounts, such as those in the press or in court records, and no independent investigation of shooting incidents was made by the Board of Police Commissioners at the time of the incidents or in connection with the preparation of this analysis.

Our statistical analysis covers 913 officer-involved shootings in the Los Angeles Police Department from January 1, 1974 through December 31, 1978. It is based on files maintained by the Staff Research Section of the Personnel and Training Bureau, supplemented by information obtained from departmental personnel files and records of the Robbery-Homicide Division of Detective Headquarters Bureau. Of the 913 incidents of shooting that have been reviewed, all but one, the Symbionese Liberation Army shootout of May 1974, are included in our computer data files and in all portions of the statistical analysis.<sup>1</sup>

As far as can be determined, the files of shooting investigations maintained by the Staff Research Section are virtually complete for years 1977 and 1978. The 1977 files were audited at the end of the year by comparing them with shootings reported in the Chief's Daily Occurrence Log, and missing reports of shootings were retrieved and added to the files. Since January 1, 1978, all officer-involved shootings have been numbered consecutively and entered into a journal kept by the Staff Research Section. The entries are made the morning after shootings occur, and a journal notation is made when administrative review of the shooting has been completed. No audits or independent journal entries were made for shootings prior to July 1, 1976. The 1977 audit suggests that about ten percent of shootings not investigated by Robbery-Homicide, i.e., ten percent of shootings involving no injury or death, are likely to be missing for earlier years. Of shootings investigated by Robbery-Homicide, all but one, the SLA shootout, appear to be in the files of the Staff Research Section. The files include the Robbery-Homicide report on each shooting where a person is injured or copies of the supervisor's investigation (on Form 15.07) in non-injury cases, materials appended to those reports such as arrest and medical records, and the report of the Shooting Review Board, including the final administrative disposition of each case.

Two data files were designed by the Commission's consultant based on information made available by the Department. Records in the first, the "suspect" file, describe the person (or object, if any) shot at. The date and location of each shooting, a description of the person (or object) shot at, the suspect's action prior to the shooting, weapons, if any, possessed and/or used by the suspect, shots fired by Los Angeles Police officers, and the results of the shooting review process are indicated for each person (or object) shot at. Shootings of bystanders, hostages, animals, and accidental discharges and warning shots are included in the "suspect" file, but are excluded from the statistical analysis, save for Tables 1, 2, 3, and 9, which include all persons shot (hit) and shot fatally by the Los Angeles Police Department. One entry is made in the "suspect" file for each person (or object) shot at in an incident. There are 984 entries in the "suspect" file due to the involvement of multiple suspects in some shootings. The second data file is our "officer" file. Records in this file contain information on each Los Angeles Police officer involved in a shooting in the 1974-78 interval. Up to six shootings are coded for each officer.<sup>2</sup> The location of the shooting, the officer's

<sup>1</sup> The SLA shootout is included in Tables 1, 2, 3, and 9 below but otherwise excluded because it would distort grossly the other shooting statistics. More than 5,000 rounds (plus 83 tear gas canisters) were fired by Los Angeles Police officers in the SLA incident, more rounds than the total fired in the remaining 912 officer-involved shootings analyzed here.

<sup>2</sup> No officer was involved in more than six shooting incidents in the 1974-78 period.

assignment, shots fired, and the outcome of review of each shooting are described in the "officer" file. Some 1070 officers discharged their weapons in the shooting incidents reviewed for this study, excluding the SLA shootout. Both data files were initially key punched on IBM cards and later transferred to disc storage in the City's Data Service Bureau.<sup>3</sup>

The 146 officer-involved shooting incidents that occurred in 1979 have also been reviewed in connection with this analysis but have not been entered into our computer files. Certain data concerning 1979 shooting incidents are reported in Tables 1, 2, 3, and 6 and in subsequent discussion. These 146 incidents are not otherwise included in the statistical analysis since investigations, reviews, and final adjudications of a number of the 1979 Los Angeles Police officer-involved shootings were not completed in time to be included in this study.

Most of the items used in the statistical analysis are taken directly from departmental investigations, which state clearly the number of shots fired, shots wounding a suspect, and the race or descent of the person shot at. Investigative accounts of shootings also provide narrative descriptions of the events preceding a shooting, but the Los Angeles Police Department does not routinely classify the actions of suspects shot at in tactical situations. However, classification of suspects' actions was deemed necessary for purposes of this statistical analysis and was done for all cases entered into our data files.

Seven categories were used to classify suspect's actions prior to shooting incidents. These categories are based on the precipitating act of the suspect. Using a weapon, whether a gun, knife, automobile used for purposes of assault, or any other potentially lethal or injurious object, is one such category.

Threatening the use of but not actually using a weapon, whether by pointing or aiming it or by indicating verbally that a weapon would be used, is a second category. Displaying a weapon while not threatening its use, either verbally or otherwise, is a third category. Assaulting an officer or civilian where no weapon is used, threatened or displayed is a fourth category. Appearing to reach for a weapon when no weapon is actually used, threatened, or displayed and there is no assault—is a fifth category.<sup>4</sup> Finally disobeying an officer's order, usually an order to "freeze" or "halt," when no weapon is used, threatened, or displayed, and there is no assault, is the sixth category. Suspects shot at after disobeying officers' orders to halt are persons believed by officers to have committed felony crimes. A seventh category is other actions precipitating shootings, and includes accidental discharges at suspects.

In almost all instances, the suspect's act precipitating a shooting incident is the final act that caused the officer to fire, i.e., that act but for which the shooting would not have taken place. The exceptions are those occasional instances where two or more potentially precipitating acts occurred within a very short period of time (e.g., firing a weapon and then disobeying a command to "freeze"), in which case only the higher classification or most life-endangering act of the suspect is the one coded. The categories of disobeying officers' commands and appearing to reach for weapons are thus extremely restrictive and include only cases where no more threatening action of the suspect occurred within the period immediately preceding the shooting.

The categories used to describe suspects' weapons are straightforward, but the reader should note that the unarmed category is quite restrictive. A suspect is considered to be unarmed only if he did not use a weapon, including a vehicle for purposes of assault, and if he is found after the shooting incident not to have possessed a weapon. In other words, a suspect who did not use, threaten, or display a weapon but is ultimately found to have been in possession of one is classified as being armed.

The statistical analysis of Los Angeles Police officers-involved shootings begins by examining trends in officer-involved shooting over the 1974-78/9 interval and comparing shooting patterns in Los Angeles with those in other large cities. We then turn to an examination of rates and patterns of shooting at

<sup>3</sup> The relationship of the "suspect" and "officer" data files to other statistical systems maintained by the Los Angeles Police Department should be mentioned. The Department Manual makes reference to an Officer-Involved Shooting System where basic data about shootings are to be maintained. Since 1978, a "Shooting Statistical Sheet" has been completed after findings of the shooting review process have been determined. Although the Department has made some effort to code these sheets into machine-readable form, Automated Information Division of the Los Angeles Police Department has not, as far as we know, completed the initial processing of this information.

<sup>4</sup> Appearing to reach for a weapon is often called "furtive movement" in departmental investigations and reports.

suspects of different race or descent in Los Angeles, and an analysis of results of the shooting review process by race or descent of suspects shot at.

#### B. Trends in Los Angeles and comparisons with other U.S. cities

1. *Trends in Los Angeles, 1974-1978/9.*—In the past six years, there has been a substantial decrease in police shootings in Los Angeles. We begin by examining the number of shooting incidents. An incident is defined as one or more police officers shooting at one or more persons (or objects).<sup>5</sup> In 1974, Los Angeles Police officers were involved in 208 shooting incidents, whereas 143 shooting incidents occurred in 1978 and 146 in 1979. Save for 1976, the number of shooting incidents decreased each year, although the largest decreases occurred in 1977 and 1978.

The number of persons shot at as opposed to shooting incidents, also decreased substantially over the five-year interval covered by our study. Some 149 suspects, persons whom police officers knew or believed to have committed felony crimes, were shot at in 1974. The number of suspects shot at was 119 in 1975, 122 in 1976, 120 in 1977, but it dropped to 101 in 1978 and 102 in 1979. Other types of shootings including shootings of bystanders, hostages, animals, and accidental discharges also decreased over the 1974-79 interval.<sup>6</sup>

TABLE 1.—Number of shooting incidents by year

Number of incidents:	
1974 <sup>1</sup> .....	208
1975 .....	193
1976 .....	202
1977 .....	166
1978 .....	143
1979 <sup>2</sup> .....	146

<sup>1</sup> Includes SLA shootout.

<sup>2</sup> Reported only in Tables 1, 2, 3 and 6; not otherwise included in statistical analysis.

TABLE 2.—PERSONS/OBJECTS SHOT AT, BY YEAR

	1974 <sup>1</sup>	1975	1976	1977	1978	1979 <sup>2</sup>
Suspects .....	149	119	122	120	101	102
Bystanders/hostages <sup>3</sup> .....	0	2	12	6	0	(2)
Animals .....	22	21	30	20	12	(2)
Accidental discharges <sup>4</sup> .....	39	39	43	24	23	(2)
Other nonaccidental .....	15	19	10	12	13	(2)

<sup>1</sup> Includes SLA shootout (6 suspects).

<sup>2</sup> 1979 incidents not involving suspects were not classified as to persons/objects shot at.

<sup>3</sup> Whether or not considered a suspect when shot.

<sup>4</sup> Other than shots fired accidentally at persons suspected of crimes in tactical situations.

Commencing in 1978, there was a substantial decrease in persons shot (hit) and persons shot fatally. The number of persons actually shot—that is, hit—changed little prior to 1978, and the number of persons shot fatally did not decline prior to that year. The number of persons shot increased through 1976; the number shot fatally increased through 1977. About eighty persons per year were shot from 1974 through 1977. This number decreased to 63 in 1978 and 61 in 1979. (These numbers of persons shot, it should be noted, include police officers shot accidentally by themselves or other officers; there were 6 such shootings in 1974, 6 in 1975, 9 in 1976, 1 in 1977, 3 in 1978, and 4 in 1979.) About thirty people per year were shot fatally from 1974 through 1977, but the number of shooting fatalities dropped to 20 in 1978 and 14 in 1979.

<sup>5</sup> Generally, each shooting incident is assigned a single Divisional Report (or DR) number by the Los Angeles Police Department regardless of the number of officers or civilians involved.

<sup>6</sup> Bystanders and hostages include persons shot at whom officers mistook for suspects when in fact a suspect was present or nearby, as well as persons hit unintentionally by officers' shots aimed at suspects. Accidental discharges include all incidents ruled accidental by shooting review boards, except for those occurring in tactical situations where officers may have had cause to fire deliberately. Other non-accidental shootings include shots fired at cars and street lamps, and warning shots.

TABLE 3.—TOTAL PERSONS SHOT (HIT) AND PERSONS SHOT FATALLY, BY YEAR

	1974 <sup>1</sup>	1975	1976	1977	1978	1979
Total number shot (hit) .....	75	81	84	74	63	61
Number killed .....	26	30	30	33	20	14

<sup>1</sup> Includes SLA shootout (4 shot, 2 killed by LAPD bullets).

The decreased numbers of total shooting incidents, persons shot at, persons hit, and persons shot fatally in 1978, as well as the further decrease in persons shot fatally in 1979 may be fortuitous or may be due to factors reflected in national trends in police shootings.<sup>7</sup> On the other hand these changes may reflect specific actions taken by the Police Commission and the Department for the purpose of reducing the number of shootings. Commission and departmental actions related to shootings include revision of the Los Angeles Police Department shooting policy, which was adopted by the Commission September 8, published by the Department September 30, 1977, and followed by a series of four-hour shooting seminars that all officers were required to attend. The new shooting policy and related training may have been the cause of decreased incidents of police shootings overall as well as decreased injuries and fatalities in 1978, and again in 1979.

The decreased number of accidental shootings in 1977 may also reflect specific departmental actions. The goal of eliminating accidental discharges was made explicit and given special emphasis in the 1976 and 1977 Office of Operations statement of goals and objectives published in mid-year. This emphasis may have been a cause of decreased accidental shootings in 1977, as well as the continued low number of accidental discharges in 1978.

There is no way to determine with certainty to what extent changes in shooting policy as opposed to other events account for decreased incidents, persons shot, and shooting deaths in 1978 and 1979. However, researchers have argued that policy does affect the behavior of police officers,<sup>8</sup> and the changes in shooting patterns in Los Angeles that occurred in 1978 are consistent with the changes in policy instituted in the fall of 1977. The new shooting policy includes a preamble stating that "A reverence for human life shall guide officers in considering the use of deadly force." It changed the directive that "An officer does not necessarily shoot with the intent to kill" to "An officer does not shoot with the intent to kill." The new policy places specific restraints on shootings of fleeing felons. The former policy stated that, "An officer is authorized the use of deadly force when it reasonably appears necessary to prevent the escape of a felon." The policy adopted in 1977 authorizes deadly force only "To apprehend a fleeing felon for a crime involving serious bodily injury or the use of deadly force where there is a substantial risk that the person whose arrest is sought will cause death or serious bodily injury to others if apprehension is delayed."

The effects of the new shooting policy resulting from both direct departmental implementation of the revised policy and officers' increased awareness of departmental and community concern about shootings should be particularly evident in decreased frequency of shooting incidents where the lives of police officers and others are not in immediate danger, although the effects should be reflected in other categories as well.

The statistical analysis of the Los Angeles Police Department shooting data reveals changes in the shooting behavior of officers consistent with both shooting policy changes made in late 1977 and the tenor of public debate about police shootings at that time. The data show that certain kinds of shooting incidents decreased much more rapidly than others from 1977 to 1978, especially those most restricted by the new shooting policy.

A number of shootings are precipitated by suspects' actions other than an assault upon an officer or third person or a suspect's display of, threat of using,

<sup>7</sup> National Center for Health Statistics series on fatal police shootings, which may underestimate substantially such deaths as noted below, suggests a decline in shooting fatalities throughout the United States.

<sup>8</sup> Three sources of this argument are Gerald F. Uelman, "Varieties of Police Policy," *Loyola of Los Angeles Law Review* 6 (1973) 1-65; and Catherine H. Milton et al., "Police Use of Deadly Force" (Washington, D.C.: Police Foundation, 1977), ch. 2; and James J. Fyfe, "Administrative Interventions on Police Shooting Discretion," *Journal of Criminal Justice* 7 (1979), 309-323.



or actual use of a weapon. For example, some shooting incidents occur after suspects who are believed to be dangerous felons disobey orders to halt, even though no weapon is used, threatened, or displayed, and there is no assault. Some suspects are fired at after making movements appearing to the officer as attempts to reach for a gun or other weapon, even though no weapon is used, threatened, or displayed, and no assault takes place. Taking these two categories together, 36 shootings at suspects were precipitated by disobeying orders to halt or by appearing to reach for a weapon in 1974 and 32 in 1977. Only 11 shootings were precipitated by disobeying orders to halt or appearing to reach for a weapon in 1978, a 66 per cent decline in such shootings in the year following adoption of the current shooting policy. Between 1974 and 1977, shootings precipitated by felony suspects' disobeying orders to halt declined from 20 to 15, but there were only seven such incidents in 1978 after the new policy was fully implemented. Between 1974 and 1977 the number of shooting incidents precipitated by suspects' appearing to reach for weapons ranged from 11 to 17 each year, but only four shootings were precipitated by such actions in 1978.

TABLE 4.—SHOOTINGS AT SUSPECTS PRECIPITATED BY SUSPECTS' DISOBEYING ORDERS TO HALT AND APPEARING TO REACH FOR WEAPONS, BY YEAR

	1974	1975	1976	1977	1978
Felony suspect disobeying command to halt.....	20	18	18	15	7
Percent of all suspects shot at.....	14	15	15	12	7
Suspect appearing to reach for weapon.....	16	11	11	17	4
Percent of all suspects shot at.....	11	9	9	14	4
All other precipitating actions.....	107	90	93	88	90
Percent of all suspects shot at.....	75	76	76	75	89

In addition to examining suspects' actions that precipitated shootings, we should consider whether or not suspects shot at were in fact armed. A suspect is considered armed if he possessed a gun, knife, other cutting instrument, blunt instrument, simulated weapon, or if he assaulted an officer or another person with a vehicle; most unarmed suspects were involved in shootings in the two categories we have just discussed—those precipitated by disobeying officers' orders to halt or appearing to reach for weapons. A number of suspects are shot at who are ultimately found to have been unarmed. From 1974 to 1977, the number of suspects shot at who were ultimately found to have been unarmed dropped from 30 to 32 per year, but in 1978 the number dropped to 14, a 56 per cent decline from the previous year. From 1974 through 1978, 70 percent of the suspects involved in shootings precipitated by disobeying officers' commands or appearing to reach for weapons were ultimately found to have been unarmed. Sixty-seven percent of the suspects who disobeyed officers orders to "freeze" or "halt" and seventy-three percent of the suspects who appeared to be reaching for weapons were in fact unarmed.

TABLE 5.—SHOOTINGS AT SUSPECTS FOUND TO BE UNARMED, BY YEAR

	1974	1975	1976	1977	1978
Number of unarmed suspects.....	39	34	34	32	14
Percent of suspects shot at.....	27	29	28	27	14

Altogether, the data show that in 1978, the year in which the current shooting policy was fully implemented, shootings at suspects disobeying orders to halt or appearing to reach for weapons decreased sharply, not only in number but in proportion to total shootings. Similarly, shootings at suspects ultimately determined to be unarmed decreased sharply, both in number and in proportion to total shootings.

We should also consider the number of shots fired in shooting incidents. Although the percentage of suspects who were fired upon only once in an incident increased steadily from 1974 to 1978 (but declined in 1979), the mean number of shots fired at each suspect also increased from 1974 to 1977 but dropped in 1978 after the new policy was instituted and dropped further in 1979. Whereas an average of 4.40 shots were fired at each suspect shot at in 1977, 3.69 shots per suspect were fired in 1978 and 3.19 in 1979.

TABLE 6.—PERCENT OF SUSPECTS FIRED AT ONCE AND MEAN NUMBER OF SHOTS FIRED AT EACH SUSPECT, BY YEAR

	1974	1975	1976	1977	1978	1979
Percent single shots.....	38	40	43	43	46	41
Mean number of shots.....	3.87	4.11	4.11	4.40	3.69	3.19

Overall, from 1974 to 1978, numbers of shooting incidents, accidental shootings, persons shot at, shots fired, persons hit, and shooting fatalities decreased in Los Angeles. Paralleling these trends, shootings precipitated by suspects' disobeying orders to halt or appearing to reach for weapons, and shootings of suspects ultimately determined to be unarmed decreased in both number and in proportion to total shooting incidents. Changes occurring between 1977 and 1978 suggest the impact of the new restrictive shooting policy on actual behavior of police officers. Reductions occurred in all categories except accidental shootings, which had declined sharply in the previous year. The greatest declines were in the number and percentage of shootings where the suspect's action precipitating a shooting was disobeying an officer's command to halt or appearing to reach for a weapon, and in the number and percentage of shootings where the suspect was ultimately found to be unarmed.<sup>9</sup>

2. *Comparison of Los Angeles with other U.S. jurisdictions.*—Any attempt to compare U.S. cities (and counties) with respect to police shootings or in any other respect is extremely hazardous. This is so because localities differ in their population composition, industrial and commercial bases, and forms and functions of government. The last, functions of government, is a major consideration when examining police shootings. The Los Angeles Police Department, for example, does not have primary responsibility for patrolling the freeways, whereas many city police departments enforce traffic laws on all streets. The Los Angeles County Sheriff's Department (LASD) does not have primary traffic responsibility in unincorporated areas of Los Angeles County, although it does in cities contracting for its services. The New York Police Department, by contrast, has full traffic responsibility in the City, but a separate Transit Authority police force patrols the subways where a substantial portion of New York's crimes are committed. Such diversity among governmental entities means that statistical comparisons must be made with caution and that judgments should not be based on them unless large differences appear.

The difficulty of comparing police shootings in various localities is further compounded by the unreliability of national data on the subject. Many researchers have relied at least partially on the National Center for Health Statistics series describing "Death by Other Legal Intervention" as a measure of civilian fatalities caused by police actions, almost all of which are by shooting. However, ample evidence now exists showing that the NCHS series underestimates by forty to fifty per cent the true number of civilian deaths resulting from police action.<sup>10</sup> Our own comparison of the data published by the Police Foundation with the 1973 and 1974 NCHS mortality statistics, the latter released in March, 1979 supports this conclusion. As can be seen from the table below, the Police Foundation study found twice as many civilian fatalities caused by police in Washington, D.C. as NCHS did; it also found almost as many fatalities in Birmingham as NCHS did in all of Alabama, and almost as many in Detroit as NCHS reported for the entire state of Michigan. Because police shootings nationwide are underreported, the Los Angeles Police Department's policy of disclosing all shootings may have had the inadvertent and erroneous effect of making the Department appear to be more shooting-prone than other police agencies. Comparisons of Los Angeles with other national data reported by NCHS are

<sup>9</sup> One might ask at this point what impact potentially missing cases might have on these conclusions. If a fraction of single-shot incidents where no one was struck by a bullet were absent from the 1974 and 1975 data, then numbers of shooting incidents and suspects shot at would decline even more rapidly than Tables 1 and 2 show, and, in all likelihood, shootings following disobeying an officer and for furtive movements as well as shootings of unarmed suspects would also decline more rapidly. Shots per incident would increase more rapidly from 1974 to 1977 than shown in Table 6. Our conclusions concerning the effects of the new restrictive shooting policy would not be altered, however, because of the extremely low likelihood that a small number of missing cases would be distributed so that rates of change in the early years of the study would exceed the rate of change between 1977 and 1978.

<sup>10</sup> Lawrence W. Sherman and Robert H. Langworthy, "Measuring Homicide by Police Officers." Unpublished manuscript, SUNY at Albany, 1979.

therefore likely both to be misleading and to cast the Los Angeles Police Department in an unfavorable and unfair light.

TABLE 7.—COMPARISON OF POLICE FOUNDATION AND NCHS DATA ON SHOOTING DEATHS

City	Police Foundation Study <sup>1</sup>		National Center for Health Statistics <sup>2</sup>	
	1973	1974	State	1973 1974
Birmingham.....	5	6	Alabama.....	6 9
Detroit.....	28	24	Michigan.....	31 22
Indianapolis.....	2	11	Indiana.....	13 21
Kansas City.....	5	1	Missouri.....	8 11
Oakland.....	1	3	California.....	37 35
Portland.....	0	3	Oregon.....	2 4
Washington, D.C.....	10	12	Washington, D.C.....	5 5

<sup>1</sup> Milton et al., op. cit., table 9.

<sup>2</sup> Death by "other legal intervention", codes E970-77. Shooting deaths may be 2 to 3 percent lower.

Perhaps the most familiar if not the easiest comparison is between the Los Angeles Police Department and the Los Angeles County Sheriff's Department. The Sheriff's Department, (LASD), is responsible for law enforcement in unincorporated areas of the County and cities (such as Lakewood) contracting for patrol service. Some 1.85 million people were covered by the LASD's force of 5,500 sworn officers compared to 2.84 million covered by the Los Angeles Police Department's force of 7,300 sworn officers during the period covered by this study. Data kindly supplied to us by the Sheriff's staff show that unlike the Los Angeles Police Department's pattern, neither the number of persons shot, that is, hit by LASD deputies nor the number of persons shot fatally declined after 1975. In fact, a substantial increase in both categories occurred commencing in 1976. Whereas in 1975, some 26 individuals were shot and 6 shot fatally by LASD deputies, 44 were shot and 16 shot fatally in 1978. No information about shooting incidents that did not result in injury has been made available by the Los Angeles Sheriff's Department and, as far as we are aware, the Sheriff's Department does not maintain statistical data on shootings not resulting in injury.

TABLE 8.—NUMBER OF PERSONS SHOT (HIT) AND SHOT FATALLY BY LASD, BY YEAR

	1975	1976	1977	1978
Number shot (hit).....	26	42	44	44
Number killed.....	6	17	12	16

Summary statistics depict the differences in shooting patterns between the Los Angeles Police Department and the Los Angeles Sheriff's Department during the periods studied in this analysis. Per year, the Los Angeles Police Department shot 2.64 citizens per 100,000, whereas the Los Angeles Sheriff's Department shot 2.11. In 1978, however the Los Angeles Police Department shot 2.13 citizens per 100,000, and the Los Angeles Sheriff's Department 2.38. Per year, .979 citizens per 100,000 were shot fatally by police officers in Los Angeles, whereas the comparable rate for territory patrolled by the Los Angeles Sheriff's Department was .689. In 1978, however, the fatality rate was .704 per 100,000 for the Los Angeles Police Department and .865 for the Los Angeles Sheriff's Department. Overall, the ratio of deaths to total shootings was also somewhat higher for the Los Angeles Police Department than the Los Angeles Sheriff's Department, but it was lower in 1978. The data show that in the past, the Los Angeles Police Department had had more shootings and shooting deaths per capita and more deaths per shooting than the Los Angeles Sheriff's Department, but that in 1978, Los Angeles Police Department rates were lower in these categories than those of the Los Angeles Sheriff's Department. These summary statistics, it should be noted, are not adjusted for differences in crime and arrest rates for the populations served, which are substantial.<sup>11</sup>

<sup>11</sup> For example, the arrest rate for Part I offenses in 1978 was 11.0 per thousand in Los Angeles and 8.9 per thousand in the territory served by the Los Angeles Sheriff's Department.

Comparisons of numbers of persons shot—that is, hit—and shot fatally in Los Angeles with other cities yield a complex pattern of statistics. While the per capita rate of shootings in Los Angeles is lower than in most of the other eight cities for which we have data, the rate of fatal shootings per police officer is higher in Los Angeles than in five other cities, and the ratio of fatal shootings to all shootings is higher than in any other locality for which we have data. Other than the Los Angeles Sheriff's Department, comparable recent shooting data for periods in the first half of the 1970's are available for New York, Birmingham (Alabama), Oakland, Portland, Kansas City (Missouri), Indianapolis, Washington, D.C., and Detroit. No comparable data are available after 1975. The New York data for the 1971-1975 interval are from James J. Fyfe's Ph. D. dissertation,<sup>12</sup> and data for the other seven cities for 1973 and 1974 are taken directly from the Police Foundation study reported in *Police Use of Deadly Force*. As can be seen in the following table, shootings per capita are virtually identical in Los Angeles, New York, and Kansas City. Per capita, shooting rates are higher than Los Angeles in Birmingham, Indianapolis, Washington, D.C., and Detroit.

TABLE 9.—POLICE SHOOTINGS IN LOS ANGELES AND OTHER JURISDICTIONS

	Years	Persons shot (hit)	Shootings per 100,000 <sup>1</sup>	Shootings per 1,000 officers <sup>1</sup>	Persons shot fatally	Shooting fatalities per 100,000 <sup>1</sup>	Shooting fatalities per 1,000 officers <sup>1</sup>	Ratio of shooting fatalities to shootings
LAPD <sup>2</sup> .....	1974-78	377	2.65	10.32	139	0.979	3.81	0.37
LASD.....	1975-78	165	2.11	6.90	51	.689	2.25	.33
New York City.....	1971-75	1,057	2.61	8.72	323	.789	2.67	.31
Birmingham.....	1973-74	41	6.93	32.18	11	1.86	8.63	.27
Oakland.....	1973-74	17	2.46	11.77	4	.578	2.77	.24
Portland.....	1973-74	9	1.19	6.30	3	.397	2.10	.33
Kansas City.....	1973-74	26	2.66	9.92	6	.615	2.29	.23
Indianapolis.....	1973-74	36	3.54	16.22	13	1.28	5.86	.36
Washington, D.C.....	1973-74	70	4.77	7.09	22	1.50	2.23	.31
Detroit.....	1973-74	179	6.44	16.05	52	1.87	4.66	.29

<sup>1</sup> Average annual rates.

<sup>2</sup> Includes SLA shootout (4 shot, 2 killed).

Sources: LAPD: Department files. LASD: 1977 and 1978 annual reports on tactical deputy involved shootings. New York: James J. Fyfe, "Shots Fired: An Examination of New York City Police Firearms Discharges." Ph. D. dissertation, State University of New York at Albany, 1978. Other 7 cities: Catherine Milton et al., "Police Use of Deadly Force," op.

The Los Angeles Sheriff's Department, Oakland, and Portland have lower per capita shooting rates, although, as already noted, the Los Angeles Police Department's shooting rate was lower than the Los Angeles Sheriff's Department in 1978. Per officer, shooting rates were higher than Los Angeles in Birmingham, Oakland, Indianapolis, and Detroit; and lower in the Los Angeles Sheriff's Department, New York, Portland, Kansas City, and Washington. Per capita deaths were higher than Los Angeles in Birmingham, Indianapolis, Washington, and Detroit; shooting deaths per police officer were higher only in Birmingham, Indianapolis, and Detroit. Finally, the ratio of deaths to shootings is higher in Los Angeles than in the other jurisdictions, although it is only slightly higher than Indianapolis. Put somewhat differently, of the ten police agencies including the Los Angeles Sheriff's Department for all years for which there are comparable data, Los Angeles ranks sixth in shootings per capita, fifth in shootings per officer, fifth in shooting deaths per capita, fourth in shooting deaths per officer, and first in deaths per shooting. Bearing in mind the unavailability of comparable recent data from other cities, we note that the 1978 and 1979 Los Angeles data showing substantial reductions in shootings may indicate that these rankings have changed.

The data suggest that Los Angeles officers have not differed greatly from other police officers in the frequency with which they use deadly force, but that in incidents where persons are shot—that is, hit—fatalities have more often resulted in Los Angeles than in other cities. Again, we note that while these comparisons are based on the only reliable data that are available, no data are avail-

<sup>12</sup> Complete reference is in notes to Table 9. Fyfe reviews the entire literature on police shootings in Chapter 2 of his dissertation. Almost all of the studies cited concern fatalities but not non-fatal incidents, and others have serious methodological flaws.

able for areas outside of Los Angeles for the time period that would be most useful for this study.

There are several possible explanations for the past high ratio of fatal shootings to total shootings in Los Angeles. The statistical analysis suggests two possible contributing factors, namely that Los Angeles Police officers fired their weapons more accurately than officers in other cities, and that they fired more rounds in each shooting incident. Data on rounds fired as well as on shooting incidents where no person was hit are available for only Los Angeles and New York, hence comparisons will be limited to these two cities. These comparisons yield several results. First, Los Angeles Police officers appear to shoot more accurately than New York Police Department officers. Of 2432 rounds fired at suspects in Los Angeles from 1974 to 1978, 722, or 30 percent, struck their targets.<sup>13</sup> Of 7394 rounds fired at suspects in New York City from 1971 to 1975, 1130, or 15 percent, actually hit their targets.<sup>14</sup> Second, Los Angeles Police officers fired more rounds per incident than their counterparts in New York did in the period prior to 1976. Over the 1971-75 interval, an average of 3.28 bullets was fired per incident by New York officers. Los Angeles Police officers fired an average of 4.42 rounds per incident from 1974 through 1978. As noted earlier, the number of rounds per incident fired by Los Angeles Police officers declined substantially in 1978 and again in 1979.<sup>15</sup>

There is no guarantee that New York is representative of other U.S. cities or that Los Angeles is not, nor do we know what recent data for other cities would show, but the data available to us do suggest the following:

The number of shootings per capita in Los Angeles is not high compared to other U.S. cities for which there are data.

The ratio of deaths to shootings in Los Angeles in the past was higher than other U.S. cities, although this may not have been the case in 1978 and 1979.

Los Angeles Police officers shoot more accurately than New York Police officers.

Los Angeles Police officers have in the past fired a higher mean number of rounds per incident than New York Police officers, although rounds per incident in Los Angeles decreased substantially in 1978 and again in 1979.

These results are consistent with the hypothesis that many shooting deaths have occurred in Los Angeles because the Los Angeles Police Department fires accurately, but the high ratio of deaths to shootings in Los Angeles prior to 1978 may also have been due in part to the high number of shots fired by the Los Angeles Police Department. To the extent that the latter is the case, the decrease in shots fired in the past two years is of some importance.

Several further observations are in order. First, it appears that Los Angeles Police officers face armed opponents with no greater frequency than New York officers. Seventy-two per cent of "primary opponents" were armed in New York compared to 75 per cent of suspects in Los Angeles. The same also appears to be the case when Los Angeles is compared with the seven cities surveyed by the Police Foundation.<sup>16</sup> Second, shooting backgrounds may present more risk to bystanders in New York than Los Angeles. Third, the ammunition used by New York Police officers is different from that used by Los Angeles Police.<sup>17</sup> It may also be that neither backgrounds nor ammunition make any difference in numbers of shots fired once an officer decides to shoot, although both may affect the way he is conditioned to shoot.

### C. Police Shootings Involving Minorities

1. *Numbers and circumstances of shootings.*—A large number of blacks compared to Hispanics and whites have been involved in police shootings in Los

<sup>13</sup> The Los Angeles Police Department, like other major departments in the United States, trains officers to shoot for the central body mass. Since 70 per cent of rounds, shot from an average distance of seven feet, miss their intended targets, it would not be feasible to train officers to shoot for extremities.

<sup>14</sup> The New York figures are from a secondary analysis of Fyfe's data undertaken by Lawrence Sherman at the request of the Commission's consultant.

<sup>15</sup> The results would be changed little, if at all, by the addition of 10 to 14 single-shot non-injury incidents to our data files. Furthermore, we have no way of knowing whether large numbers of such incidents are not missing from the New York study.

<sup>16</sup> "Police Use of Deadly Force," found that 57 per cent of persons shot (hit) were armed with guns and "other weapons, primarily knives" in the seven cities studied. In Los Angeles, 59 per cent of persons shot from 1974 through 1978 possessed guns or knives. The Police Foundation reported that a higher proportion of persons shot was unarmed than is indicated in Los Angeles. (The differences between percentages reported in the text and this footnote are primarily explained by the fact that persons using vehicles for assault, simulated weapons, and blunt instruments were considered armed for purposes of this study, but not for purposes of the Police Foundation report.)

<sup>17</sup> New York Police Department uses 158 grain semi-wadcutter ammunition compared to the 158-grain round ball ammunition used by the Los Angeles Police Department.

Angeles. Of the 584 suspects shot at from 1974 through 1978 whose race or descent is known, 321 (55 per cent) were black, 126 (22 per cent) were Hispanic, 131 (22 per cent) were white, and 6 (1 per cent) were of other non-white origins. The race or descent of 21 suspects shot at from 1974 through 1978 is unknown. In 1979, however, of 101 suspects shot at whose race or descent is known, 46 (45 per cent) were black, 32 (32 per cent) were Hispanic, and 23 (23 per cent) were white. The race or descent of one suspect shot at in 1979 is not known.

The proportion of black suspects involved in Los Angeles Police Department shooting incidents appears to have changed little over the decade prior to 1979. During a three and a half year period from 1968 to 1971, 57 per cent of suspects shot at by Los Angeles officers were black.<sup>18</sup> This proportion differs insignificantly from the proportion of suspects shot at who were black—55 per cent—from 1974 through 1978.

TABLE 10.—POPULATION, ARRESTS, ATTACKS ON OFFICERS, ADW'S UPON OFFICERS, SUSPECTS SHOT AT, SUSPECTS HIT, AND SUSPECTS SHOT FATALLY BY RACE OR DESCENT

	1977 population <sup>1</sup>	1974-78						
		Total arrests	Part I arrests	Attacks on officers	ADW's upon officers	Suspects shot at	Suspects hit	Suspects shot fatally
Black.....	18	36	46	44	42	55	53	50
Hispanic.....	24	27	24	24	25	22	22	16
White.....	52	35	28	28	26	22	23	33
Nonwhite.....	6	2	2	4	7	1	2	1
Total.....	100	100	100	100	100	100	100	100
Number.....		1,267,299	219,224	5,976	2,360	584	307	128

<sup>1</sup> Population percentages are based on results of a 1977 sample survey conducted by the Community Development Department and reported in "Population, Employment, and Housing Survey, 1977" vol. III.

From 1974 through 1978, blacks accounted for 36 per cent of all arrests and 46 per cent of Part I (or F.B.I. Index crime) arrests<sup>19</sup> in Los Angeles. From 1974 to 1978, blacks were reported to have committed 44 per cent of all attacks and 42 per cent of assaults with deadly weapons upon Los Angeles Police officers. Fifty-five per cent of the suspects shot at, 53 per cent of those actually hit, and 50 percent of suspects shot fatally by Los Angeles Police officers in this period were black.<sup>20</sup> In 1979, blacks accounted for 36 per cent of all arrests and 44 per cent of Part I arrests, and were charged with 38 per cent of all attacks and 41 per cent of assaults with deadly weapons upon Los Angeles Police officers. Forty-five per cent of the suspects shot at, 50 per cent of those actually hit, and 62 per cent (8 of 13 suspects) shot fatally by Los Angeles Police officers in 1979 were black.

<sup>18</sup> Descriptive data concerning 695 shooting incidents was included as part of the "Enactment Development Plan" for the DEFT shooting simulator, which is now in operation. Whether the 695 incidents include all shootings in the 42 month period covered is not stated clearly. Data for Hispanics were not included in this document.

<sup>19</sup> Part I offenses include some violent and some non-violent crimes: murder, forcible rape, robbery, aggravated assault, burglary, larceny-theft, and auto theft.

<sup>20</sup> Los Angeles differs little in relationship of Part I arrests to shootings from the seven cities studied by the Police Foundation. Part I arrests are at best imperfect indicators of life-endangering situations where police use of firearms may be necessary. But they are the only data available for the cities studied by the Police Foundation that classify citizens by race or descent. Whereas 46 per cent of Part I arrestees and 53 per cent of persons shot in Los Angeles from 1974 through 1978 were black, the corresponding proportions for blacks are 83 per cent of Part I arrests and 80 per cent of shootings in Birmingham; 76 per cent of Part I arrests and 76 per cent of shootings in Oakland; 27 per cent of Part I arrests and 44 per cent of shootings in Portland; 61 per cent of Part I arrests and 62 per cent of shootings in Kansas City; 53 per cent of Part I arrests and 64 per cent of shootings in Indianapolis; 94 per cent of Part I arrests; and 89 per cent of shootings, in Washington, D.C.; and 83 per cent of Part I arrests and 80 per cent of shootings in Detroit. The difference between percentages of persons shot who were black and black Part I arrestees is higher than Los Angeles in Portland and Indianapolis but lower in Birmingham, Oakland, Kansas City, Washington, D.C., and Detroit. These data, which are not reported for individual cities in "Police Use of Deadly Force," were provided to the Commission's consultant by the Police Foundation. No comparable data in Hispanics were available from the Police Foundation.

From 1974 through 1978, Hispanics accounted for 27 per cent of all arrests and 24 per cent of Part I (or F.B.I. index crime) arrests in Los Angeles. From 1974 to 1978 Hispanics were reported to have committed 24 per cent of all attacks and 25 per cent of assaults with deadly weapons upon Los Angeles Police officers. Twenty-two per cent of the suspects shot at, 22 per cent of those actually hit, and 16 per cent of suspects shot fatally by Los Angeles Police officers in the period were Hispanic. In 1979, Hispanics accounted for 31 per cent of all arrests and 30 per cent of Part I arrests, and were charged with 32 per cent of all attacks and 34 per cent of assaults with deadly weapons upon Los Angeles Police officers. Thirty-one per cent of the suspects shot at, 33 per cent of those actually hit and 15 per cent of those (2 of 13 suspects) shot fatally by Los Angeles Police officers in 1979 were Hispanic.

Reported total attacks on police officers and assaults with deadly weapons on officers declined in the 1974-1979 interval as did the proportions of these attacks involving black suspects. Thus, of suspects charged in connection with attacks on officers, 52 per cent in 1974 were black, 41 per cent in 1978, and 38 per cent in 1979. Of suspects charged with assaults with deadly weapons on officers, 51 per cent in 1974 were Black, 40 per cent in 1978, and 41 per cent in 1979. The number of black suspects charged with attacks on officers declined even more noticeably—from 646 in 1974, to 440 in 1978, and 377 in 1979. The number of blacks involved in assaults with deadly weapons on officers also declined during this period, from 239 in 1974 to 199 in 1978 and 163 in 1979. The proportion of attacks on officers involving Hispanics increased during the same 1974-1979 interval. 21 per cent of suspects charged in connection with attacks on officers in 1974 were Hispanic, compared to 26 per cent in 1978 and 32 per cent in 1979. Of suspects charged with assaults with deadly weapons on officers, 22 per cent in 1974 were Hispanic, as were 27 per cent in 1978 and 34 per cent in 1979. The number of Hispanic suspects charged with attacks on officers has also increased—from 257 in 1974 to 283 in 1978 and 321 in 1979. The number of Hispanics involved in assaults with deadly weapons on officers increased from 104 in 1974 to 135 in both 1978 and 1979.

Departmental records do not indicate the race or descent of assailants involved in shootings of officers from 1974 to 1978. However, a total of 19 officers who discharged their weapons were shot—that is, hit—by suspects' bullets from 1974 through 1978. Thirty-seven per cent (seven) of the suspects involved in these shootings were black, 37 per cent (seven) were Hispanic, and 26 per cent (five) were white. From 1974 through 1978, five Los Angeles Police officers were shot fatally. Four blacks and one Hispanic were apprehended in connection with these shootings; the descent of the person responsible for one of the officer fatalities is unknown.

TABLE 11.—REPORTED ATTACKS ON OFFICERS BY RACE OR DESCENT, 1974-79

	1974		1975		1976		1977		1978		1979	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
All attacks on officers:												
Black.....	646	52	540	48	603	43	429	39	440	41	377	38
Hispanic.....	257	21	220	20	364	26	288	26	283	26	321	32
White.....	308	25	331	29	372	27	350	31	304	28	270	27
Other.....	42	3	39	3	58	4	48	4	54	5	27	3
Total.....	1,253		1,130		1,397		1,115		1,081		995	
ADW's on officers:												
Black.....	239	51	187	45	206	40	166	36	199	40	163	41
Hispanic.....	104	22	92	22	142	27	124	27	135	27	135	34
White.....	103	22	112	27	132	25	136	30	126	25	85	21
Other.....	23	5	27	7	38	7	30	7	39	8	19	5
Total.....	469		418		518		456		499		402	

A higher percentage of shootings by police officers than of reported violent crimes takes place in preponderantly black communities in Los Angeles. From 1974 through 1978, 26 per cent of homicides, forcible rapes, and robberies occurring in Los Angeles took place in the Southwest, 77th Street, and Southeast Divisions of the Los Angeles Police Department. Thirty-three per cent of police shooting incidents involving suspects within the City limits of Los Angeles

occurred in these three divisions, as did 31 per cent of shootings where a suspect was hit and 34 per cent of fatal shootings of suspects by the Los Angeles Police Department.<sup>21</sup>

A greater proportion of shootings at blacks than at Hispanics and whites followed suspects' disobeying officers' orders to halt and suspects' appearing to reach for weapons. From 1974 through 1978, fifteen per cent of shooting incidents involving blacks were preceded by suspects' disobeying an officer's order to halt, and 12 per cent were preceded by suspects' appearing to reach for weapons. Nine per cent of Hispanic suspects were shot at after disobeying orders to halt and 6 per cent after appearing to reach for weapons; the corresponding proportions for whites were 9 per cent following disobeying orders to halt and 9 per cent after appearing to reach for weapons. The proportion of black suspects shot after displaying, threatening to use, or actually using a weapon was 66 per cent, whereas 74 per cent of Hispanics and 76 per cent of white suspects were shot at under these circumstances.<sup>22</sup>

TABLE 12.—SUSPECT'S ACTIONS PRECIPITATING SHOOTINGS, BY RACE OR DESCENT 1974-78  
[In percent]

	Black	Hispanic	White
Suspect using weapon.....	22	23	28
Suspect threatening use of weapon.....	39	45	43
Suspect displaying weapon.....	5	6	5
Suspect without weapon assaulting officer or civilian.....	5	9	6
Suspect appearing to reach for weapon.....	12	6	9
Suspect disobeying command to halt.....	15	9	9
Other (including accidental shootings of suspects).....	1	3	1
Total.....	100	100	101
Number.....	321	126	131

Note: Disobeying orders to halt or appearing to reach for weapon were coded only if no assault took place, and there was no use, threat, or display of a weapon in the period immediately preceding the shooting. Assault was coded only if there was no use, threat, or display of a weapon. For each person shot at, only 1 precipitating event was coded—the most life-endangering.

A greater proportion of blacks than of Hispanics or whites shot at by the Los Angeles Police Department from 1974 through 1978 were ultimately determined to have been unarmed.<sup>23</sup> A somewhat higher percentage of blacks than of Hispanics or whites were carrying guns when they were shot at, but a lower percentage of blacks than of Hispanics and whites had other weapons such as knives, blunt instruments, and so forth. Twenty-eight per cent of blacks involved in shooting incidents with the Los Angeles Police Department in fact possessed no weapon when they were shot at. Twenty-two per cent of Hispanics and 20 per cent of whites were ultimately determined to be unarmed. Fifty-four per cent of blacks shot at possessed guns compared to 48 per cent of Hispanics and 49 per cent of whites; 18 per cent of blacks, 30 per cent of Hispanics, and 31 per cent of whites had other weapons.

TABLE 13.—SUSPECT'S WEAPON, BY RACE OR DESCENT, 1974-78  
[In percent]

	Black	Hispanic	White
No weapon.....	28	22	20
Gun.....	54	48	49
Other weapon, including automobile.....	18	30	31
Total.....	100	100	100
Number.....	321	126	131

<sup>21</sup> A similar comparison cannot be made for the Hispanic community since the one preponderantly Hispanic police division in Los Angeles, Hollenbeck, is small and accounts for only three percent of homicides, forcible rapes, and robberies in the City.

<sup>22</sup> Among suspects involved in shootings precipitated by disobeying an officer's orders or appearing to reach for a weapon, similar percentages of suspects of different race or descent were ultimately determined to be unarmed. Specifically, 70 per cent of blacks, 74 per cent of Hispanics, and 67 per cent of whites involved in those kinds of shootings were unarmed.

<sup>23</sup> As noted earlier, unarmed suspects are in most cases suspects involved in shootings precipitated by disobeying officers' orders or appearing to reach for weapons.

Changes from 1977 to 1978, which reduced shootings at suspects disobeying officers' orders to halt or appearing to reach for weapons (where there was no assault and no use, display or threat of a weapon) and of unarmed suspects, diminished the frequency with which blacks and Hispanics were involved in these kinds of shootings. Thus, eight (of 57) shootings at blacks in 1978 were precipitated by disobeying officers' orders or appearing to reach for weapons compared to an average of 19.75 (of 66) such shootings per year from 1974 through 1977. Eleven blacks shot at in 1978 were found to be unarmed compared to an average of 20 from 1974 to 1977. In 1978, one Hispanic (of twenty) was shot at following disobeying orders to halt or appearing to reach for a weapon (compared to an average of 4.5 of 26.5 from 1974 through 1977), and none was unarmed (compared to 1974-77 average of 4.5). Two whites (of twenty) were also shot at following disobeying orders to halt or appearing to reach for a weapon (compared to 5.5 from 1974 through 1977), and three white suspects were in fact unarmed (compared to 5.75 per year from 1974 through 1977).

No statistically significant difference exists between blacks and other suspects in the number of shots fired, although under some circumstances fewer shots are fired at Hispanics than at others. Where shootings are precipitated by disobeying an officer, appearing to reach for a weapon, or assaults, blacks are fired upon an average of 2.44 times, Hispanics 1.73 times, and whites 2.41 times. The mean number of shots fired when a suspect either displayed a weapon, threatened to use it, or actually used it was 4.85 for blacks, 4.78 for Hispanics, and 4.99 for whites. The mean number of shots fired at blacks found to be unarmed was 2.62, unarmed Hispanics 1.50, and unarmed whites 2.42.

TABLE 14.—MEAN NUMBER OF SHOTS FIRED AT SUSPECT BY RACE OR DESCENT, 1974-78

	Black	Hispanic	White
<b>Suspect's action:</b>			
Disobeying order to halt, appearing to reach for weapon, assault.....	2.44	1.73	2.41
Displaying, threatening use of, actually using weapon.....	4.85	4.78	4.99
<b>Suspect's weapon:</b>			
None.....	2.62	1.50	2.42
Gun.....	5.00	4.95	5.16
Other weapon.....	3.49	4.16	4.32

2. *The shooting review process.*—A brief comment on the shooting review process is required. The reader is cautioned that the only information about the review process we have is its result: the finding as to whether or not a shooting was in policy, in policy but fails to meet departmental standards, accidental, or out of policy; and the action, if any, taken against the officer in the 1974-1978 interval. We have no information concerning informal discussions among review board members or their interviews with investigators and witnesses that could potentially yield evidence not in the written record, nor do we have information about informal discussions that may have entered into the final classification and the administrative action taken, if any, against the officer. Prior to November 28, 1978, the classification of a shooting and administrative action were under the jurisdiction of the Director (Assistant Chief), Office of Operations. The Director (Assistant Chief), Office of Special Services had this responsibility for the following year. With the adoption of Part 2 of our Report, direct responsibility was transferred to the Board of Police Commissioners and the Chief of Police.

An examination of findings and actions from all shooting reviews (as opposed to the findings in only those cases involving suspects disobeying officers or appearing to reach for weapons and unarmed suspects) shows only small differences in results from the shooting review process for blacks compared to Hispanics and whites. Eighty-two per cent of shootings involving black suspects, 77 per cent involving Hispanics, and 80 per cent involving whites were determined to be in policy. Seven per cent of shootings at black suspects, 9 percent of shootings at Hispanics, and 11 per cent of shootings at whites were found out of policy.

TABLE 15.—FINDING OF SHOOTING REVIEW BY RACE OR DESCENT OF SUSPECT, 1974-78

	[In percent]		
	Black	Hispanic	White
In policy.....	82	77	80
Fails to meet standards.....	4	6	5
Accidental <sup>1</sup> .....	2	4	0
Out of policy.....	7	9	11
Multiple findings.....	5	5	4
<b>Total.....</b>	<b>100</b>	<b>100</b>	<b>100</b>
<b>Number.....</b>	<b>321</b>	<b>126</b>	<b>131</b>

<sup>1</sup> Accidental discharges against persons suspect of crimes.

In 85 per cent of shootings involving blacks, 80 per cent involving Hispanics, and 79 per cent involving whites, there was either no administrative action or only training was recommended. For all shooting incidents there was administrative disapproval in 18 per cent of the cases, and in ten percent of incidents an involved officer was penalized by loss of days off, suspension, or termination.<sup>24</sup>

TABLE 16.—ACTION TAKEN BY RACE OR DESCENT OF SUSPECT

	[In percent]		
	Black	Hispanic	White
None, training.....	85	80	79
Warning, admonishment, reprimand <sup>1</sup> .....	5	9	12
Loss of days off.....	5	9	4
Suspension, resignation.....	4	2	5
<b>Total.....</b>	<b>100</b>	<b>100</b>	<b>100</b>
<b>Number.....</b>	<b>321</b>	<b>126</b>	<b>131</b>

<sup>1</sup> Warnings, admonishments, and reprimands are forms of administrative disapproval less severe than loss of days off. Warnings are given orally by commanding officers. Divisional admonishment are written, delivered by the commanding officer, and acknowledged in writing. Departmental reprimands are given in writing at the direction of the Chief of Police, and they require written acknowledgement.

While differences in overall outcomes from shooting reviews are small, larger percentage differences, which are not statistically significant due to the small number of cases involved, appear between suspects of different descent when suspects' most threatening actions just prior to shootings are taken into account. It was shown above that a higher percentage of blacks than others are involved in shootings following suspects' disobeying orders to halt or suspects' appearing to reach for weapons and there was no assault and no display, threat, or use of weapon immediately preceding the shooting. These kinds of shootings were less often found out of policy in the review process when the suspect was black than when he was Hispanic or white. Specifically, 18 per cent (sixteen of 87) of shootings at blacks occurring after a suspect had disobeyed a police officer's order to halt or after a suspect appeared to reach for a weapon were found out of policy, whereas 32 per cent (six of nineteen) shootings at Hispanics and 33 per cent (eight of 24) of shootings at whites precipitated by these actions were judged out of policy. Twenty-nine per cent (25 of 87) of shootings at blacks either disobeying officer's orders to halt or appearing to reach for weapons resulted in some form of administrative disapproval (ranging from warning to termination) compared to 42 per cent (eight of nineteen) of shootings at Hispanics and 38 per cent (nine of 24) of shootings at whites.

<sup>24</sup> These data also speak to the adequacy of the categories previously used to evaluate shootings. Whereas less than nine per cent of shootings were judged out of policy, eighteen per cent resulted in some form of administrative disapproval. In other words, there were a fair number of shootings that were not out of policy but were disapproved, or, put somewhat differently, not out of policy but not approved.

TABLE 17.—SHOOTINGS PRECIPITATED BY SUSPECTS' DISOBEYING COMMAND TO HALT OR APPEARING TO REACH FOR WEAPON ONLY: FINDINGS AND ACTIONS BY SUSPECT'S RACE OR DESCENT, 1974-78

	Black	Hispanic	White
Percent out of policy.....	18	32	33
Percent administrative disapproval (includes in policy but below departmental standards).....	29	42	38
Number.....	87	19	24

As also noted earlier, black suspects shot at are more frequently unarmed than Hispanics or whites. The data also suggest that a smaller percentage of shootings at unarmed blacks were found to be out of policy or deserving of administrative disapproval by the review process than shootings of unarmed Hispanics or whites. Some 22 per cent (20 of 91) of shootings at blacks ultimately found to be unarmed were ruled out of policy, compared to 29 per cent (eight of 28) of shootings at Hispanics and 28 per cent (ten of 26) of shootings at whites. Administrative disapproval was imposed in 33 per cent (30 of 91) of the instances when blacks found to be unarmed were shot at, but administrative disapproval occurred in 43 per cent (twelve of 28) of the cases where unarmed Hispanics were shot at and in 46 per cent (twelve of 26) of the shootings at whites were ultimately found unarmed.

TABLE 18.—SHOOTINGS AT UNARMED SUSPECTS ONLY: FINDINGS AND ACTIONS BY SUSPECTS' RACE OR DESCENT, 1974-78

	Black	Hispanic	White
Percent out of policy.....	22	29	38
Percent administrative disapproval (includes in policy but below departmental standards).....	33	43	46
Number.....	91	28	26

The data suggest that shootings that may deserve the closest scrutiny by review boards and are frequently the most controversial resulted in somewhat different results from the review process, when a comparison is made on the basis of race or descent of suspects. However, it should be noted again that the percentages in Tables 17 and 18 are based on relatively small numbers of cases, and, that a substantial reduction occurred in 1978 in the numbers of cases to which Tables 17 and 18 apply.

1977

## PERSONNEL COMPLAINTS

## ANNUAL STATISTICAL DATA

Internal Affairs Division  
Office of Special Services  
Los Angeles Police Department

TABLE OF CONTENTS

INTRODUCTION	...
Complaints - by Source, Disposition, and Type	1
Complaints Received - by Organizational Unit	2
Complaints - by Employee Classification	3
Descent of Complainants and of Employees Complained Against	4
Types of Complaints - by Length of Service of Employees	5
Unit Investigating Personnel Complaints	6
Complaints Investigated by Internal Affairs Division	7
Complaints - by Investigative Man-Hours Expended	8
Board of Rights - Charges, Dispositions, and Penalties Assessed	9
Sustained Complaints - by Organizational Unit and Type	10
Sustained Minor Disciplinary Action	11
GRAPHS:	
Complaints Received - Inside vs. Outside	12
Combined Dispositions of Complaints	13
Dispositions of Complaints - Inside vs. Outside	14
Unit Investigating	15

INTRODUCTION

An analysis of the 1977 personnel complaint statistics reveals a 30.9% reduction in the number of personnel complaints filed against Los Angeles Police Officers. With the exception of Neglect of Duty, the reduction was reflected in all complaint categories. This decrease is indicative of an increase in public approval of the Department's policies and procedures and can be attributed to the professionalism of the sworn members of the Department in the execution of their responsibilities in the community.

An analysis of the complaints received has shown a general reduction in the number lodged from all sources. Those complaints originating outside the Department experienced a 25.9% decrease between 1976 and 1977. Correspondingly, Department initiated complaints have decreased by 14.0% during the same period. Over the past four years, the number of internally generated complaints has declined 27.6%, as compared to a 50.8% reduction in citizen complaints.

Five hundred and twenty of the complaints investigated in 1977 were sustained. This represents a decrease of 16.7% when compared to the number of sustained complaints received in 1976 and continues the trend toward decreases in the sustained complaint category. A comparison of manhours expended during 1976 and 1977 reveals a 17.1% decrease.

An examination of 1977 personnel complaints by descent discloses a substantial decrease in the complaints reported in all ethnic categories when compared to the preceding year. It is of note that both Black and Latin minority groups reported 33.8% and 5.8% fewer complaints respectively.

In 1977, 76 Board of Rights hearings were held, a 33.3% increase over the number held in 1976. Twenty-six officers were found guilty and removed from the Department. Forty-four were found guilty and received an average penalty of 42.3 days. Six were found not guilty and restored to duty.

PERSONNEL COMPLAINTS BY SOURCE, DISPOSITION AND TYPE

SOURCE OF COMPLAINT	1975		1976		1977	
	No.	% Total	No.	% Total	No.	% Total
GOVERNMENT AGENCIES	6	.4	21	1.5	19	1.8
ORGANIZATIONS AND BUSINESSES	4	.3	10	.7	4	.4
INDIVIDUALS	866	59.8	842	59.4	612	56.6
DEPARTMENT	573	39.5	544	38.4	447	41.3
TOTAL	1449	100.0	1417	100.0	1082*	100.0**

SUSTAINED - Accused employee committed all or part of alleged misconduct. EXONERATED - Act occurred, but was justified, legal & proper.  
 NOT SUSTAINED - Insufficient evidence to clearly prove or disprove allegation. UNFOUNDED - Complained of act did not occur.

DISPOSITION	1975		1976		1977		1977		1977	
	No.	% Total	No.	% Total	No.	% Total	Outside Dept.	% Total	No.	% Total
SUSTAINED	697	48.4	624	44.0	520	48.1	140	22.0	380	85.0
NOT SUSTAINED	310	21.6	330	23.3	278	25.7	264	41.6	14	3.1
EXONERATED	129	9.0	143	10.1	83	7.7	80	12.6	3	.7
UNFOUNDED	222	15.4	266	18.8	161	14.9	142	22.4	19	4.3
MISC. MEMOS	80	5.6	54	3.8	40	3.7	9	1.4	31	6.9
TOTAL	1438	100.0	1417	100.0	1082	**100.0	635	100.0	447	100.0

-1-

240

TYPE COMPLAINT	1975		1976		% Change 75/76	1977		% Change 76/77
	No.	% Total	No.	% Total		No.	% Total	
UNDECORING CONDUCT	501	34.6	312	22.0	- 37.7	220	20.3	- 29.5
IMPROPER TACTICS	371	25.6	460	32.5	+ 24.0	345	31.9	- 25.0
NEGLECT OF DUTY	317	22.0	325	22.9	+ 02.5	333	30.8	+ 2.5
EXCESSIVE FORCE	79	5.5	67	5.0	- 15.2	20	1.8	- 70.1
DISHONESTY	25	1.7	44	3.1	+ 76.0	33	3.0	- 25.0
FIREARM DISCHARGE	76	5.2	52	3.7	- 31.6	28	2.6	- 46.2
DISCOURTESY	39	2.7	50	3.5	+ 28.2	34	3.1	- 32.0
FALSE IMPRISONMENT	6	.4	6	.4	00.0	15	1.4	+150.0
ALCOHOL CONSUMPTION	8	.6	32	2.3	+100.0	10	.9	- 68.8
DRUG OR NARCOTIC VIOLATION	6	.4	14	.9	+100.0	4	.4	- 71.4
INSUBORDINATION	4	.3	19	1.3	+100.0	15	1.4	- 21.1
UNLAWFUL SEARCH- SEIZURE	4	.3	9	.6	+100.0	5	.5	- 44.4
TRAFFIC	3	.2	10	.7	+100.0	5	.5	- 50.0
DEBT	2	.1	2	.1	00.0	4	.4	+100.0
SEX OR IMPROPER RELATIONSHIP	1	.1	13	.9	+100.0	6	.6	- 53.8
DISCRIMINATION	4	.3	2	.1	- 50.0	5	.5	+150.0
TOTAL	1449	100.0	1417	100.0	- 02.2	*1082	**100.0	- 23.6

\*60 complaints are unadjudicated upon completion of this report.  
 \*\* Deviation due to rounding error.



1976-1977  
PERSONNEL COMPLAINTS RECEIVED

Organizational Unit	1977			1976			% Change	Organizational Unit	1977			1976			% Change	
	Outside	Dept.	Total	Outside	Dept.	Total			Outside	Dept.	Total	Outside	Dept.	Total		
OFFICE/Chief of Police POLICE COMM. (C.I.D.)		1	1	-	3	3	-66.7	OIB Continued--								
OFFICE of Special Servs.				1	-	1	-100.0	Oper. Evaluation Sect.				-	1	1	-100.0	
Internal Affairs Div.	1	4	5				+100.0	Staff Support Section				1	-	1	-100.0	
OCID	1	4	5	-	1	1	+100.0	Field Support Section				1	-	1	-100.0	
PDID	2	1	3	3	1	4	-25.0	OHB TOTAL	17	46	63	25	40	65	-03.1	
Bureau of Spec. Invest.	1	-	1				+100.0	Oper. Central Bureau	4	1	5	-	1	1	+100.0	
Public Affairs Division								Central Traffic Division	24	24	48	29	20	49	-02.0	
Admin. Narcotics Div.	3	5	8	3	4	7	+14.3	Central Area	35	7	42	45	18	63	-33.3	
Admin. Vice Division				2	1	3	-100.0	Hollenbeck Area	17	15	32	32	15	47	-31.9	
Labor Relations Div.	-	1	1				+100.0	Newton Area	14	17	31	16	25	41	-24.4	
OAS TOTAL	8	15	23	9	7	16	+43.8	Northeast Area	33	11	44	26	11	37	+18.9	
OFFICE of Admin. Servs.								Rampart Area	42	24	66	49	18	67	-01.5	
Technical Servs. Bureau	1	2	3	1	-	1	+100.0	OCB TOTAL	169	99	268	197	108	305	-12.1	
Jail Division	14	13	27	12	18	30	-10.0	Oper. West Bureau				-	1	1	100.0	
Scientific Invest. Div.	1	-	1	-	3	3	-66.7	Hollywood Area	60	30	90	81	62	143	-37.1	
Property Division	1	1	2	1	4	5	-60.0	Venice Area	27	21	48	47	29	76	-36.3	
Records & Ident. Div.	2	23	25	1	21	22	+13.6	West Los Angeles Area	29	22	51	55	18	73	-30.1	
Motor Transport Division	1	9	10	3	11	14	-28.6	Wilshire Area	37	37	74	55	32	87	-14.9	
Supply Division	-	4	4	-	3	3	+33.3	OWB TOTAL	153	110	263	238	142	380	-30.8	
Pers. & Training Bureau								Oper. Valley Bureau	2	1	3	1	1	2	+50.0	
* Personnel Division	-	4	4	3	3	6	-33.3	Devonshire Area	15	13	28	18	5	23	+21.7	
Training Division	-	3	3	-	11	11	-72.7	Foothill Area	29	12	41	31	18	49	-16.3	
Planning & Fiscal Bur.								North Hollywood Area	21	8	29	27	13	40	-27.5	
Plan. & Research Div.	-	3	3				+100.0	Van Nuys Area	22	16	38	33	35	68	-44.1	
Fiscal Operations Div.								West Valley Area	26	22	48	33	9	42	+14.3	
Automated Info. Div.	1	3	4	1	-	1	+100.0	OVB TOTAL	115	72	187	143	81	224	-16.5	
OAS TOTAL	21	66	87	23	77	100	-13.0	Oper. South Bureau								
OFFICE of OPERATIONS								South Traffic Division	12	10	22	12	10	22	00.0	
Oper. Headquarters Bur.				-	1	1	-100.0	Harbor Area	23	15	38	28	22	50	-24.0	
Comm. Div. (Incl. Vly.)	2	21	23	7	15	22	+04.5	77th Street Area	52	25	77	87	30	117	-34.2	
Air Support Division	-	4	4	1	2	3	+33.3	Southwest Area	59	26	85	88	33	121	-29.8	
Metropolitan Division	10	9	19	8	7	15	+26.7	OSB TOTAL	146	76	222	215	95	310	-28.4	
Bunco-Forgery Div.	1	1	2	1	-	1	+100.0	OFFICE of OPERATIONS TOTAL	600	403	1003	818	466	1284	-21.9	
Robbery-Homicide Div.	1	1	2	1	2	3	-33.3	Unknown	22	6	28	29	12	41	-31.7	
Investigative Hdqrs. Div.	-	5	5	1	5	6	-16.7	DEPARTMENT TOTAL	651	491	1142	879	555	1444	-20.0	
Burglary-Auto Theft Div.	-	1	1	1	5	6	-83.3									
Invest. Support Division	3	1	4	1	1	2	+100.0									
Juvenile Division	-	1	1	3	1	4	-75.0									
*EODD	-	1	1	1	3	4	-75.0									

1977  
COMPLAINTS BY EMPLOYEE CLASSIFICATION

Organizational Unit	SWORN			CIVILIAN			Organizational Unit	SWORN			CIVILIAN		
	Outside	Dept.	Total	Outside	Dept.	Total		Outside	Dept.	Total	Outside	Dept.	Total
OFFICE/Chie. of Police							OHS Continued--						
POLICE COMM. (C.I.D.)		1	1				Oper.-Evaluation Sect.						
OFFICE of Special Servs.							Staff Support Section						
Internal Affairs Div.	1	2	3	-	2	2	Field Support Section						
OCID	1	4	5				OHB TOTAL	17	38	55	-	8	8
PDID	2	1	3				Oper.-Central Bureau	4	1	5			
Bureau of Spec. Invest.	1	-	1				Central Traffic Division	23	8	31	1	16	17
Public Affairs Division							Central Area	34	6	40		1	2
Admin. Narcotics Div.	3	5	8				Hollenbeck Area	17	14	31	-	1	1
Admin. Vice Division							Newton Area	14	12	26	-	5	5
Labor Relations Div.	-	1	1				Northeast Area	33	11	44			
OSS TOTAL	8	13	21	-	2	2	Rampart Area	42	20	62	-	4	4
OFFICE of Admin. Servs.							OCB TOTAL	167	72	239	2	27	29
Technical Servs. Bureau	1	1	2	-	1	1	Oper.-West Bureau						
Jail Division	8	5	13	6	8	14	Hollywood Area	59	26	85	1	4	5
Scientific Invest. Div.				1	-	1	Venice Area	27	17	44	-	4	4
Property Division				1	1	2	West Los Angeles Area	28	19	47	1	3	4
Records & Ident. Div.				2	23	25	Wilshire Area	33	28	61	4	9	13
Motor Transport Division	1	1	2	-	8	8	OWB TOTAL	147	90	237	6	20	26
Supply Division	-	3	3	-	1	1	Oper.-Valley Bureau						
*Pers. & Training Bureau							Devonshire Area	2	1	3			
Personnel Division	-	1	1	-	3	3	Foothill Area	14	12	26	1	1	2
Training Division	-	3	3				North Hollywood Area	25	10	35	4	2	6
Planning & Fiscal Bur.							Van Nuys Area	20	7	27	1	1	2
Plan. & Research Div.				-	3	3	West Valley Area	21	12	33	1	4	5
Fiscal Operations Div.							OSB TOTAL	107	63	170	8	9	17
Automated Infa. Div.	-	2	2	1	1	2	Oper.-South Bureau						
OAS TOTAL	10	17	27	11	49	60	South Traffic Division	10	10	20	2	-	2
OFFICE of OPERATIONS							Harbor Area	22	13	35	1	2	3
Oper.-Headquarters Bur.							77th Street Area	52	20	72	-	5	5
Comm. Div. (Incl. Vly.)	2	17	19	-	4	4	Southwest Area	57	22	79	2	4	6
Air Support Division	-	2	2	-	2	2	OSB TOTAL	141	65	206	5	11	16
Metropolitan Division	10	9	19				OFFICE of OPERATIONS						
Bunco-Forgery Div.	1	-	1	-	1	1	TOTAL	579	328	907	21	75	96
Robbery-Homicide Div.	1	1	2				Unknown	22	6	28			
Investigative Hdqrs. Div.	-	4	4	-	1	1	DEPARTMENT TOTAL	619	365	984	32	126	158
Burglary-Auto Theft Div.	-	1	1										
Invest. Support Division	3	1	4										
Juvenile Division	-	1	1										
*EODD	-	1	1										

1977  
DESCENT OF COMPLAINANTS & EMPLOYEES COMPLAINED AGAINST

Organizational Unit	Complainant				Employee				Organizational Unit	Complainant				Employee			
	Cauc.	Black	Latin	Other	Cauc.	Black	Latin	Other		Cauc.	Black	Latin	Other	Cauc.	Black	Latin	Other
OFFICE/Chief of Police									OHB Continued--								
POLICE COMM. (C. I. D.)									Oper. Evaluation Sect.								
OFFICE of Special Servs.									Staff Support Section								
Internal Affairs Div.									Field Support Section								
OCID	1				1				OHB TOTAL	6	2	9		13	3	1	
PDID			1				1		Oper.-Central Bureau	1		3		3		1	
Bureau of Spec. Invest.									Central Traffic Division	12		11		16	6	1	
Public Affairs Division									Central Area	8	17	8	2	29		5	1
Admin. Narcotics Div.	1	1			2				Hollenbeck Area	1	15			6		10	
Admin. Vice Division									Newton Area	3	9	2		11	1	2	
Labor Relations Div.									Northeast Area	7	2	22		18	1	12	
OSS TOTAL	2	1	1		3		1		Rampart Area	17	8	15	2	24	1	17	
OFFICE of Adm. Servs.									OCB TOTAL	48	37	76	4	107	9	48	1
Technical Servs. Bureau									Oper.-West Bureau								
Jail Division	6	5	3		9	3	2		Hollywood Area	38	14	3	1	50	4	2	
Scientific Invest. Div.									Venice Area	17	5	5		21	4	2	
Property Division	1				1				West Los Angeles Area	18	6	3		24	3		
Records & Ident. Div.	1	1			1	1			Wilshire Area	8	20	7	1	22	8	5	1
Motor Transport Division		1				1			OWB TOTAL	81	45	18	2	117	19	9	1
Supply Division									Oper.-Valley Bureau								
Pers. & Training Bureau									Devonshire Area	2				2			
Personnel Division									Foothill Area	10		4		13		1	
EODD									North Hollywood Area	16	5	5	1	25		2	
Training Division									Van Nuys Area	18	1	1		20			
Planning & Fiscal Bur.									West Valley Area	16	2	2		19	1		
Plan. & Research Div.									OVB TOTAL	23		3		24		2	
Fiscal Operations Div.									Oper.-South Bureau								
Automated Info. Div.									South Traffic Division	4	5	3		10	2		
OAS TOTAL	8	7	3		11	5	2		Harbor Area	17	1	5		19			2
OFFICE of OPERATIONS									77th Street Area	6	45	1		47		5	
Oper.-Headquarters Bur.									Southwest Area	8	49			42	10	3	2
Comm. Div. (Incl. Vly.)	2					2			OSB TOTAL	35	100	9		118	12	10	4
Air Support Division	2		8		9		1		OFFICE of OPERATIONS TOTAL	255	192	127	7	458	44	73	6
Metropolitan Division									Unknown								
Bunco-Forgery Div.		1				1			DEPARTMENT TOTAL	265	200	131	7	472	49	76	6
Robbery-Homicide Div.	1				1				% Change From	-24.9	-33.8	-5.8	-56.3	-28.3	-22.2	-5.0	-33.3
Investigative Hdqrs. Div.																	
Burglary-Auto Theft Div.																	
Invest. Support Division	1	1	1		3												
Juvenile Division																	

243

1977

TYPES OF COMPLAINTS BY LENGTH OF SERVICE OF EMPLOYEES

LENGTH OF SERVICE	Improper Tactics	Excessive Force	Discourtesy	Discrimination	False Imprisonment	Unlawful Search & Seizure	Dishonesty	Insubordination	Firearm Discharge	Sex or Improper Relationship	Alcohol Consumption	Drug/Narco Violation	Traffic	Neglect of Duty	Unbecoming Conduct	Debt	TOTAL
Less than 1 year	4						2							12	4	1	23
1 year	15	3					3							18	6	1	49
2 years	38	2	5	1	1	2	1	2	5	1	1		3	18	16		109
3 years	42		6	1	2	2	3	2	2		2	1		35	17		110
4 years	41		1		3		3	3	2	1				25	10		99
5 years	24	2	2	1	3		3	1	3	1				23	12	1	76
6 years	43	3			1	2	4	1	5	1	2		1	32	30		123
7 years	21	3	3	2	1		2	2	2					16	23		71
8 years	31	3	3		1		1	1	1	1				16	13	1	73
9 years	29	3	4		1					2	1			23	13		75
10 years	16							2	1					17	7		43
11 years	7		4		1				2					13	6		33
12 years	6						1	1						3	4		15
13 years	3						1	1	1					3	7		16
14 years		1	1			1								3	9		15
15 years	2						1	1						8	2		14
16 years	1		1								1			6	1		10
17 years	2		1		1						1			3	1		9
18 years	3		1				1							7			12
19 years	3													7	5		15
20 years														5	2		7
21 years														1			1
22 years			1											1	4		6
23 years							1							3	1		5
24 years																	0
25 years	1													1			2
26 years																	0
27 years	1													1			2
28 years																	0
29 years			1						1					3	2		7
30 years +														3	1		4
Unknown	6						1							5	1		11
TOTAL	339	20	34	5	15	5	33	15	28	5	10	2	5	323	199	4	1022 *

\*.Miscellaneous Memoranda not included in total.

1977  
UNIT INVESTIGATING PERSONNEL COMPLAINTS

Organizational Unit	I. A. D.			DIVISION			% INV. I. A. D.	Organizational Unit	I. A. D.			DIVISION			% INV. I. A. D.
	Outside	Dept.	Total	Outside	Dept.	Total			Outside	Dept.	Total	Outside	Dept.	Total	
OFFICE/Chief of Police								OHB Continued--							
POLICE COMM. (C.I.D.)				-	1	1		Oper. Evaluation Sect.							
OFFICE of Special Servs.								Staff Support Section							
Internal Affairs Div.	1	4	5				100.0	Field Support Section							
QCID	1	1	2	-	3	3	40.0	OHB TOTAL	8	16	24	9	30	39	38.1
PBID	1	-	1	1	1	2	33.3	Oper.-Central Bureau	1	-	1	3	1	4	20.0
Bureau of Spec. Invest.	1	-	1				100.0	Central Traffic Division	8	2	10	16	22	38	20.8
Public Affairs Division								Central Area	11	2	13	24	5	29	31.0
Admin. Narcotics Div.	3	3	6	-	2	2	75.0	Hollenbeck Area	6	6	12	11	9	20	37.5
Admin. Vice Division								Newton Area	3	5	8	11	12	23	25.8
Labor Relations Div.					1	1		Northeast Area	13	3	16	20	8	28	36.4
OSS TOTAL	7	8	15	1	7	8	65.2	Rampart Area	11	6	17	31	18	49	25.3
OFFICE of Admin. Servs.								OCB TOTAL	53	24	77	116	75	191	28.7
Technical Servs. Bureau	-	2	2	1	-	1	66.7	Oper.-West Bureau							
Jail Division	3	1	4	11	12	23	14.8	Hollywood Area	13	5	18	47	25	72	20.0
Scientific Invest. Div.				1	-	1		Venice Area	10	6	16	17	15	32	33.3
Property Division	1	-	1	-	1	1	50.0	West Los Angeles Area	11	6	17	18	16	34	33.3
Records & Ident. Div.	1	3	4	1	20	21	16.0	Wilshire Area	11	5	16	26	32	58	21.6
Motor Transport Division	-	4	4	1	5	6	40.0	OWB TOTAL	45	22	67	108	88	196	25.5
Supply Division	-	3	3	-	1	1	75.0	Oper.-Valley Bureau	1	-	1	1	1	2	33.3
*Pers. & Training Bureau								Devonshire Area	5	4	9	10	9	19	32.1
Personnel Division	-	3	3	-	1	1	75.0	Foothill Area	6	5	11	23	7	30	26.8
Training Division	-	2	2	-	1	1	66.7	North Hollywood Area	5	7	12	16	1	17	41.4
Planning & Fiscal Bur.								Van Nuys Area	8	5	13	14	11	25	34.2
Plan. & Research Div.				-	3	3		West Valley Area	8	7	15	18	15	33	31.3
Fiscal Operations Div.								OVB TOTAL	33	28	61	82	44	126	32.6
Automated Info. Div.				1	3	4		Oper.-South Bureau							
OAS TOTAL	5	18	23	16	48	64	26.4	South Traffic Division	5	3	8	7	7	14	36.4
OFFICE of OPERATIONS	-	1	1	-	1	1	50.0	Harbor Area	7	9	16	16	6	22	42.1
Oper.-Headquarters Bur.								77th Street Area	25	7	32	27	18	45	41.6
Comm. Div. (Incl. Vly.)	1	8	9	1	13	14	39.1	Southwest Area	20	5	25	39	21	60	29.4
Air Support Division					4	4		OSB TOTAL	57	24	81	89	52	141	36.5
Metropolitan Division	4	4	8	6	5	11	42.1	OFFICE of OPERATIONS							
Bunco-Forgery Div.	-	1	1	1	-	1	50.0	TOTAL	196	114	310	404	289	693	30.9
Robbery-Homicide Div.	1	1	2	-	5	5	100.0	Unknown	22	6	28				100.0
Investigative Hhrs. Div.								DEPARTMENT							
Burglary-Auto Theft Div.	-	1	1	1	1	2	100.0	TOTAL	230	146	376	421	345	766	32.3
Invest. Support Division	2	-	2	-	1	1	50.0								
Juvenile Division					1	1									
*EODD				-	1	1									

1977  
PERSONNEL COMPLAINTS INVESTIGATED BY IAD

Organizational Unit	SWORN			CIVILIAN			SWORN & CIVILIAN			Organizational Unit	SWORN			CIVILIAN			SWORN & CIVILIAN		
	Total Compls. Rec'd.	No. Inv. By IAD	% Inv. By IAD	Total Compls. Rec'd.	No. Inv. By IAD	% Inv. By IAD	Total Compls. Rec'd.	No. Inv. By IAD	% Inv. By IAD		Total Compls. Rec'd.	No. Inv. By IAD	% Inv. By IAD	Total Compls. Rec'd.	No. Inv. By IAD	% Inv. By IAD	Total Compls. Rec'd.	No. Inv. By IAD	% Inv. By IAD
OFFICE/C.O.P.										OHB Continued--									
POL. COMM.(C.I.D.)	1						1			Oper. Eval. Sect.									
OFF. of Spec. Servs.										Staff Support Sect.									
IAD	3	3	100.0	2	2	100.0	5	5	100.0	Field Support Sect.									
CCID	5	2	40.0				5	2	40.0	OHB TOTAL	55	23	41.8	8	1	12.5	63	24	38.1
PDID	3	1	33.3				3	1	33.3	Oper.-Central Bur.	5	1	20.0				5	1	20.0
Bur. of Spec. Inv.	1	1	100.0				1	1	100.0	Control Traf. Div.	31	10	32.3	17			48	10	20.8
Public Affs. Div.										Central Area	40	13	32.5	2			42	13	31.0
Admin. Narc. Div.	8	6	75.0							Hollenbeck Area	31	12	38.7	1			32	12	37.5
Admin. Vice Div.										Newton Area	26	8	30.8	5			31	8	25.8
Labor Rels. Div.	1						1			Northeast Area	44	16	36.4				44	16	36.4
OSS TOTAL	21	13	61.9	2	2	100.0	23	15	65.2	Rampart Area	62	17	27.4	4			66	17	25.8
OFF. of Adm. Servs.										OCB TOTAL	239	77	32.2	29			268	77	28.7
Techn. Servs. Bur.	2	1	50.0	1	1	100.0	3	2	66.7	Oper.-West Bur.									
Jail Division	13	1	07.7	14	3	21.4	27	4	14.8	Hollywood Area	85	18	21.2	5			90	18	20.0
SID				1			1			Venice Area	44	16	36.4	4			48	16	33.3
Property Division				2	1	50.0	2	1	50.0	WLA	47	16	34.0	4	1	25.0	51	17	33.3
R & I Division				25	4	16.0	25	4	16.0	Wilshire Area	61	15	24.6	13	1	07.7	74	15	21.6
MTD	2	1	50.0	8	3	37.5	10	4	40.0	OWB TOTAL	237	65	27.4	26	2	07.7	263	67	25.5
Supply Division	3	2	66.7	1	1	100.0	4	3	75.0	Oper.-Valley Bur.	3	1	33.3				3	1	33.3
Pers. & Trng. Bur.										Devonshire Area	26	9	34.6	2			28	9	32.1
EODD	1						1			Foothill Area	35	11	31.4	6			41	11	26.8
Personnel Division	1	1	100.0	3	2	66.7	4	3	75.0	No. Hollywood Area	27	12	44.4	2			29	12	41.4
Training Division	3	2	66.7				3	2	66.7	Van Nuys Area	33	13	39.4	5			38	13	34.2
Plng. & Fiscal Bur.										West Valley Area	46	15	32.6	2			48	15	31.3
Plng. & Res. Div.				3			3			OVB TOTAL	170	61	35.9	17			187	61	32.6
Fisc. Oper. Div.										Oper.-South Bur.									
AID	2			2			4			South Traffic Div.	20	8	40.0	2			22	8	36.4
OAS TOTAL	27	8	29.6	60	15	25.0	87	23	26.4	Harbor Area	35	16	45.7	3			38	16	42.1
OFF. of OPERS.	2	1	50.0				2	1	50.0	77th Street Area	72	31	43.1	5	1	20.0	77	32	41.6
OHB										Southwest Area	79	23	29.1	6	2	33.3	85	25	29.4
Comm. Div. (Inc. Vly)	19	8	42.1	4	1	25.0	23	9	39.1	OSB TOTAL	206	78	37.9	16	3	18.8	222	81	36.5
Air Support Div.	2			2			4			OO TOTAL	907	304	33.5	96	6	6.3	1003	310	30.9
Metropolitan Div.	19	8	42.1				19	8	42.1	UNKNOWN	28	28	100.0				28	28	100.0
Bunco-Forgery Div.	1	1	100.0	1			2	1	50.0	DEPT. TOTAL	984	353	35.9	158	23	14.6	1142	376	32.5
Robbery-Hum. Div.	2	2	100.0				2	2	100.0										
Inv. Hdqrs. Div.	4			1			5	1	100.0										
BAD	1	1	100.0				1												
Inv. Support Div.	4	2	50.0				4	2	50.0										
Juvenile Division	1						1												

1977

COMPLAINTS BY INVESTIGATIVE MAN-HOURS EXPENDED

ORGANIZATIONAL UNITS	IAD Number of -			DIVISION Number of -			UNITS Cont. from 1st Column	IAD Number of -			DIVISION Number of -		
	Complaints	Hrs.	I/V	Complaints	Hrs.	I/V		Complaints	Hrs.	I/V	Complaints	Hrs.	I/V
POLICE COMM. (CID)							Operations South Bur.						
OFFICE OF CHIEF							Harbor Area	11	623	98	22	703	276
OFFICE/ADMIN. SERV.							77th Street Area	31	2508	383	45	1641	331
Personnel & Trng. Bur.							Southwest Area	18	1274	215	57	1682	450
Personnel Division	3	80	18	1	3	1	South Traffic Division	7	603	109	12	237	73
Training Division	2	70	12				OSB TOTAL	67	5008	805	136	4263	1130
P & T Bureau Total	5	150	30	2	6	3	Operations West Bureau						
Planning & Fiscal Bur.							Hollywood Area	11	1254	160	66	1697	440
Automated Info. Div.				3	46	19	Venice Area	15	1709	247	26	782	192
Plan. & Research Div.				3	64	16	W. L. A. Area	14	1735	264	34	780	220
P & F Bureau Total				6	110	35	Wilshire Area	14	1529	227	54	1892	352
Tech. Services Bureau							OWB TOTAL	54	6227	898	180	5151	1214
Jail Division	4	409	74	23	505	184	Operations Val. Bureau	1	30	6	1	85	8
Motor Transport Div.	3	95	19	6	65	33	Devonshire Area	7	561	98	19	420	102
Property Division	1	98	38	1	140	45	Foothill Area	9	910	159	26	856	228
Records & Ident. Div.	4	197	25	19	325	80	No. Hollywood Area	8	714	77	17	393	129
Scientific Inv. Div.							Van Nuys Area	13	1285	185	23	683	196
Supply Division	3	32	18	1	6	4	West Valley Area	13	856	212	30	1240	264
TSB Bureau Total	15	831	174	50	1041	346	OVB TOTAL	51	4356	737	116	3677	927
OAS TOTAL	20	981	204	58	1157	384	Operations-Hdqtrs. Bur.						
OFFICE/SPEC. SERV.							Bunco-Forgery Div.	1	26	4	1	70	11
Int. Affairs Division	3	235	31				Burg-Auto Theft Div.	1	65	10		130	32
P. D. I. D.				2	32	8	Inv. Hdqtrs. Division				4	66	10
O. C. I. D.	2	205	28	3	97	27	Inv. Support Division	2	193	13	2	17	4
Bur. of Special Inv.	1	148	11				Juvenile Division				1	17	4
Adm. Narc. Division	5	1170	157	2	9	3	Robbery-Homicide Div.	2	366	45		254	92
Adm. Vice Division							Communications Div.	9	420	68	14	100	15
Labor Relations Div.				1	44	16	Field Support Section				2	419	94
Public Affairs Div.							Air Support Division				11	1029	258
OSS TOTAL	11	1758	227	8	182	54	Metropolitan Division	8	596	76	35		
OFFICE/OPERATIONS							OIB TOTAL	23	1666	216			
Operations Cent. Bur.	1	40	9	1	26	13	OO TOTALS	273	23264	3713	646	18846	4749
Central Area	13	507	97	29	741	182	Unknown	15	1949	238	11	1131	197
Central Traffic	10	1110	148	36	466	140	DEPARTMENT TOTALS	319	27952	4382	723	21316	5384
Hollenback Area	12	949	154	15	347	104	Misc. Memos.	37	2104	295	3	110	21
Newton Area	8	821	95	22	605	146							
Northeast Area	16	2060	290	24	682	213							
Rampart Area	17	452	249	48	1649	368							
OCB TOTAL	78	6007	1057	179	4726	1220							

\*E. O. D. D. 1 3 2

247

1977  
BOARDS OF RIGHTS - CHARGES AND PENALTIES

TYPE OF CHARGE	On Duty	Off Duty	Number of Officers Accused	Number Not Guilty	Number Guilty	% Guilty	PENALTIES			
							Reprimand	Susp	Avg Days Susp	Resign
EXCESSIVE FORCE	3		3		3	100		1	129	2
IMPROPER TACTICS										
NEGLECT OF DUTY	30		30	3	27	90		23	20.4	4
FAILURE TO COOPERATE										
INSUBORDINATION	4		4		4	100		1	100	3
DISHONESTY	1	1	2		2	100				2
ALCOHOL RELATED		1	1		1	100		1	15	
MEDICAL DISABILITY	6		6	1	* 5	66.7				* 5
FIREARM DISCHARGE		2	2		2	100		1	129	1
PREVENTABLE T.A.	6		6	2	4	66.7		4	7.5	
UNBECOMING CONDUCT		22	22		*22	100	1	12	78.8	* 9
TOTAL	50	25	76	6	70	92	1	43	42.3	26

\* Includes Retirement/Resignation in Lieu.

PENALTIES ASSESSED BY TYPE (EXCLUDES BOARDS OF RIGHTS PENALTIES)

TYPE OF PENALTY	SWORN		NON-SWORN	
	No. Officers	No. Days	No. Employees	No. Days
WARNING	11		1	
ADMONISHMENT	250		47	
OFFICIAL REPRIMAND	20		6	
RELINQUISHMENT OF REGULAR DAYS OFF	** 876	**1561		
RESIGNATION/RETIREMENT WHILE DISCIPLINARY ACTION PENDING	9		17	
SUSPENSION	142	1198	68	276
TERMINATION-DISCHARGE	1		22	
COUNSELED			1	
TOTAL	1309	2759	162	276

AVERAGE DAYS OFF PER PENALIZED EMPLOYEE

TYPE PENALTY	1975	1976	1977
RELINQUISHMENT OF REGULAR DAYS OFF	2.1	2.6	** 1.8
SUSPENSION (Sworn Personnel)	9.5	9.4	8.4
SUSPENSION (Non-sworn Personnel)	3.4	4.1	4.1

\*\* Includes penalties for minor misconduct not reported in 1975/76.



1977  
SUSTAINED COMPLAINTS BY ORGANIZATIONAL UNIT & TYPE

ORGANIZATIONAL UNITS	Neglect of Duty	Unbecoming Conduct	Improper Discharge	Gun Discharge	Discourtesy	Intoxication	Insubordination	Excessive Force	Dishonesty	Debt	Sex/Inappropriate Relations	Alcohol Consumption	Drug/Narcotic	Traffic	TOTAL	UNITS Cont. from 1st Column.	Neglect of Duty	Unbecoming Conduct	Improper Discharge	Gun Discharge	Discourtesy	Intoxication	Insubordination	Excessive Force	Dishonesty	Debt	Sex/Inappropriate Relations	Alcohol Consumption	Drug/Narcotic	Traffic	TOTAL			
POLICE COMM. (CID)																Operations South Bur.																		
OFFICE OF CHIEF																Herbor Area	9	4	1	1													16	
OFFICE/ADMIN.SERV.																77th Street Area	14	7	2	2													26	
Personnel & Trng. Bur.																Southwest Area	26	2	6	2		1											28	
* Training Division		2														South Traffic Division	3	3	1	1					1								8	
Planning & Fiscal Bur.																OSB TOTAL	42	16	7	6		1			1								78	
Automated Info. Div.			3													Operations West Bur.																		
Plan. & Research Div.	2		1													Hollywood Area **	24	9	3	2	2	2											41	
Tech. Services Bureau																Venice Area	8	4	2	2	2	2			2								19	
Jail Division	9															W.L.A. Area	13	7	2	2	2	2			1								26	
Motor Transport Div.	3					2										Wilshire Area	27	7	3	3	2	2			1								43	
Property Division																OWB TOTAL	72	27	6	7	4	6		2									130	
Records & Ident. Div.	18	2														Operations Val. Bureau																		
Scientific Inv. Div.	1															Devonshire Area	6	4	1	1	1	1											14	
Supply Division	3	1														Foothill Area	6	5	2	2	2	2											15	
OAS TOTAL	38	18	1			2	5		1							No. Hollywood Area	1	4	1	1	1	1											8	
OFFICE/SPEC. SERV.																Van Nuys Area	11	2	2	1	2	2			1								19	
Int. Affairs Division	2				1											West Valley Area	8	4	1	2	2	4											15	
P.D.I.D.	1	1														OVV TOTAL	32	19	7	6	2	4		1									71	
O.C.I.D.	4															Operations-Hdqtrs. Bur.																		
Bur. of Special Inv.	1															Inv. Services Group			1															
Adm. Norc. Division	4															Bunco-Forgery Div.																		
Adm. Vice Division																Burg-Auto Theft Div.	1																	
Labor Relations Div.		1														Inv. Hdqtrs. Division	2		1															
Public Affairs Div.																Inv. Support Division	1																	
OSS TOTAL	12	2			1											Juvenile Division	1																	
OFFICE/OPERATIONS																Robbery-Homicide Div.						1												
Operations Cent. Bur.			1													Uniform Services Group																		
Central Area	8	9	1													Communications Div.	8	5	1	1														
Central Traffic	16	2		1	2											Volley Communications																		
Hollenbeck Area	3	9	1													Air Support Division	2																	
Newton Area	8	7	1													Metropolitan Division	5	3	2	1														
Northeast Area	7	7	1													OHV TOTAL	20	10	2	2	1		1		2									
Rampart Area	17	5	1	5												OO TOTALS	226	111	28	18	9	12	6	2	4	7								440
OCB TOTAL	60	39	6	7	2											DEPARTMENT TOTALS	276	131	37	28	10	17	7	4	5	11	12	11	20				620	

-10-

\*Personnel Div.

3 \*\*Category total includes (1) false imprisonment.

249

1977

SUSTAINED MINOR DISCIPLINARY ACTION

Organizational Unit	Failure to Qualify	Failure to Appear for Court	Appear for Medical	Traffic Accidents	Organizational Unit	Failure to Qualify	Failure to Appear for Court	Appear for Medical	Traffic Accidents
POLICE COMMISSION(C.I.D.)				1	Office of Operations-Continued..				
C.O.P.	3				Operations-South Bureau				1
Office of Administrative Servs.					South Traffic Division	4	4		11
Personnel & Training Bureau					Harbor Area	15	2		11
Personnel Division				1	77th Street Area	30	14	2	13
Training Division	2		1	1	Southwest Area	14	11	3	35
Planning & Fiscal Bureau					Operations-West Bureau				
Automated Information Div.				2	Hollywood Area	24	20	4	24
Planning & Research Div.					Venice Area	7	1		13
Technical Services Bureau					West Los Angeles Area	7	3		25
Jail Division	3				Wilshire Area	8	17	2	19
Motor Transport Division	1			1	Operations-Valley Bureau				
Property Division					Devonshire Area	6	6	1	3
Records & Identification Div.				1	Foothill Area	11	20		19
Scientific Investigation Div.		3		4	North Hollywood Area	7	15		11
Supply Division	2			1	Van Nuys Area	15	24		11
Office of Special Services					West Valley Area	10	22		12
Internal Affairs Division	2			2	Operations-Headquarters Bur.	1			
PDID	2			2	Investigative Services Group				
OCID	7		3	2	Bunco-Forgery Division	1			
Bureau of Special Invest.					Burglary-Auto Theft Division	2		1	2
Administrative Narcotics Div.	11			10	Investigative Headquarters D.	7		2	1
Administrative Vice Division	1			1	Investigative Support Division	2			3
Labor Relations Division					Juvenile Division	2		1	4
Public Affairs Division					Robbery-Homicide Division	1			1
Office of Operations				3	Uniformed Services Group				
Operations-Central Bureau					Communications Division	5			1
Central Traffic Division	8	6	1	22	Valley Communications Sect.	1			
Central Area	15	6	3	7	Air Support Division	7			
Hollenbeck Area	3	6		19	Field Support Section				
Newton Area	16	6	1	8	Metropolitan Division	13	1	2	8
Northwest Area	8	3	1	14	DEPARTMENT TOTAL	308	198	32	363
Rampart Area	23	6	4	19	% Change From 1976	+48.1	-22.0	-36.0	-12.3

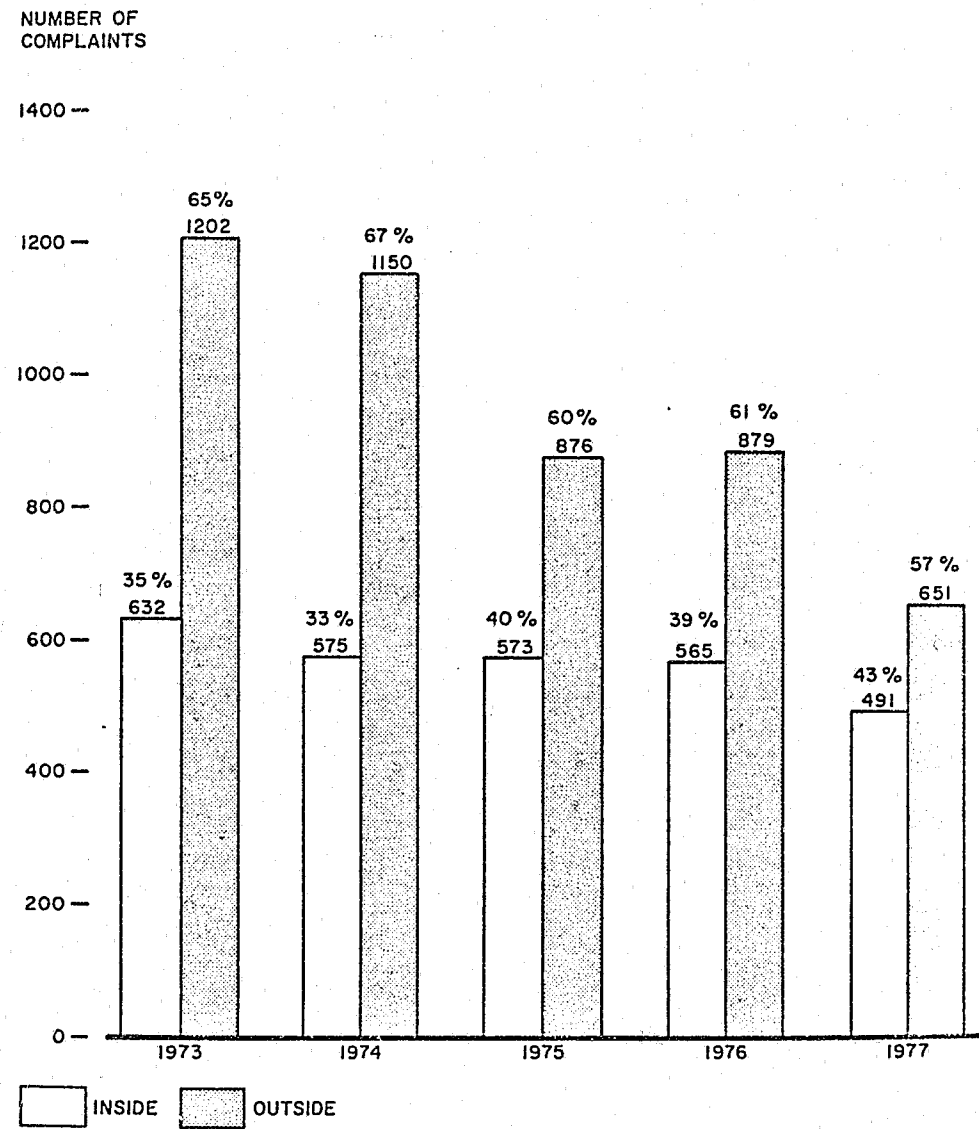
\*Operations Evaluation

\*\*Traffic Services

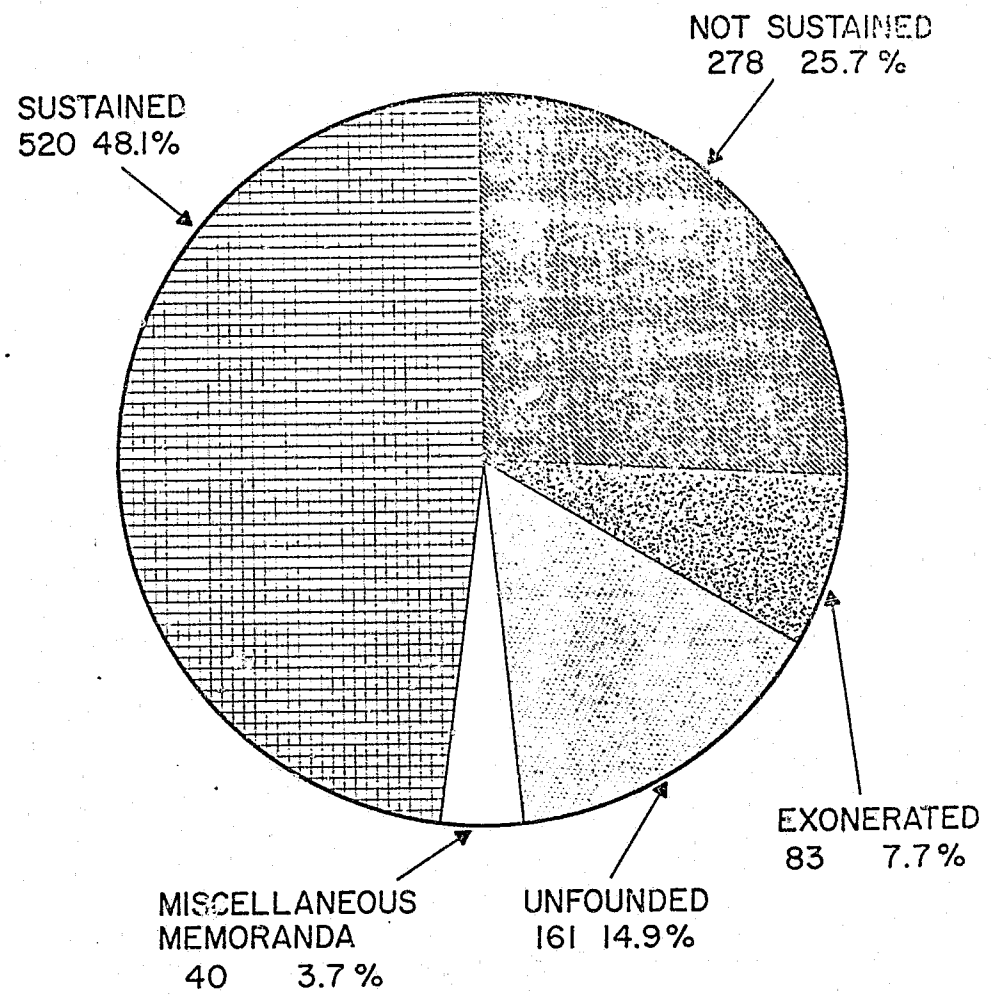
-11-

250

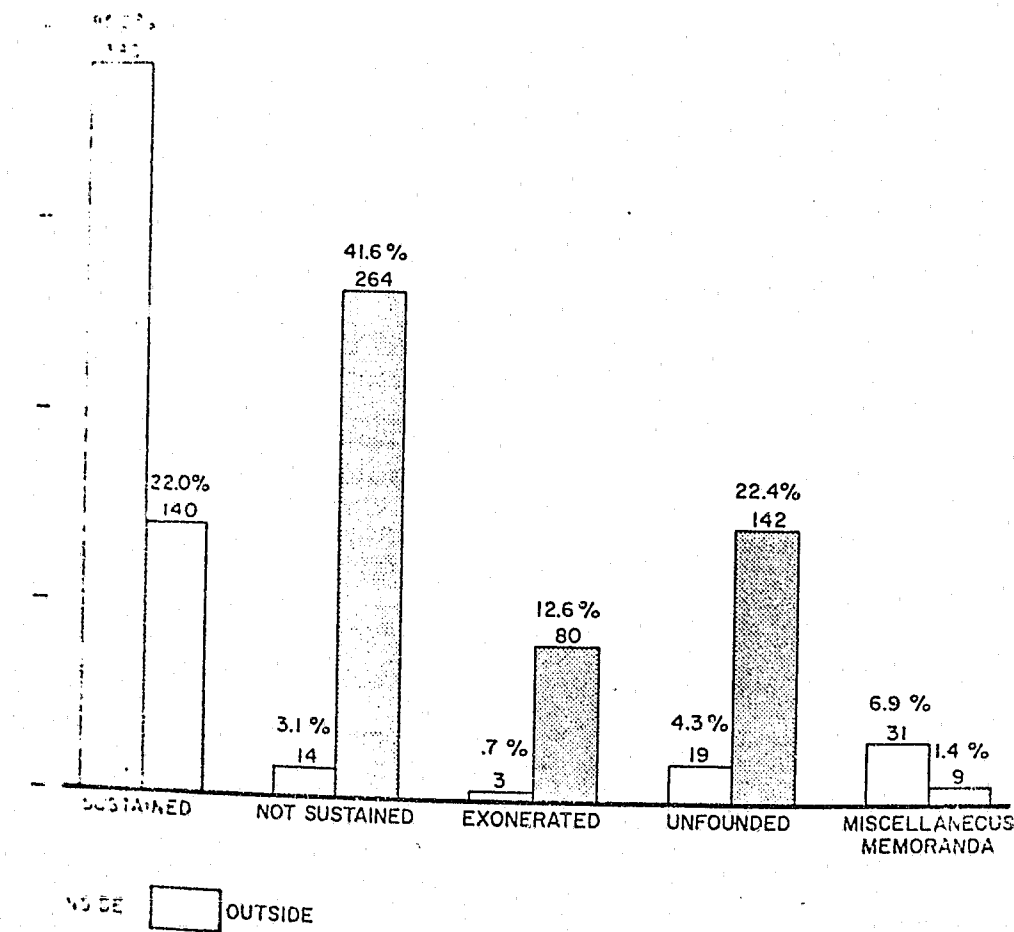
### COMPLAINTS RECEIVED INSIDE VS. OUTSIDE



COMBINED DISPOSITIONS OF COMPLAINTS

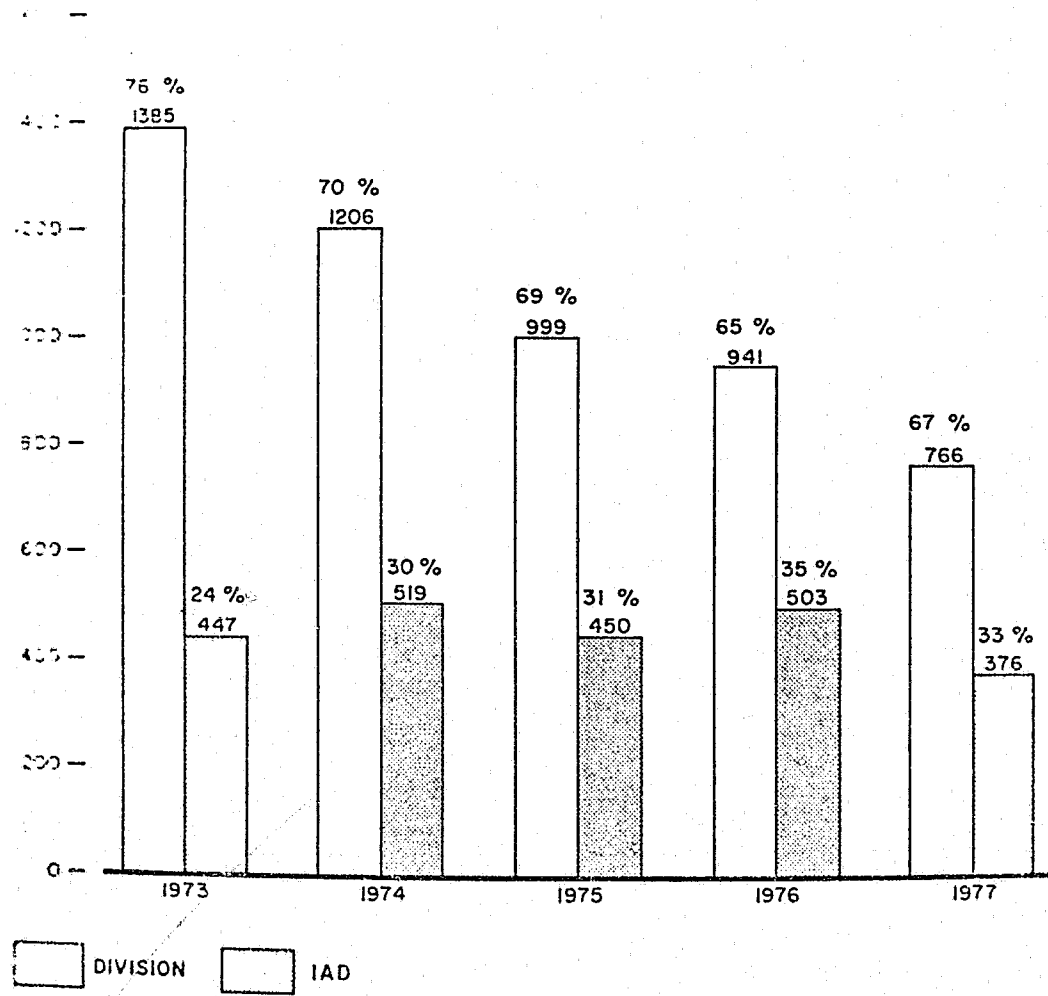


1977  
DISPOSITIONS OF COMPLAINTS  
INSIDE VS. OUTSIDE



### UNIT INVESTIGATING

NUMBER OF COMPLAINTS INVESTIGATED



1978

PERSONNEL COMPLAINTS

ANNUAL STATISTICAL DATA

Internal Affairs Division  
 Office Of Special Services  
 Los Angeles Police Department

TABLE OF CONTENTS

INTRODUCTION	...
Complaints - by Source, Disposition, and Type	1
Complaints Received - by Organizational Unit	2
Complaints - by Employee Classification	3
Descent of Complainants and of Employees Complained Against	4
Types of Complaints - by Length of Service of Employees	5
Unit Investigating Personnel Complaints	6
Complaints Investigated by Internal Affairs Division	7
Complaints - by Investigative Man-Hours Expended	8
Board of Rights - Charges, Dispositions, and Penalties Assessed	9
Sustained Complaints - by Organizational Unit and Type	10
Sustained Minor Disciplinary Action	11
GRAPHS:	
Complaints Received - Inside vs. Outside	12
Combined Dispositions of Complaints	13
Dispositions of Complaints - Inside vs. Outside	14
Unit Investigating	15

INTRODUCTION

As the most visible symbol of the law, police officers must conduct themselves in a manner that inspires respect for the law. To be worthy of public trust, police authority must be exercised in a manner consistent with the highest principles of a free society. The unique relationship between the people and the police requires that the police be answerable to the public if their authority is to be respected and accepted by the people. This is most often accomplished through internal discipline resulting from fair and objective investigation of complaints from the public. The effectiveness of such a program depends on the police agency's commitment to take action on information received.

In 1978, the Los Angeles Police Department investigated a total of 1,077 complaints, a decrease of .5% from a 1977 total of 1,082. A comparison of the Outside vs. Department initiated complaints revealed a significant reduction in the number of Outside complaints, 584, a decrease of 10.3% from the 1977 figure of 651. In a comparison by the descent of the complainant, the most notable trend was the decrease in the number of complaints by those of Latin descent. In 1978, there were 87 complaints compared to 131 the prior year, a decrease of 44, or 33.6%. Complaints from individuals of Caucasian descent also declined from 265 in 1977 to 245 in 1978, a decrease of 20, or 7.5%. There was no change in the number of complaints from Black citizens. These decreases reflect favorably on the constructive measures taken by the Department to reduce the number of Outside complaints and are also a tribute to the employees of the Department whose duty and dedication have earned the respect of the community.

The most common type of complaint in 1978 was found in the classification of Neglect of Duty. It accounted for 366, or 34% of the total. Following in order were Improper Tactics, 274 or 25.4%, and Unbecoming Conduct, 218 or 20.2%. Of the total complaints received, 863 or 80.2%, occurred on-duty and 214 or 19.8%, off-duty.

Of the 1,077 complaints received in 1978, 617 or 57.3%, were classified as Sustained, an 18.7% increase over the 1977 figure. Among the many Sustained categories detailed in this report, the following showed the most significant increases over 1977: Neglect of Duty (6.2%); Unbecoming Conduct (13.0%); Improper

Tactics (29.3%); Gun Discharge (114.3%); Discourtesy (120.0%);  
Insubordination (64.3%); and Preventable Traffic Accidents  
(34.7%).

Despite budgetary cutbacks in 1978, resulting in the loss of 20% of its sworn personnel and 50% of its civilian support personnel, Internal Affairs Division investigated 354, or 31.1% of all 1978 complaints, a slight 1.8% decrease from the 376, or 32.9%, investigated in 1977. During 1978, Internal Affairs Division investigators conducted 3,277 interviews, consuming 25,585 hours, or 7.81 hours per interview. The Divisions conducted 4,904 interviews, consuming 17,506 hours, or 3.57 hours per interview.

The Department Advocate presented a total of 91 cases to Boards of Rights in 1978, an increase of 19.7% over the previous year. Fourteen officers were found Guilty and removed; 51 were found Guilty and received an average penalty suspension of 24.1 days; 5 were found Guilty and received reprimands; and 13 were found Not Guilty and restored to duty.

PERSONNEL COMPLAINTS BY SOURCE, TYPE AND DISPOSITION

SOURCE OF COMPLAINT	1976		1977		1978	
	No.	% Total	No.	% Total	No.	% Total
GOVERNMENT AGENCIES	21	1.5	19	1.8	12	1.1
ORGANIZATIONS AND BUSINESSES	10	.7	4	.4	2	.2
INDIVIDUALS	842	59.4	612	56.6	542	50.3
DEPARTMENT	544	38.4	447	41.3	521	48.4
TOTAL	1417	100.0	1082	100.0	1077*	100.0

TYPE COMPLAINT	1976		1977		% Change 76/77	1978		% Change 77/78
	No.	% Total	No.	% Total		No.	% Total	
UNBECOMING CONDUCT	312	22.0	220	20.3	- 29.5	218	20.2	- 0.9
IMPROPER TACTICS	460	32.5	345	31.9	- 25.0	274	25.4	- 20.6
NEGLECT OF DUTY	325	22.9	333	30.8	+ 2.5	366	34.0	+ 9.9
EXCESSIVE FORCE	67	5.0	20	1.8	- 70.1	10	.9	- 50.0
DISHONESTY	44	3.1	33	3.0	- 25.0	25	2.3	- 24.2
FIREARM DISCHARGE	52	3.7	28	2.6	- 46.2	64	5.9	+ 28.6
DISCOURTESY	50	3.5	34	3.1	- 32.0	80	7.4	+ 76.5
FALSE IMPRISONMENT	6	.4	15	1.4	+150.0	6	.6	60.0
ALCOHOL CONSUMPTION	32	2.3	10	.9	- 68.8	10	.9	00.0
DRUG OR NARCOTIC VIOLATION	14	.9	4	.4	- 71.4	5	.5	+ 25.0
INSUBORDINATION	19	1.3	15	1.4	- 21.1	23	2.1	+ 53.3
UNLAWFUL SEARCH-SEIZURE	9	.6	5	.5	- 44.4	5	.5	00.0
TRAFFIC	10	.7	5	.5	- 50.0	2	.2	- 60.0
DEBT	2	.1	4	.4	+100.0	3	.3	- 25.0
SEX OR IMPROPER RELATIONSHIP	13	.9	6	.6	- 53.8	1	.1	- 83.3
DISCRIMINATION	2	.1	5	.5	+150.0	5	.5	00.0
TOTAL	1417	100.0	1082	100.0	- 23.6	1077*	100.0	- 0.5

DEFINITION OF TYPE DISPOSITIONS:

SUSTAINED - Accused employee committed all or part of alleged misconduct. EXONERATED - Act occurred, but was justified, legal & proper.  
 NOT SUSTAINED - Insufficient evidence to clearly prove or disprove allegation. UNFOUNDED - Complained of act did not occur.

DISPOSITION	1976		1977		1978		1978 Outside		1978 Dept.	
	No.	% Total	No.	% Total	No.	% Total	No.	% Total	No.	% Total
SUSTAINED	624	44.0	520	48.1	617	57.3	146	26.3	471	90.4
NOT SUSTAINED	330	23.3	278	25.7	227	21.1	212	38.1	15	2.9
EXONERATED	143	10.1	83	7.7	63	5.8	55	9.9	8	1.5
UNFOUNDED	266	18.8	161	14.9	149	13.8	135	24.3	14	2.7
MISC. MEMOS	54	3.8	40	3.7	21	2.0	8	1.4	13	2.5
TOTAL	1417	100.0	1082	100.0	1077*	100.0	556	100.0	521	100.0

\*61 cases are unadjudicated upon completion of this report.



JANUARY 1 - DECEMBER 31, 1978

PERSONNEL COMPLAINTS RECEIVED

Organizational Unit	1978			1977			% Change	Organizational Unit	1978			1977			% Change
	Outside	Dept.	Total	Outside	Dept.	Total			Outside	Dept.	Total	Outside	Dept.	Total	
OFFICE/Chief of Police	1	2	3				+100.0	Ops. Continued--							
POLICE COMM. (C.I.D.)					1	1	-100.0	Ops. Evaluation Sect.							
OFFICE of Special Servs.	1	1	2				+100.0	Staff Support Section							
Internal Affairs Div.		4	4	1	4	5	- 20.0	Field Support Section							
OCID				1	4	5	-100.0	OHB TOTAL	14	23	37	17	46	63	- 41.3
PDID	2	4	6	2	1	3	+100.0	Ops.-Central Bureau	4		4	4	1	5	- 20.0
Bureau of Spec. Invest.				1		1	-100.0	Central Traffic Division	14	17	31	24	24	48	- 35.4
Public Affairs Division								Central Area	31	22	53	35	7	42	+ 26.2
Admin. Narcotics Div.	2	5	7	3	5	8	- 12.5	Hollenback Area	14	15	29	17	15	32	- 9.4
Admin. Vice Division		1	1				+100.0	Newton Area	10	18	28	14	17	31	- 9.7
Labor Relations Div.					1	1	-100.0	Northeast Area	22	12	34	33	11	44	- 22.7
OSS TOTAL	5	15	20	8	15	23	- 13.0	Rampart Area	28	24	52	42	24	66	- 21.2
OFFICE of Adm. Servs.								OCB TOTAL	123	108	231	169	99	268	- 13.8
Technical Servs. Bureau	1		1	1	2	3	- 66.7	Ops.-West Bureau	1	1	2				+100.0
Jail Division	7	18	25	14	13	27	- 7.4	Hollywood Area	40	21	61	60	30	90	- 32.2
Scientific Invest. Div.		3	3	1		1	+100.0	Venice Area	32	18	50	27	21	48	+ 4.2
Property Division	1	2	3	1	1	2	+ 50.0	West Los Angeles Area	35	28	63	29	22	51	+ 23.5
Records & Ident. Div.	1	39	40	2	23	25	+ 60.0	Wilshire Area	27	35	62	37	37	74	- 16.2
Motor Transport Division		8	8	1		1	- 20.0	OWB TOTAL	135	103	238	153	110	263	- 9.5
Supply Division		2	2		4	4	- 50.0	Ops.-Valley Bureau	3	3	6	2	1	3	+100.0
*Pers. & Training Bureau								Downshire Area	6	17	23	15	13	28	- 17.9
Personnel Division	1	4	5		4	4	+ 25.0	Foothill Area	30	10	40	29	12	41	- 2.4
Training Division	2	8	10		3	3	+100.0	North Hollywood Area	27	19	46	21	8	29	+ 58.6
Planning & Fiscal Bur.								Van Nuys Area	25	23	48	22	16	38	+ 26.3
Plan. & Research Div.					3	3	-100.0	West Valley Area	25	20	45	26	22	48	- 6.3
Fiscal Operations Div.								OVB TOTAL	116	92	208	115	72	187	+ 11.2
Automated Info. Div.				1	3	4	-100.0	Ops.-South Bureau							
OAS TOTAL	20	98	118	21	66	87	+ 35.6	South Traffic Division	13	5	18	12	10	22	- 18.2
OFFICE of OPERATIONS		1	1		2	2	- 50.0	Harbor Area	13	15	28	23	15	38	- 26.3
Oper.-Headquarters Bur.								77th Street Area	45	31	76	52	25	77	- 1.3
Air Support Division	5	4	9		4	4	+100.0	Southwest Area	56	48	104	59	26	85	+ 22.4
Metropolitan Division	5	6	11	10	9	19	- 42.1	OSB TOTAL	144	107	251	146	76	222	+ 13.1
Bunco-Forgery Div.				1	1	2	-100.0	OFFICE of OPERATIONS							
Robbery-Homicide Div.	1	1	2	1	1	2	00.0	TOTAL	532	433	965	600	403	1003	- 3.8
Investigative Hdqrs. Div.	1	3	4		5	5	- 20.0	Unknown	26	6	32	22	6	28	+ 14.3
Burglary-Auto Theft Div.					1	1	-100.0	DEPARTMENT TOTAL	584	554	1138	651	491	1142	- 0.4
Invest. Support Division		1	1	3	1	4	- 75.0								
Juvenile Division		7	7		1	1	+100.0								
*EODD	1	4	5		1	1	+100.0	***TSD	2		2				+100.0
**Comm. Div.	6	10	16	2	21	23	- 30.4	****Southeast	17	8	25				+100.0

**CONTINUED**

**3 OF 4**

JANUARY 1 - DECEMBER 31, 1978

COMPLAINTS BY EMPLOYEE CLASSIFICATION

Organizational Unit	SWORN			CIVILIAN			Organizational Unit	SWORN			CIVILIAN		
	Outside	Dept.	Total	Outside	Dept.	Total		Outside	Dept.	Total	Outside	Dept.	Total
OFFICE/Chief of Police	1	2	3										
POLICE COMM. (C.I.D.)													
OFFICE of Special Servs.	1	1	2										
Internal Affairs Div.		2	2		2	2							
OCID													
PDID	2	4	6										
Bureau of Spec. Invest.													
Public Affairs Division													
Admin. Narcotics Div.	2	5	7										
Admin. Vice Division		1	1										
Labor Relations Div.													
OSS TOTAL	5	13	18		2	2							
OFFICE of Admin. Servs.													
Technical Servs. Bureau	1		1										
Jail Division	6	9	15	1	9	10							
Scientific Invest. Div.					3	3							
Property Division	1		1		2	2							
Records & Ident. Div.	1	3	4		36	36							
Motor Transport Division		2	2		6	6							
Supply Division		1	1		1	1							
Pers. & Training Bureau													
Personnel Division	1	3	4		1	1							
Training Division	2	6	8		2	2							
Planning & Fiscal Bur.													
Plan. & Research Div.													
Fiscal Operations Div.													
Automated Info. Div.													
OAS TOTAL	19	34	53	1	64	65							
OFFICE of OPERATIONS													
Oper.-Headquarters Bur.		1	1										
Air Support Division	5	3	8		1	1							
Metropolitan Division	5	6	11										
Bunco-Forgery Div.													
Robbery-Homicide Div.	1	1	2										
Investigative Hdqrs. Div.	1	2	3		1	1							
Burglary-Auto Theft Div.													
Invest. Support Division		1	1										
Juvenile Division		2	2		5	5							
* EODD	1	2	3		2	2							
**Comm. Div.	6	8	14		2	2							
OHB Continued--													
Oper. Evaluation Sect.													
Staff Support Section													
Field Support Section													
*** OHB TOTAL	14	16	30							7	7		
Oper.-Central Bureau	4		4										
Central Traffic Division	12	11	23						2	6	8		
Central Area	30	22	52		1	1			1	1	2		
Hollenbeck Area	13	14	27		1	1			1	1	2		
Newton Area	10	17	27						1	1	2		
Northeast Area	22	11	33						1	1	2		
Rampart Area	28	21	49						3	3	6		
OCB TOTAL	119	96	215		4	12			16	16	32		
Oper.-West Bureau	1	1	2										
Hollywood Area	39	20	59		1	1			1	1	2		
Venice Area	30	18	48		2	2			2	2	4		
West Los Angeles Area	35	24	59						4	4	8		
Wilshire Area	25	30	55		2	5			5	7	12		
OWB TOTAL	130	93	223		5	10			15	15	30		
Oper.-Valley Bureau	3	3	6										
Devonshire Area	6	16	22							1	1		
Foothill Area	28	8	36		2	2			2	2	4		
North Hollywood Area	27	17	44						2	2	4		
Van Nuys Area	22	21	43		3	2			5	5	10		
West Valley Area	23	16	39		2	4			6	6	12		
OVB TOTAL	109	81	190		7	11			18	18	36		
Oper.-South Bureau													
South Traffic Division	13	5	18										
Harbor Area	12	13	25		1	2			3	3	6		
77th Street Area	42	28	70		3	3			6	6	12		
Southwest Area	52	32	84		4	16			20	20	40		
OSB TOTAL	136	84	220		8	23			31	31	62		
OFFICE of OPERATIONS TOTAL	508	370	878	24	63	87							
Unknown	26	6	32										
DEPARTMENT TOTAL	559	425	984	25	129	154							
****TSD		2	2										
****Southeast	17	6	23		2	2							

1978

DESCENT OF COMPLAINANTS & EMPLOYEES COMPLAINED AGAINST

Organizational Unit	Complainant				Employee				Organizational Unit	Complainant				Employee			
	Cauc.	Black	Latin	Other	Cauc.	Black	Latin	Other		Cauc.	Black	Latin	Other	Cauc.	Black	Latin	Other
OFFICE/Chief of Police	1					1											
POLICE COMM. (C.I.D.)																	
OFFICE of Special Servs. Internal Affairs Div.																	
OCID																	
PDID	1					1											
Bureau of Spec. Invest.																	
Public Affairs Division																	
Admin. Narcotics Div.	3	1				3		1									
Admin. Vice Division																	
Labor-Relations Div.																	
OSS TOTAL	4	1				4		1									
OFFICE of Admin. Servs. Technical Servs. Bureau																	
Jail Division	3	1	3			2	4	1									
Scientific Invest. Div.																	
Property Division	1					1											
Records & Ident. Div.																	
Motor Transport Division																	
Supply Division																	
Pers. & Training Bureau																	
Personnel Division																	
EODD		1					1										
Training Division	1		1			1		1									
Planning & Fiscal Bur.																	
Plan. & Research Div.																	
Fiscal Operations Div.																	
Automated Info. Div.																	
OAS TOTAL	8	3	5			7	5	4									
OFFICE of OPERATIONS Oper.-Headquarters Bur.																	
Comm. Div. (Incl. Vty.)	1					1											
Air Support Division																	
Metropolitan Division	2	3				4		1									
Bunco-Forgery Div.																	
Robbery-Homicide Div.		1				1											
Investigative Hdqrs. Div.																	
Burglary-Auto Theft Div.																	
Invest. Support Division																	
Juvenile Division																	
*Communications	2	1	1			2		2									
**Traffic Support																	
***Southeast																	
OHB Continued-- Oper. Evaluation Sect. Staff Support Section Field Support Section ** OHB TOTAL	4	4						1		7	1	1					
Oper.-Central Bureau																	
Central Traffic Division	3	2	5			3		1		3	3	1					
Central Area	8	12	7			12		1		22		6					
Hollenbeck Area	2		10			2				8		3					1
Newton Area	2	7	1			2				7	1	2					
Northeast Area	5	14	2			5				16		5					
Ranpart Area	13	6	9			13		1		17	4	7					1
OCB TOTAL	35	41	37			35		3		81	8	25					2
Oper.-West Bureau																	
Hollywood Area	25	8	5			25		1		35	2	2					
Venice Area	24	6	3			24				27	3	2					1
West Los Angeles Area	22	5	7			22				23	4	7					
Wilshire Area	6	15	3			6		1		21	2	2					
OWB TOTAL	77	34	18			77		2		106	11	13					1
Oper.-Valley Bureau																	
Devonshire Area	4		1			4				4							1
Foothill Area	17	7	5			17		1		24	1	5					
North Hollywood Area	18	4	6			18				26		2					
Van Nuys Area	20	4	1			20		1		23	2	1					
West Valley Area	21	1	1			21				23							
OVB TOTAL	85	16	14			85		2		105	3	8					1
Oper.-South Bureau																	
South Traffic Division	4	9	1			4		1		14		1					
Harbor Area	6	3	6			6				7	4	3					1
77th Street Area	6	35	3			6				33	3	8					
Southwest Area	7	44	2			7				29	10	12					2
OSB TOTAL	29	97	12			29		1		93	17	25					4
OFFICE of OPERATIONS TOTAL	230	192	81			230		9		392	40	72					8
Unknown	2	4	1			2		1		3	1						4
DEPARTMENT TOTAL	245	200	87			245		10		406	47	77					12
% Change From 1977	-7.5	00.0	-33.6			+42.9		-14.0		-4.1	+1.3	+100.0					

262

1978

TYPES OF COMPLAINTS BY LENGTH OF SERVICE OF EMPLOYEES

LENGTH OF SERVICE	Improper Tactics	Excessive Force	Discourtesy	Discrimination	False Imprisonment	Unlawful Search & Seizure	Dishonesty	Insubordination	Firearm Discharge	Sex or Improper Relationship	Alcohol Consumption	Drug/Narco Violation	Traffic	Neglect of Duty	Unbecoming Conduct	Debt	TOTAL
Less than 1 year	3						2	2	2		1	1	1	19	16		43
1 year	12						2	2	5		1	1		18	15		56
2 years	22	2	3	1		1	3	2	3		1	1		18	8		64
3 years	33		6	1	1	1	3	2	7					47	17		117
4 years	35	1	4	1	1	1	4	1	6		1	1		29	16		101
5 years	28		5				2	2	7		1			28	14	1	86
6 years	29		5		3		2	1	3					27	12		82
7 years	35	4	7			1	6	5	6		1			25	21		111
8 years	20		5	1			1	2	4		1			31	11		76
9 years	14		6				2	2	7				1	27	10		67
10 years	13	2	9			1	1	1	4					22	16		68
11 years	11	1	4								1			9	14		40
12 years	5		2	1			1		3		1			5	3		21
13 years	4		2					1			1			7	5		20
14 years	1				1				1					10	5	1	19
15 years	3		2						1					7	3		16
16 years								1						3	2		5
17 years										1				3	2		6
18 years	1								2					3	3		9
19 years								1						2	5		8
20 years								1	2					1	3		6
21 years								1	1					5			7
22 years								1						2	1		4
23 years														1	1		1
24 years														1			1
25 years														1	2		3
26 years						1								1	1		3
27 years														2			2
28 years														2			2
29 years														1			1
30 years	1													3		1	3
Unknown	1													3			5
TOTAL	271	10	60	5	6	5	24	23	64	1	10	3	2	361	208	3	1056*
31 years														2			2
36 years															1		

\*MISCELLANEOUS MEMORANDA NOT INCLUDED IN TOTAL

263

JANUARY 1 - DECEMBER 31, 1978

UNIT INVESTIGATING PERSONNEL COMPLAINTS

Organizational Unit	I. A. D.			DIVISION			% INV. I. A. D.	Organizational Unit	I. A. D.			DIVISION			% INV. I. A. D.	
	Outside	Dept.	Total	Outside	Dept.	Total			Outside	Dept.	Total	Outside	Dept.	Total		
OFFICE/Chief of Police	1	2	3				100.0	OHB Continued--								
POLICE COMM. (C.I.D.)								Oper. Evaluation Sect.								
OFFICE of Special Servs.	1	1	2				100.0	Staff Support Section								
Internal Affairs Div.		4	4				100.0	Field Support Section								
OCID								*** OHB TOTAL	3	14	17	7	13	20	45.9	
PDID		2	2	2	2	4	33.3	Oper.-Central Bureau	1		1	3		3	25.0	
Bureau of Spec. Invest.								Central Traffic Division	7	6	13	7	11	18	41.9	
Public Affairs Division		1	1	2	4	6	14.3	Central Area	9	11	20	22	11	33	37.7	
Admin. Narcotics Div.		1	1				100.0	Hollenbeck Area	5	4	9	9	11	20	31.0	
Admin. Vice Division								Newton Area	3	5	8	7	13	20	28.6	
Labor Relations Div.								Northeast Area	7	5	12	15	7	22	35.3	
OSS TOTAL	1	9	10	4	6	10	50.0	Rompert Area	9	5	14	19	19	38	26.9	
OFFICE of Admin. Servs.								OCB TOTAL	41	36	77	82	72	154	33.3	
Technical Servs. Bureau				1		1	00.0	Oper.-West Bureau		1	1	1		1	50.0	
Jail Division	3	7	10	4	11	15	40.0	Hollywood Area	13	4	17	27	17	44	27.9	
Scientific Invest. Div.		2	2		1	1	66.7	Venice Area	5	3	8	27	15	42	16.0	
Property Division		1	1	1	1	2	33.3	West Los Angeles Area	9	4	13	26	24	50	20.6	
Records & Ident. Div.		5	5	1	34	35	12.5	Wilshire Area	10	7	17	17	28	45	27.4	
Motor Transport Division		4	4		4	4	50.0	OWB TOTAL	37	19	56	98	84	182	23.5	
Supply Division		2	2				100.0	Oper.-Valley Bureau	1		1	2	3	5	16.7	
Pers. & Training Bureau								Devonshire Area	1	8	9	5	9	14	39.1	
Personnel Division		3	3	1	1	2	60.0	Foothill Area	4	3	7	26	7	33	17.5	
Training Division	1	3	4	1	5	6	40.0	North Hollywood Area	7	3	10	20	16	36	21.7	
Planning & Fiscal Bur.								Van Nuys Area	5	6	11	20	17	37	22.9	
Plan. & Research Div.								West Valley Area	8	7	15	17	13	30	33.3	
Fiscal Operations Div.								OVB TOTAL	26	27	53	90	65	155	25.5	
Automated Info. Div.								Oper.-South Bureau								
OAS TOTAL	8	30	38	12	68	80	32.2	South Traffic Division	8	4	12	5	1	6	66.7	
OFFICE of OPERATIONS		1	1				100.0	Harbor Area	2	3	5	11	12	23	17.9	
Oper.-Headquarters Bur.								77th Street Area	14	10	24	31	21	52	31.6	
Air Support Division	1	3	4		5	5	44.4	Southwest Area	14	10	24	42	38	80	23.1	
Metropolitan Division	1	1	2	4	5	9	18.2	*** OSB TOTAL	47	30	77	97	77	174	30.7	
Bunco-Forgery Div.								OFFICE of OPERATIONS								
Robbery-Homicide Div.				1	1	2	00.0	TOTAL	154	126	280	374	311	685	29.0	
Investigative Hdqrs. Div.	1	2	3		1	1	75.0	Unknown	19	4	23	7	2	9	71.9	
Burglary-Auto Theft Div.								DEPARTMENT								
Invest. Support Division					1	1	00.0	TOTAL	183	171	354	397	387	784	31.1	
Juvenile Division		7	7				100.0									
* EODD				1	4	5	00.0	***TSD				2		2	00.0	
**Comm. Div.	4	3	7	2	7	9	43.8	***Southeast	9	3	12	8	5	13	48.0	

204

JANUARY 1 - DECEMBER 31, 1978  
PERSONNEL COMPLAINTS INVESTIGATED BY IAD

Organizational Unit	SWORN			CIVILIAN			SWORN & CIVILIAN			Organizational Unit	SWORN			CIVILIAN			SWORN & CIVILIAN		
	Total Compls. Rec'd.	No. Inv. By IAD	% Inv. By IAD	Total Compls. Rec'd.	No. Inv. By IAD	% Inv. By IAD	Total Compls. Rec'd.	No. Inv. By IAD	% Inv. By IAD		Total Compls. Rec'd.	No. Inv. By IAD	% Inv. By IAD	Total Compls. Rec'd.	No. Inv. By IAD	% Inv. By IAD	Total Compls. Rec'd.	No. Inv. By IAD	% Inv. By IAD
OFFICE/C.O.P.	3	3	100.0				3	3	100.0	OHB Continued--									
POL. COMM.(C.I.D.)										* Oper. Eval. Sect.									
OFF. of Spec. Servs.	2	2	100.0				2	2	100.0	Staff Support Sect.									
IAD	2	2	100.0	2	2	100.0	4	4	100.0	Field Support Sect.									
CCID										OHB TOTAL	30	12	40.0	7	5	71.4	37	17	45.9
PDID	6	2	33.3				6	2	33.3	Oper.-Central Bur.	4	1	25.0				4	1	25.0
Bur. of Spec. Inv.										Central Traf. Div.	23	11	47.8	8	2	25.0	31	13	41.9
Public Affs. Div.	7	1	14.3				7	1	14.3	Central Area	52	20	38.5	1			53	20	37.7
Admin. Narc. Div.	1	1	100.0				1	1	100.0	Hollenbeck Area	27	8	29.6	2	1	50.0	29	9	31.0
Admin. Vice Div.	1	1	100.0				1	1	100.0	Newton Area	27	8	29.6	1			28	8	28.6
Labor Rel. Div.										Northeast Area	33	11	33.3	1	1	100.0	34	12	35.3
OSS TOTAL	18	8	44.4	2	2	100.0	20	10	50.0	Rompert Area	49	13	26.5	3	1	33.0	52	14	26.9
OFF. of Adm. Servs.										OCB TOTAL	215	72	33.5	16	5	31.3	231	77	33.3
Tech. Servs. Bur.	1						1		00.0	Oper.-West Bur.	2	1	50.0				2	1	50.0
Jail Division	15	8	53.3	10	2	20.0	25	10	40.0	Hollywood Area	59	17	28.8	2			61	17	27.9
SID				3	2	66.7	3	2	66.7	Venice Area	48	7	14.6	2	1	50.0	50	8	16.0
Property Division	1			2	1	50.0	3	1	33.3	WLA	59	13	22.0	4			63	13	20.6
R & I Division	4			36	5	13.9	40	5	12.5	Wilshire Area	55	17	30.9	7			62	17	27.4
MTD	2	1	50.0	6	3	50.0	8	4	50.0	OWB TOTAL	223	55	24.7	15	1	6.7	238	56	23.5
Supply Division	1	1	100.0	1	1	100.0	2	2	100.0	Oper.-Valley Bur.	6	1	16.7				6	1	16.7
Pers. & Trng. Bur.										Devonshire Area	22	9	40.9	1			23	9	39.1
EODD	3			2			5		00.0	Foothill Area	36	7	19.4	4			40	7	17.5
Personnel Division	4	2	50.0	1	1	100.0	5	3	60.0	No. Hollywood Area	44	10	22.7	2			46	10	21.7
Training Division	8	4	50.0	2			10	4	40.0	Von Nuys Area	43	11	25.6	5			48	11	22.9
Plng. & Fiscal Bur.										West Valley Area	39	14	35.9	6	1	16.7	45	15	33.3
Plng. & Res. Div.										OVV TOTAL	190	52	27.4	18	1	5.6	208	53	25.5
Fisc. Oper. Div.										Oper.-South Bur.									
AID										South Traffic Div.	18	12	66.7				18	12	66.7
OAS TOTAL	53	22	41.5	65	16	24.6	118	38	32.2	Harbor Area	25	5	20.0	3			28	5	17.9
OFF. of OPERS.	1	1	100.0				1	1	100.0	77th Street Area	70	23	32.9	6	1	16.7	76	24	31.6
O-HB										Southwest Area	84	16	19.0	20	8	40.0	104	24	23.1
Air Support Div.	8	4	50.0	1			9	4	44.4	*** OSB TOTAL	220	68	30.9	31	9	29.0	251	77	30.7
Metropolitan Div.	11	2	18.2				11	2	18.2	OO TOTAL	878	259	29.5	87	21	24.1	965	280	29.0
Bunco-Forgery Div.										UNKNOWN	32	23	71.9				32	23	71.9
Robbery-Hbm. Div.	2						2		00.0	Dept. Total	984	315	32.0	154	39	25.3	1138	354	31.1
Inv. Hdqrs. Div.	3	3	100.0	1			4	3	75.0	** TSD							2		00.0
DAD										*** Southeast	23	12	52.2	2			25	12	48.0
Inv. Support Div.	1						1		00.0										
Juvenile Division	2	2	100.0	5	5	100.0	7	7	100.0										
* Comm. Div.	14	6	42.9	2	1	50.0	16	7	43.8										

1978  
COMPLAINTS BY INVESTIGATIVE MAN-HOURS EXPENDED

ORGANIZATIONAL UNITS	IAD			DIVISION			UNITS Cont. from 1st Column	IAD			DIVISION		
	Number of -			Number of -				Number of -			Number of -		
	Complaints	Hrs.	I/V	Complaints	Hrs.	I/V		Complaints	Hrs.	I/V	Complaints	Hrs.	I/V
POLICE COMM. (CID)							Operations South Bur.						
OFFICE OF CHIEF	3	162	27				Harbor Area	6	986	17	23	626	142
OFFICE/ADMIN.SERV.							77th Street Area	10	1,359	26	51	1,384	298
Personnel & Ting. Bur.							Southwest Area	24	1,774	29	78	1,755	350
Personnel Division	1	40	5	2	57	18	Spyth Traffic Division	10	550	140	6	240	139
Training Division	3	151	46	5	109	35	OSB TOTAL	60	5,230	266	171	4,492	1034
P & T Bureau Total							Operations West Bureau						
Planning & Fiscal Bur.							Hollywood Area	18	1,607	169	44	885	232
Automated Info. Div.							Venice Area	8	569	112	42	412	320
Plan. & Research Div.							W. L. A. Area	14	1,178	335	48	892	233
P & F Bureau Total							Wilshire Area	17	2,101	227	43	846	286
Tech. Services Bureau							OWB TOTAL	57	5,455	843	177	3,035	1071
Jail Division	10	430	88	12	192	87	Operations Val. Bureau	1	33	5	5	290	348
Motor Transport Div.	2	101	23	4	35	18	Devonshire Area	9	555	92	13	339	68
Property Division	1	73	15	2	4	1	Foothill Area	6	456	71	31	878	183
Records & Ident. Div.	5	122	22	35	56	150	No. Hollywood Area	9	579	106	33	715	201
Scientific Inv. Div.	1	60	8	1	30	11	Van Nuys Area	12	1,404	274	37	770	182
Supply Division	2	50	21				West Valley Area	13	1,107	136	30	652	158
TSD Bureau Total							OVB TOTAL	50	4,134	684	149	3,644	1140
OAS TOTAL	25	1,027	228	66	546	331	Operations-Hdqrs. Bur.						
OFFICE/SPEC.SERV.							Bunco-Forgery Div.						
Int. Affairs Division	3	41	10				Burg-Auto Theft Div.						
P. D. I. D.	1	20	5	3	82	29	Inv. Hdqrs. Division	2	95	16	1	25	10
O. C. I. D.							Inv. Support Division						
Bur. of Special Inv.							Juvenile Division	7	381	74		30	15
Adm. Narc. Division	1	180	23	6	106	118	Robbery-Homicide Div.						
Adm. Vice Division	1	64	9				Communications Div.	7	363	38	9	146	50
Labor Relations Div.							Field Support Section						
Public Affairs Div.							Air Support Division	3	256	46	4	56	19
OSS TOTAL	6	305	47	9	188	147	Metropolitan Division	2	132	18	8	286	71
OFFICE/OPERATIONS							*** OHB TOTAL	21	1,227	192	27	637	200
Operations Cent. Bur.							OO TOTALS	260	22,148	2,702	675	16,588	4394
Central Area	20	1,956	257	34	1,012	187	Unknown	7	135	31	5	64	22
Central Traffic	11	1,224	98	18	574	102	DEPARTMENT TOTALS	321	25,585	3,277	756	17,506	4904
Hollenbeck Area	9	489	79	19	439	115	Misc. Memos	20	1,808	242	1	120	10
Newton Area	6	460	44	18	1,056	148	**Southeast	10	561	54	13	487	105
Northeast Area	12	64	12	22	582	153	***Traffic Support				2	50	18
Rampart Area	14	1,909	227	37	932	212							
OCB TOTAL	72	6,102	717	151	4,780	949							

- 8 -

266



1978  
BOARDS OF RIGHTS - CHARGES AND PENALTIES

TYPE OF CHARGE	On Duty	Off Duty	Number of Officers Accused	Number Not Guilty	Number Guilty	% Guilty	PENALTIES			
							Reprimand	Susp	Avg Days Susp	Removal
EXCESSIVE FORCE	6	2	8	1	6	86	-	5	48.8	1
IMPROPER TACTICS	6	1	7	2	5	71	-	5	16.2	-
NEGLECT OF DUTY	19	4	23	2	20	91	2	18	21.3	-
FAILURE TO COOPERATE	-	-	-	-	-	-	-	-	-	-
INSUBORDINATION	-	4	4	-	2	100	-	1	35	1
DISHONESTY	4	1	5	1	4	80	-	1	66	3
ALCOHOL RELATED	-	6	6	1	5	83	-	3	43.3	2
MEDICAL DISABILITY	1	3	4	2	-	0	-	-	-	-
FIREARM DISCHARGE	8	2	10	2	8	80	1	7	7.8	-
PREVENTABLE T.A.	1	-	1	-	1	100	-	1	3	-
UNBECOMING CONDUCT	11	12	23	2	19	90	2	10	23.3	7
TOTAL	56	35	91*	13*	70*	84	5	51	24.1	14

\*Total Accused includes 6 File Closures and 2 Summary Removals by C.O.P.  
PENALTIES ASSESSED BY TYPE (EXCLUDES BOARDS OF RIGHTS PENALTIES)

TYPE OF PENALTY	SWORN		NON-SWORN	
	No. Officers	No. Days	No. Employees	No. Days
WARNING	6			
ADMONISHMENT	145		32	
OFFICIAL REPRIMAND	7			
RELINQUISHMENT OF REGULAR DAYS OFF	660	1,230		
RESIGNATION/RETIREMENT WHILE DISCIPLINARY ACTION PENDING	25		30	
SUSPENSION	112	1,018	69	307
TERMINATION/DISCHARGE	1		19	
COUNSELED				
TOTAL	956	2,248	150	307

AVERAGE DAYS OFF PER PENALIZED EMPLOYEE

TYPE PENALTY	1978	1977	1976
RELINQUISHMENT OF REGULAR DAYS OFF	1.9	1.8	2.6
SUSPENSION (Sworn Personnel)	13.6	8.4	9.4
SUSPENSION (Non-sworn Personnel)	4.4	4.1	4.1

1978

SUSTAINED COMPLAINTS BY ORGANIZATIONAL UNIT & TYPE

ORGANIZATIONAL UNITS	Neglect of Duty	Unbecoming Conduct	Improper Tactics	Gun Discharge	Discourtesy	Intoxication	Insubordination	Excessive Force	Dishonesty	Debt	Sex/Improper Relations	Alcohol Consumption	Drug/Narcotic	Other	TOTAL	UNITS Cont. from 1st Column.	Neglect of Duty	Unbecoming Conduct	Improper Tactics	Gun Discharge	Discourtesy	Intoxication	Insubordination	Excessive Force	Dishonesty	Debt	Sex/Improper Relations	Alcohol Consumption	Drug/Narcotic	Other	TOTAL			
POLICE COMM. (CID)																Operations South Bur.																		
OFFICE OF CHIEF		1													3	Harbor Area	6	3	3	3								2				17		
OFFICE/ADMIN.SERV.																77th Street Area	7	7	6	4	2											30		
Personnel & Trng. Bur.																Southwest Area	28	7	7	12	2			1	1							57		
Training Division	1	2													3	South Traffic Division	6	2	1	1												10		
Planning & Fiscal Bur.																*** OSB TOTAL	57	22	19	20	4			1	1	1		3				129		
*Automated Info. Div.																Operations West Bur.																		
Plan. & Research Div.																Hollywood Area	15	5	2	3	3			1								30		
Tech. Services Bureau																Venice Area	13	3	3	1			2	1								24		
Jail Division	15	4					1		1						1	W.L.A. Area	14	3	3	4	3		1									29		
Motor Transport Div.	2	4													6	Wilshire Area	15	10	3	5	2		1									37		
Property Division															1	OVB TOTAL	57	21	8	15	9		5	1			2	1				120		
Records & Ident. Div.	25	4					7					1	1		38	Operations Val. Bureau																4		
Scientific Inv. Div.		1													2	Devonshire Area	6	7							1							13		
Supply Division															2	Foothill Area	5	4		1	2											12		
OAS TOTAL	55	21	1	1			9		2			4	1	1	95	No. Hollywood Area	17	6	1	3	1												28	
OFFICE/SPEC. SERV.																Van Nuys Area	17	10	2	3	2		1	1									36	
Int. Affairs Division	2														2	West Valley Area	14	2	1	1													22	
P.D.I.D.	1	3													4	OVB TOTAL	59	31	3	9	5		3	1	2	1		1					115	
O.C.I.D.																Operations-Hdqtrs. Bur.																		
Bur. of Special Inv.																Inv. Services Group																		
Adm. Narc. Division	1	2		2											5	Bunco-Forgery Div.																		
Adm. Vice Division					1										1	Burg-Auto Theft Div.																		4
Labor Relations Div.																Inv. Hdqtrs. Division	1	3															1	
Public Affairs Div.																Inv. Support Division		1															7	
OSS TOTAL	4	5		2	1										12	Juvenile Division	1	6																
OFFICE/OPERATIONS																Robbery-Homicide Div.		1															1	
Operations Cent. Bur.																Uniform Services Group																		
Central Area	13	8													22	Communications Div.																		
Central Traffic	12	7	1				2						1		23	Valley Communications																		
Hollenback Area	5	2	1	2											10	Air Support Division	4	1		1					1								7	
Newton Area	7	8	2	1	1		1								20	Metropolitan Division	2	2		1	1												6	
Northeast Area	1	3	2	4			2								12	**** OVB TOTAL	8	15	2	1						1							27	
Rampart Area	15	4	3	5					1						29	OVB TOTAL	234	121	39	58	20	0	14	3	5	1	0	6	2	4	507			
OCB TOTAL	53	32	9	12	1		5		1			1	1	21	116	DEPARTMENT TOTALS	293	148	41	60	22	0	23	3	7	1	1	0	3	5	617			
*EODD	4	1													5	***Southeast	10	3	2													15		
*Personnel	1	1													2	****Traffic Sprt.	1															1		
**Communication	7	4	1												14																			

-10-

268

1978

SUSTAINED MINOR DISCIPLINARY ACTION

Organizational Unit	Failure to Qualify	Failure to Appear for Court	Medical	Traffic Accidents	Organizational Unit	Failure to Qualify	Failure to Appear for Court	Medical	Traffic Accidents
POLICE COMMISSION(C.I.D.)				2	Office of Operations-Continued..				1
C.O.P. (Community Relations)	3			2	Operations-South Bureau	6	2	1	23
Office of Administrative Servs.					South Traffic Division	18	4		11
Personnel & Training Bureau					Harbor Area	21	7		31
Personnel Division	1				77th Street Area	16	12	3	17
Training Division					Southwest Area				
Planning & Fiscal Bureau					Operations-West Bureau	1			
Automated Information Div.	2		1		Hollywood Area	18	13	1	29
Planning & Research Div.	1			1	Venice Area	15	7	4	21
Technical Services Bureau	1				West Los Angeles Area	10	14	1	24
Jail Division	2				Wilshire Area	8	10	5	29
Motor Transport Division	1			7	Operations-Valley Bureau	1			1
Property Division				1	Devonshire Area	5	5		10
Records & Identification Div.					Foothill Area	11	20		11
Scientific Investigation Div.	2			8	North Hollywood Area	19	21	1	9
Supply Division				2	Van Nuys Area	12	20		24
Office of Special Services					West Valley Area	16	9	2	17
Internal Affairs Division				1	Operations-Headquarters Bur.				
PDID	3			2	Investigative Services Group				2
OCID				4	Bunco-Forgery Division	1			4
Bureau of Special Invest.					Burglary-Auto Theft Division	10			2
Administrative Narcotics Div.	8		1	16	Investigative Headquarters D.	2		1	2
Administrative Vice Division				2	Investigative Support Division	1			8
Labor Relations Division					Juvenile Division	2			1
Public Affairs Division					Robbery-Homicide Division				
Office of Operations				2	Uniformed Services Group				
Operations-Central Bureau	1	1		2	Tactical Planning	1			
Central Traffic Division	10	1		35	Traffic Support	1			
Central Area	14	3		18	Air Support Division	2	1		
Hollenbeck Area	1	6		19	Field Support Section				
Newton Area	2	4	1	21	Metropolitan Division	10	1		8
Northeast Area	12	6		21	DEPARTMENT TOTAL	309	191	25	489
Rampart Area	23	22		28	% Change From 1977	+0.3	-3.5	-21.9	+34.7
*EODD	1				***Southeast	2			9
**Communications	8	1	2						
**Valley Commun.	2	1	1	1					
**ECCCS	1								

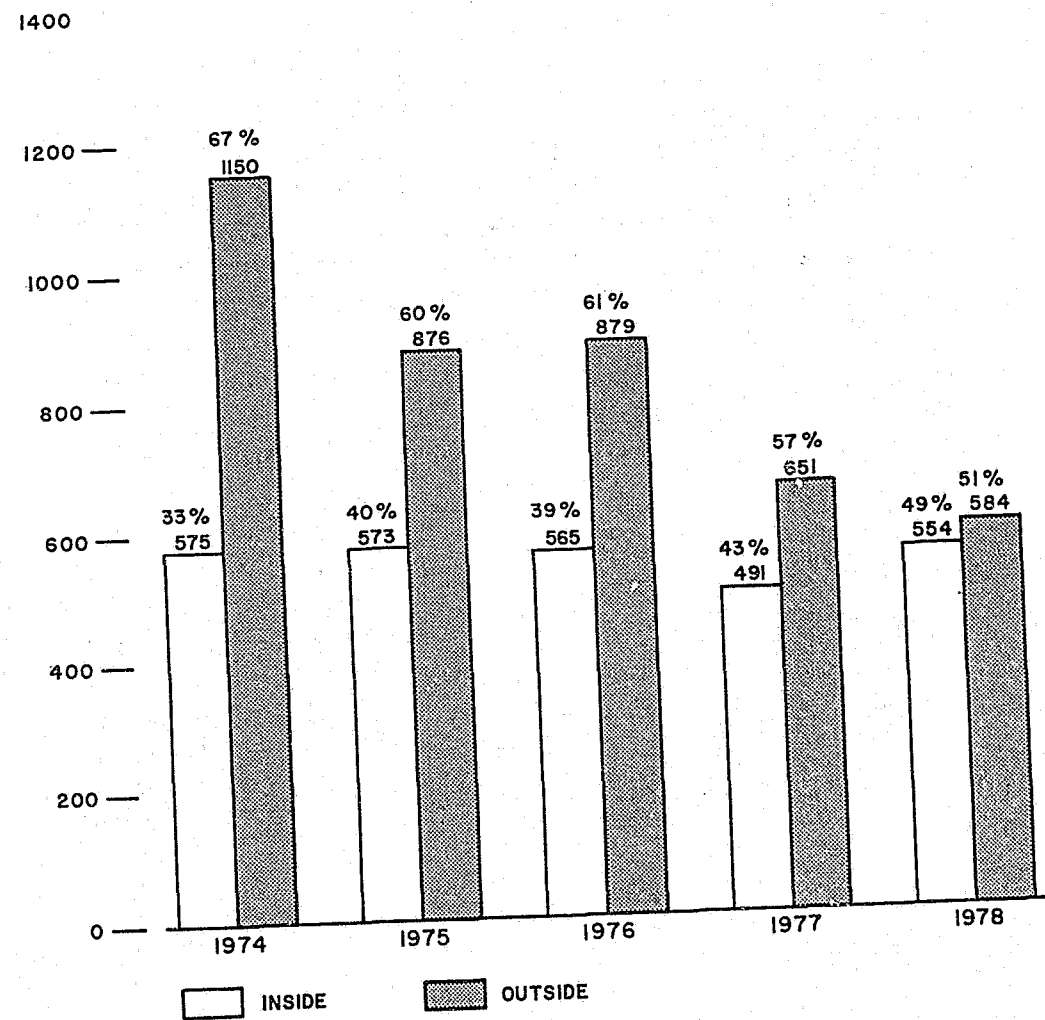
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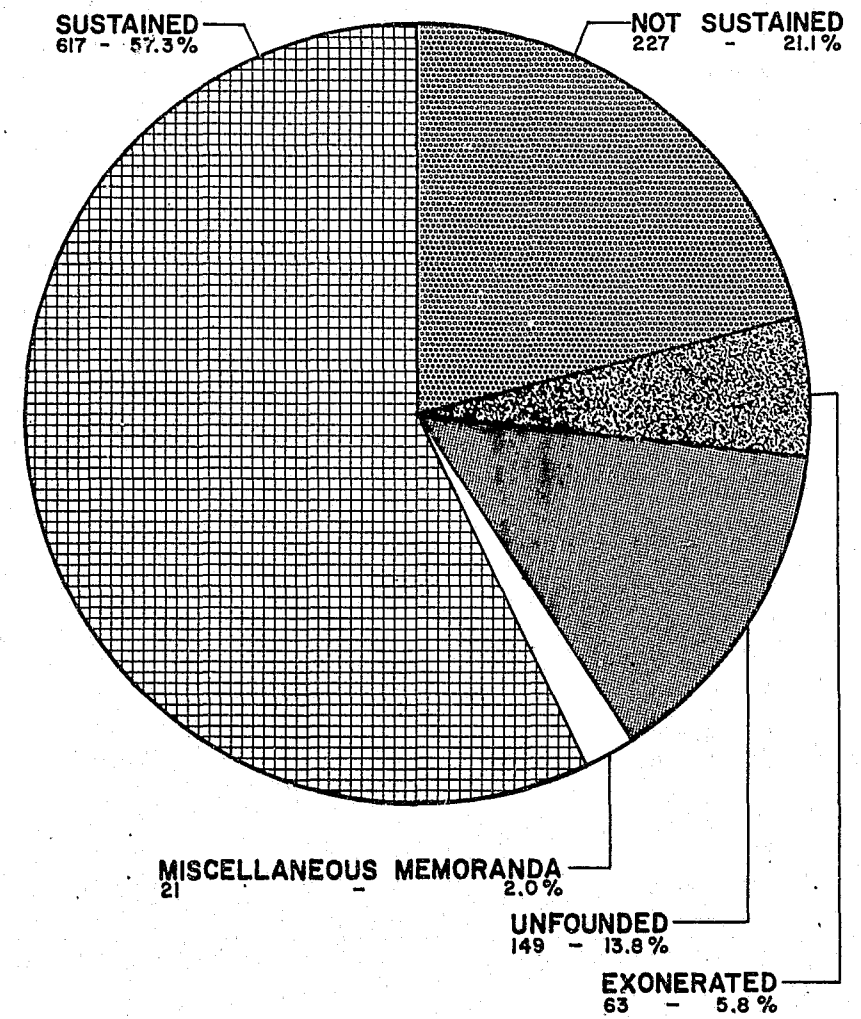
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**COMPLAINTS RECEIVED  
INSIDE VS. OUTSIDE**

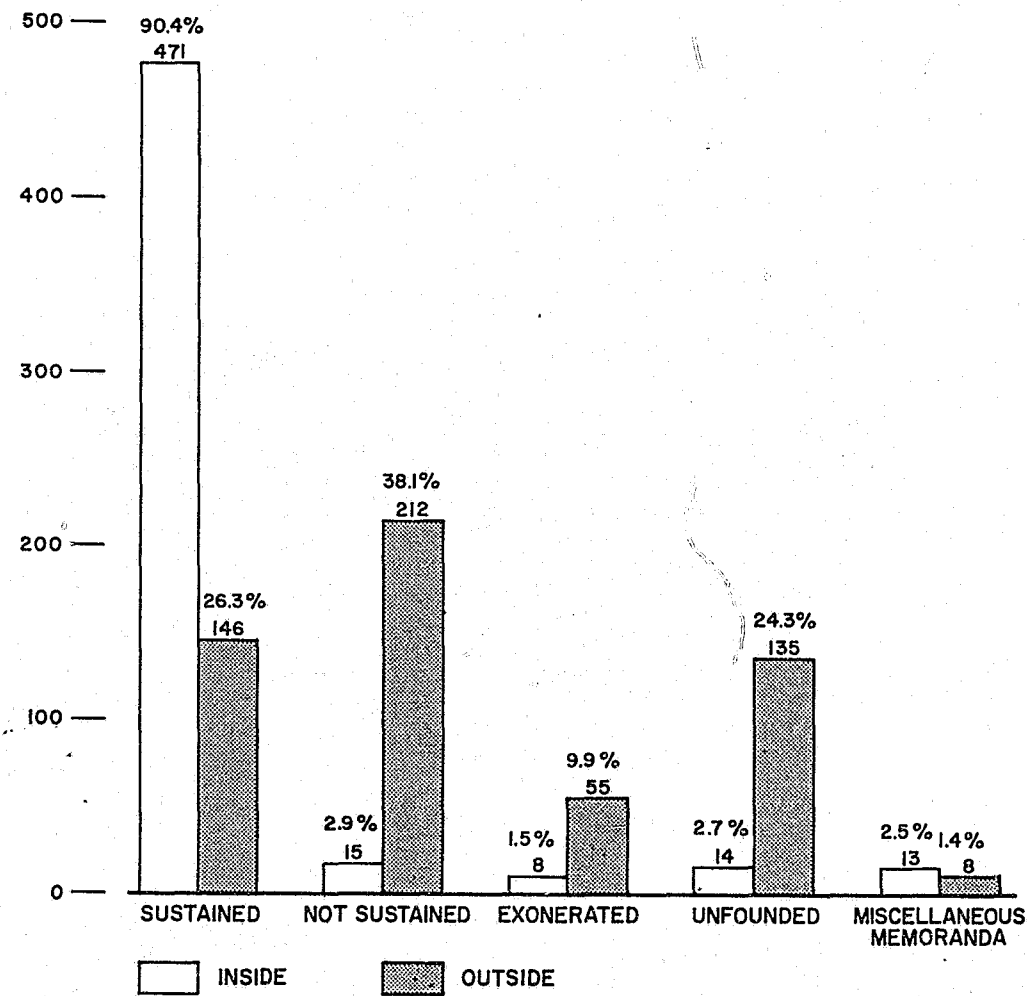
NUMBER .OF  
COMPLAINTS



**1978  
COMBINED DISPOSITIONS OF COMPLAINTS**

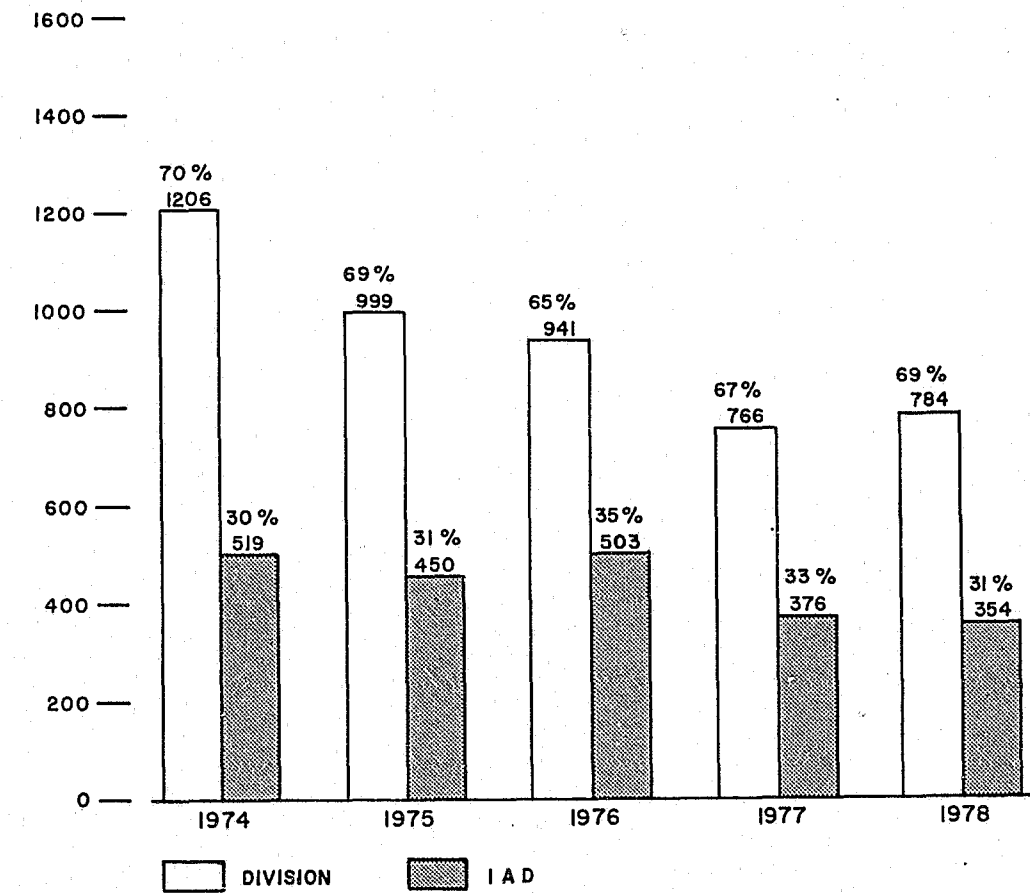


**1978  
DISPOSITIONS OF COMPLAINTS  
INSIDE VS. OUTSIDE**



**UNIT INVESTIGATING**

NUMBER OF COMPLAINTS INVESTIGATED



# Police-Community Relations In East Los Angeles, California

A Report of the  
California State Advisory Committee  
to the  
United States Commission on Civil Rights

October, 1970

CALIFORNIA STATE ADVISORY COMMITTEE

TO THE

UNITED STATES COMMISSION ON CIVIL RIGHTS

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PREFACEThe United States Commission on Civil Rights

The United States Commission on Civil Rights is an independent, bipartisan, factfinding agency of the executive branch of the Federal Government created by the Civil Rights Act of 1957. By the terms of that act, as amended by the Civil Rights Acts of 1960 and 1964, the Commission is charged with the following duties: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to denials of the equal protection of the law; maintenance of a national clearinghouse for information respecting denials of the equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

The State Advisory Committees

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission upon matters of mutual concern in the preparation of reports of the Commission to the President and Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Committee; initiate and forward advice and recommendations to the Commission upon matters which the State Committee has studied; assist the Commission in matters in which the Commission shall request the assistance of the State Committee; and attend, as observers, any public hearing or conference which the Commission may hold within the State.

This report is submitted to the United States Commission on Civil Rights by the California State Advisory Committee. The conclusions and recommendations are based upon the Advisory Committee's evaluation of information gathered by its members and by members of the Commission's Western Regional Field Office and the Commission's Office of General Counsel pertinent to the confrontation between Los Angeles County sheriffs' deputies and members of the Mexican American community following a Chicano Moratorium March in East Los Angeles August 29, 1970. The findings and recommendations included in this report will be considered by the Commission in its report and recommendations to the President and the Congress.

INTRODUCTION

Law enforcement agencies have a special authority and responsibility in our community. In a complex and imperfect society which requires respect for law and order as a prime prerequisite for survival, they have a special trust:

They must protect the people.

They, as all of us, were reared in a society which, throughout our history, has been infected with institutional racism. They react to personal pressures; they have personal feelings, personal likes, personal dislikes.

The police (as well as the elected officials and lawyers and businessmen who serve on this Committee) must be willing to allow others to comment on their actions and behavior. They must accept scrutiny, and be willing to stand accountable for their actions.

We, who employ them as our defenders, have a right to question their conduct.

We give them the white hats to wear.

And, because of the unique demands and the nature of their job, we give them unusual latitude in determining who wears the black hats.

We do this with the full knowledge that they--like the rest of us-- are only human.

Yet, too often, the police and other officials sharing in the responsibility for the administration of justice in our democratic society-- regard public scrutiny as an infringement of their rights.

We regard public scrutiny as essential.

Responding to its official charge to advise the United States Commission on Civil Rights of information relevant to its Federal mandate, the California State Advisory Committee (SAC) has, on several occasions over the past decade, conducted inquiries into the actions of our courts and law enforcement agencies pertaining to treatment of California's large Mexican American and black populations.

The SAC conducted public meetings in Los Angeles in September 1962, and San Francisco-Oakland in January 1963, to determine the extent to which minorities, mainly blacks, were victims of unequal administration of the law. These meetings resulted in a report published by the Commission in August 1963, which concluded that "police-minority group relations in the Bay Area appear to be much more healthy and open than in the city of Los Angeles." The report included several recommendations to Federal and local governmental agencies. Some of these have been effected, while others--including one that consideration be given by local and State agencies to the creation of an independent agency to investigate citizen complaints of police discrimination--continue to receive much negative reaction from law enforcement officials.

In January 1966, the SAC issued an analysis of the McCone Commission Report which followed the Watts riot, terming the McCone report "a bitter disappointment".

The SAC, whose Chairman at that time was the late Dr. James A. Pike, commented:

We cannot help but feel that the absence of constructive steps to avert a riot, and the lack of preparation for dealing with one when it occurred, constituted acts of gross negligence on the part of local officials.... We also find running through the McCone Commission Report a marked and surprising lack of understanding of the civil rights movement and a tendency to criticize those who ask for a redress of grievances rather than those who deprive citizens of their constitutional rights. ...

In May 1966, the SAC held a 2-day open meeting in Oakland to delve into that city's civil rights problems.

Among the many concerned leaders heard was the Reverend John Frickman, Pastor of St. John's Lutheran Church, who told the Committee:

Police are motivated to harass members of minority groups not merely out of prejudice against Mexican Americans and Negroes, but out of a belief that anyone involved in civil rights is ipso facto a part of the radical left and, therefore, against society.

In June 1967, the Committee held a 2-day open meeting in East Los Angeles, emphasizing the educational and employment concerns of the community. Although police-community relations was not a subject of the meeting, its intertwined relationship to other community problems became immediately apparent. Statements were taken illustrating how police harassment--detention without specific charges or police visits to employers and schools--caused young Mexican Americans to lose jobs or be expelled from school.

In August 1968, the California SAC conducted closed meetings in Los Angeles (coordinated with other SAC meetings and Commission hearings throughout the Southwest) to gather information for the Commission Report, "Mexican Americans and the Administration of Justice in the Southwest," which was released in March 1970.

This report painted a bleak picture of the relationship between Mexican Americans in the Southwest and the agencies which administer justice in those States.

"Acts of police misconduct," it concluded in part, "result in mounting suspicion and incite incidents of resistance of officers. These are followed by police retaliation, which results in escalating hostilities."

The Commission's latest report, entitled "Stranger in One's Land", was published this summer. This report centered on a recent Commission hearing in San Antonio, Texas. Armando Morales, Chairman of the California Unity Council's Police-Community Relations Committee, testified there that friction between law enforcement and the Mexican American community was on the increase.



The report continued:

One of the reasons for this increasing friction, Morales told the Commission, was that 'gradually the Mexican American community is becoming much more aggressive as to its social demands, its social needs. It is becoming more active. And, at the same time, law enforcement is becoming much more suppressive, hence creating that much more friction between the two.' Morales also contended that police aggressive behavior seems to be condoned by high level government.

Morales charged 'indifference and apathy to the justice and needs of the Mexican American' by the Federal Government. He said his council investigated 25 cases of alleged police brutality, five of which were submitted for consideration to the FBI. The FBI referred them to the U.S. Department of Justice, which in turn, Morales said, ignored the matter.

The Reverend John B. Luce, rector of the Epiphany Parish in East Los Angeles, agreed with Morales that communication between Mexican Americans and the Los Angeles police had broken down and said he feared "we are on a collision course in Los Angeles" along the lines of a "police-barrio confrontation." Rev. Luce charged that the Los Angeles police and political leaders with whom they might disagree, with young people, with a whole variety of activist people who want change."

The Anglo clergyman told the Commission that the indictment of 13 Mexican American leaders in the March 1968 East Los Angeles High School walkouts had led to the strong feeling that "the /Los Angeles/ district attorney has singled out the Mexican community because he thought they were weaker than some other communities" but that he "miscalculated on this point, because the Mexican is organizing even that much more."

The author of "Stranger in One's Land" concluded with his personal comment:

Perhaps the most positive result of the hearing was that barrio Mexican Americans came out of it with a feeling that the Government does care about them.

This was no small accomplishment. To Mexicans, el gobierno, the Government, has traditionally been a natural enemy. Until the Revolution of 1910, which at last made Mexico a free country, Mexicans experienced foreign dictatorships-- Spanish colonialism and the French imposed Emperor Maximilian, for example--and domestic dictatorships, Santa Anna and Porfirio Diaz.

It is not surprising therefore that Mexican Americans have an inherent distrust of Government. The older ones remember that during the depression of the 1930's, the Government "incited" Mexican resident aliens to leave the United States to what was almost certain worse poverty in Mexico. Many Mexican Americans over 30 in the border areas can remember unpleasant moments at the hands of the U.S. Immigration and Customs agents at border crossings. They remember learning to live with the fear of deportation posed by el gobierno which at any moment might demand proof that they're American citizens and not Mexican nationals.

To many Mexican Americans, dealings with el gobierno have always been unpleasant. The contacts with teachers, employment officials, social workers, police, and other representatives of el gobierno have, in many instances, left behind memories of mistreatment and insensitivity.

Something else very valuable came out of the hearing-- an underscoring of the gravity of the problems that are now bubbling to the surface in the Mexican American community. Only the most insensitive spectator could miss the sense of urgency of the problems of the Mexican Americans and the realization that delay in reaching solutions could only exacerbate those problems.

To our sorrow, the author did not live to see any real response to his concerns.

Instead, on August 29 of this year, he became a victim of the insensitivity which he had sought to eliminate. He was killed by a missile fired from an officer's rifle while covering the tragic confrontation between Los Angeles County Sheriffs and the Mexican American community during the Chicano Moratorium March.

He was, of course, Rubén Salazar.

His untimely and unnecessary death underlines the urgency of this report.

On the weekend of the East Los Angeles confrontation, State Advisory Committee Chairman Herman Sillas began receiving a continuing flow of complaints.

On Monday morning, August 31, he met with Philip Montez, Western Regional Director of the Commission, to coordinate any actions which the SAC would be taking with efforts of the Western Field Office.

Sillas convened an emergency session of the SAC in Los Angeles that night, where--because of the urgency and gravity of the situation--it was decided to send the following telegram to President Nixon:

THE MEMBERS OF THE CALIFORNIA ADVISORY COMMITTEE TO THE U. S. COMMISSION ON CIVIL RIGHTS URGENTLY REQUEST THE OPPORTUNITY TO MEET WITH YOU IN SAN CLEMENTE TO PRESENT OUR VIEWS AND RECOMMENDATIONS CONCERNING THE ESCALATING CRISIS RESULTING FROM LAST WEEK END OCCURRENCES IN LOS ANGELES INCLUDING THE DEATH OF RUBEN SALAZAR. WE BELIEVE THAT FEDERAL ACTION IS REQUIRED AND THAT TIME IS CRITICAL. WE WOULD VERY MUCH APPRECIATE YOUR MEETING WITH US BEFORE THE INTERMENT OF MR. SALAZAR WEDNESDAY AFTERNOON. PLEASE TELEPHONE HERMAN SILLAS CHAIRMAN AT (213) 380-8900 or (213) 254-5812.

On Tuesday afternoon, September 1, Sillas and SAC Vice Chairman Stephen Reinhardt met with United States Attorney Robert Meyer to apprise him of the SAC's concerns and offer any assistance.

That evening, the SAC reconvened, again in Los Angeles. It had received no response to its telegram to President Nixon, so it proceeded to develop its own action plan. The Committee asked Montez to contact Howard Glickstein, Commission Staff Director, to request that additional staff be sent to Los Angeles to assist the SAC in a preliminary investigation and assessment of the East Los Angeles situation. It specifically requested assistance from the Commission's Office of General Counsel.

On Wednesday morning, September 2, Glickstein agreed to send Deputy General Counsel, Lawrence B. Glick and an Assistant General Counsel, John C. Ulfelder, to assist in an investigation and evaluation the following week.

On Thursday, September 3, Montez, Sillas, and Reinhardt met with Sheriff Peter J. Pitchess to communicate the SAC's and Commission's concern and offer their full cooperation.

On Friday, September 4, Montez met with District Attorney Evelle J. Younger, again to communicate the Commission's concern and offer cooperation.

The two members of the Commission's Office of General Counsel arrived in Los Angeles on Wednesday, September 9, and have been working with the Western Regional Field staff and members of the SAC in making an independent assessment of the East Los Angeles situation since that time.

CHAPTER I  
A BACKDROP

Relations between the Mexican American community of Los Angeles and the law enforcement agencies with which it has contact--the Los Angeles County Sherriff's Department, the Los Angeles Police Department, and the California Highway Patrol-- have never been particularly cordial.

The law enforcement agencies historically have been composed of individuals whose cultural orientation is basically Anglo and who have very little understanding of the life style of the community which they are assigned to serve. Language differences have been compounded by cultural conflicts where a gesture or a word is immediately misinterpreted by two individuals trying to communicate.

In the not-too-distant past, a Los Angeles police chief made the much publicized comment that this city's Mexican Americans were not very far removed from the savage tribes of North Mexico. A few years ago, the Council of Mexican American Affairs exposed five cases of police brutality, and shortly thereafter, the sheriff responded by charging that protesting Mexican-Americans were guilty of "citizen brutality against the police." Attitudes created at the top are imitated through the ranks.

Every generation of Mexican Americans can remember some famous injustices perpetrated against its ethnic community by the Los Angeles Police Department, the county sheriffs, or perhaps, the United States Immigration Service: "Bloody Christman" of two decades ago--when some young Mexican Americans were brutally beaten by police in the station house; the "zoot suit" riots of the early 40's where the police and roving bands of servicemen banded against an "enemy" which included frightened 12 and 13 year-old boys; a continuing series of indignities by the United States Immigration

Service, with brown American citizens repeatedly being asked to prove their right to be here. "Operation Wetback" of the mid-50's made every brown American suspect, as hundreds of illegal aliens were herded into compounds and deported to Mexico.

These were the most notorious cases. Few families in East Los Angeles are without sad personal vignettes of their own encounters with "la ley".

The "public defender" image of the police officer has always been smudged in the barrio. But, until recently, the policeman was accepted by many as a stern, often unreasonable, sometimes cruel, fact of life that couldn't be changed.

Fifteen or 20 years ago, when so many Mexican American teenagers worked out their frustrations by joining anti-social and sometimes deadly gangs like "White Fence" and "El Hoyo", the policeman's invasion of the barrio wasn't challenged by the older folks; nor was it particularly so when narcotics use was a problem considered unique to the Mexican American community, and persons who smoked marijuana were referred to as "dope fiends".

In those days, parents accepted the fact that their children had sinned and society must punish them severely.

Today their children are taking on new "enemies" -- schools which have failed them, overly-oppressive police, bureaucrats who live off their poverty but are unresponsive to their needs.

Now the parents are learning about the double standards of law enforcement which have been working against them for so many years; about lack of representation on juries and about their rights as citizens.

It's a more sophisticated community. It understands how the subtleties of bigotry and institutional racism have been working against it.

Parents are talking with their children and, more than ever before, understanding what they say. They are involving themselves in social action.

They no longer assume automatically that when there's trouble with the police, their children are the ones who are wrong.

The barrio has changed, from the youngest generation to the oldest generation. It is not submissive.

This is something that law enforcement officials must first understand-- and then respond to.

## CHAPTER II

## WHAT LED UP TO THE EVENTS OF THE 29TH OF AUGUST

In June of 1967, the California SAC heard--in its opening meeting on education in East Los Angeles-- that a "blowout" was coming, that Mexican American students would be walking out of their schools soon in protest to the second-class education they were receiving.

The blowouts came the following school year, in March of 1968. Four Mexican American high schools--Lincoln, Wilson, Roosevelt, and Garfield-- were disrupted as a total of 15,000 students abandoned their classrooms for varying lengths of time during a 15-day period beginning March 1.

The largest walkout occurred at Garfield, when 2,700 of its 3,750 students remained outside the school for several hours one day.

School officials, apparently unsure of their own ability to cope with the situation, asked for assistance from law enforcement agencies on more than one occasion. Thomas Reddin, then Chief of Police in Los Angeles, blamed the disorders on outside agitators.

The attitude of the students toward the police was clearly indicated during the demonstrations: whenever police were present, disturbances erupted; when the police stayed away, the demonstrations were orderly and calm.

Roosevelt High School was the scene of the most disorderly demonstration. The Los Angeles police arrived at the school moments after 500 Mexican American and black students had walked out. A confrontation materialized, with countless students beaten by the police and several of them, both boys and girls, being arrested. At Lincoln twice as many students walked out and marched a mile to the East Area superintendent's office. The police kept their distance and no disorders materialized. At Garfield,

deputies armed with shotguns appeared during an outdoor assembly while 3,800 students were airing their grievances; their appearance on the scene created an uneasiness which caused school administrators to ask them to leave. The rally was completed without incident.

Before the school semester ended, 13 participants-- primarily students and teachers-- were indicted by the Los Angeles County Grand Jury for "willfully, unlawfully and feloniously" conspiring to disturb a public school.

The walkouts, the student arrests and beatings, and the felony conspiracy charges fanned the smoldering distrust between the community and the law. The sparks spread from the teenagers to their parents, and the credibility of the system of justice was still further weakened.

The Commission's Western Regional Office in Los Angeles received complaints against the sheriffs and police with new regularity. Most of the complaints dealt with unnecessary harassment--stop and frisk--although brutality complaints also increased.

During the spring semester of this year, peaceful student demonstrations in front of Roosevelt High School were met with force by the Los Angeles Police Department's Metro Squad.

Again students were beaten and jailed. More parents began questioning the function the police served in the community-- was it to protect its people or to repress them?

On July 3, a well-advertised preview of last month's Chicano Moratorium was staged on Whittier Boulevard, popular "cruising grounds" for Mexican American high school and college students on weekend evenings.

A store window was broken. Police, alerted by anonymous leaflets predicting trouble, moved in and arrested those who failed to disperse quickly enough. Some community residents claimed that the police overreacted, and some of those arrested claimed they were beaten in jail.

Further polarization between police and community resulted from this incident. This Committee received complaints, not from the youngsters involved, but from their parents and from heads of responsible community organizations.

The SAC had planned to hold an open meeting to air police and community problems in September 1970 but before the meeting could be held, the tragic events of August 29 took place.

"The relationship between a community and its police should be based on public trust," a community representative told a Commission on Civil Rights staff member. "Whether the law knows it or not, it's based on public mistrust now. They seem to forget that we're the public, even if we are brown."

The staff member footnoted his report to the Commission:

It's ironic that the peace is kept better in East Los Angeles when the police aren't around.

A harsh judgment, perhaps, but one which reflects an attitude displayed by nearly every person interviewed.

## CHAPTER III

AUGUST 29

Chicanos didn't plan this violence. We don't take our babies to a thing of terror and violence. -- Martha Torres, stenographer (as quoted in the Los Angeles Times.)

\* \*

Between 15,000 and 20,000 persons--mostly Mexican Americans-- were in East Los Angeles on August 29 to attend a well-publicized National Chicano Moratorium March.

The event was organized by Rosalio Munoz, former UCLA student body president, and supported in near unanimity by Mexican American organizations throughout the Southwest.

Its purpose was to protest United States' involvement in the war in Southeast Asia and, simultaneously, to decry the high percentage of Mexican American battle casualties, both wounded and killed in action.

Moratorium leaders urged young Chicanos to resist military service abroad in favor of fighting for social justice at home.

The Moratorium Committee had kept the police fully informed of its intentions and program. It provided monitors to accompany the marchers and maintain order.

The Los Angeles County Sheriffs were to clear the parade route and to direct traffic as necessary at cross streets. Concerned by the influx of young Mexican American militants from all over the Southwest for the event and by reports of possible trouble from revolutionaries and other subversive groups, the sheriffs also made additional preparations to meet any situations which might develop. No public announcement of any

dangers from revolutionaries bent on creating a confrontation was made, and many of those who attended the event brought their entire families.

The marchers gathered in East Los Angeles' Belvedere Park and followed a scheduled parade route down East Third Street, Beverly Boulevard, Atlantic Boulevard, and Whittier Boulevard where it ended at Laguna Park.

According to sheriffs' reports, the marchers had traveled only five blocks when some deputies became targets for rocks and bottles.

It was there, according to Sheriff Peter Pitchess, that marchers took over the entire width of the street, violating their parade permit which limited them to only one-half of it.

At 2:34 p.m., a liquor store at 3812 Whittier Boulevard was looted and windows were broken and a second store was looted at 3:25 p.m., according to the sheriff.

Officers with riot guns were already stationed at street-corner barricades.

It was at 3:10 p.m. that the sheriffs had decided to declare the situation "critical" and move in to disperse all crowds in the area. They used tear gas freely.

At the peak of the turmoil, a dozen fires burned out of control along Whittier Boulevard, and about 500 police and sheriff's deputies were involved. Sheriff Pitchess reported that 40 officers were injured in the melee and that 25 radio cars were damaged.

A main battleground was Laguna Park, at the end of the parade route, where marchers had settled on the grass to listen to music and hear a series of speakers.

Following a disturbance at the edge of the park, the sheriffs moved in with tear gas to disperse the entire crowd.

It is this action and resultant incidents which have drawn most of the complaints from the community.

Community members charge that the sheriffs over-reacted and in breaking up a peaceful assembly, turned on the panic and hostility.

Citizens have complained by the dozens of unwarranted brutal treatment by the deputies. An exact toll of injured civilians is not yet known, but arrests during and following the confrontation exceeded 400.

In an official memorandum from Herbert L. Carter, executive director of the Los Angeles County Commission on Human Relations to the official county body's commissioners, the events of August 29th were described:

On Saturday, August 29, three members of our staff observed and/or participated in the parade/rally. All agree that the march along East Third Street, Atlantic Boulevard, and Whittier Boulevard was peaceful, festive and non-violent, except that near the corner of Eastern Avenue at Whittier Boulevard, a young man threw a bottle at a parked patrol car. That young man was immediately reprimanded by parade monitors and was carefully watched throughout the remainder of the parade.

As the parade progressed westward on Whittier Boulevard toward Laguna Park and the culminating rally, persons along Whittier Boulevard were urged to join the march and many of them did. Although the festive atmosphere was maintained, cries of 'Chicano Power' and 'Viva La Raza' were now heard more frequently and forcefully.

When the parade participants reached Laguna Park, they were joined by perhaps 8,000-10,000 additional persons who had not participated in the march. Our staff estimated that the crowd then numbered 20,000 people, with perhaps 80 percent of them being under 25 years of age. The gathering at the park was, according to our staff consultants, peaceful. Although, admittedly, one could hardly see because of the masses of people in such a small area nor could one hear too well because the sound equipment was insufficient either in quality or quantity. The crowd was entertained by folk songs and dancing and was commended by Rosalio Munoz, Chairman of the Moratorium Committee, for their participation. It should be noted that although the predominant numbers of the rally were identifiable as Mexican American, the

crowd also included Anglos and blacks in sizable numbers. Moreover, there were large numbers of teenagers and children.

At approximately 3 p.m. staff persons observed a considerable number of bottles (wine and other alcoholic beverages) in the park area and decided to leave since members of their families were present. As one staff person began to leave the park, he heard a siren of an approaching police vehicle. At this point, many of the people began to leave the entertainment area to see what was going on. The rally monitors, with the use of a loud-speaker, attempted to get the crowd to stay in the park and urged them not to move from that area. As our staff member began to observe what was going on on Whittier Boulevard (a number of police patrols had been called to a liquor store approximately a half block down the street) he noticed bottles being thrown at police vehicles on Whittier Boulevard. Shortly thereafter he heard the sound of many sirens and observed a large number of police cars converging on Whittier Boulevard and approaching Laguna Park. At this point, people were running all over the park in panic. Our staff person indicated that he was able to hear transmissions on the patrol car radios, but at no time did he hear a declaration on the part of law enforcement officials that the rally in Laguna Park had been declared an unlawful assembly. Our staff person reported that tear gas was dispensed toward the crowd, and inasmuch as he was affected by the tear gas, he proceeded to leave the park area. After crossing the street, he observed the scene one final time and noted that a number of police car windshields had been smashed, several people had been injured and destruction of properties along Whittier Boulevard was beginning to take place.

First of three fatalities attributed to the riot was Rubén Salazar, Los Angeles Times columnist and news director for Spanish language television station, KMEX.

Salazar had spent the day covering the moratorium and ensuing trouble. He had stopped at the Silver Dollar Cafe at 4945 Whittier Boulevard with another newsman when he was shot through the head by a tear gas missile fired by a member of the sheriff's department.

There are many conflicting stories surrounding the events which led up to his death.

An inquest into the death of Salazar is now being conducted by the county coroner. Mexican American groups who have been monitoring the inquest proceedings walked out twice, charging that the inquest was a "sham".

These recent happenings, plus the fact that Salazar was regarded as the Chicanos' most eloquent spokesman have raised doubts in the community which only an independent high-level investigation into all of the facts can resolve.

## CHAPTER IV

## THE SITUATION TODAY

The U. S. Commission on Civil Rights' Western Field Office and a special investigation team from the Commission's Office of General Counsel spent several days in the field in East Los Angeles following the events of August 29.

The citizens they interviewed fell into four general categories: (1) officials and law enforcement officers, (2) businessmen and identified community leadership, (3) community persons, and (4) youth and students.

While the individuals interviewed sometimes disagreed on the direct causes of the confrontation with the police, they were unanimous on one point:

There has been a dangerous breakdown in communication between the community--all of the community--and the police. Relations are bad and getting worse.

Future confrontations, most felt, are inevitable unless the Government can regain the confidence of the community, unless the Government and law enforcement agencies develop a new set of attitudes and a new approach to the continuing problems of poverty, unemployment, and lack of equal education in East Los Angeles.

Captain Thomas Pinkston, commander of the East Los Angeles Sheriff's Station since July, 1968, told Commission investigators that tensions are getting worse. He cited an increase in attacks on his officers and more instances of resistance to arrest than in the past. As a result, he said, his officers must use more force and this has led to more complaints of brutality against his officers. Pinkston remarked that during the last year there has been a significant increase in community activity in his jurisdiction and that it has resulted in constant confrontation be-



tween his officers and members of the Mexican American community. Often the issues do not directly involve law enforcement (i.e. the high school walkouts), but law enforcement officials are called in to help maintain order, and quickly become objects of criticism and are attacked for their actions, he added.

Mexican Americans who live in the community told Commission staff that the basic problem is constant, daily harassment. As the Commission pointed out in its recent report, Mexican Americans and the Administration of Justice in the Southwest, many Mexican American young men throughout the Southwest complained of being constantly stopped and frisked by law enforcement officers as well as undergoing other types of harassment. Young people in East Los Angeles describe similar tactics to Commission investigators. They complained that they are continuously stopped in the evening hours and questioned about their activities.

They stated that the officers were rude, used abuse language, and in some instances threatened them. A number of young men complained that officers and deputies have referred to them as "Pancho" when addressing them. One officer was quoted as telling a group of young men, 'I'm anxious to shoot one of you guys,' while his partner tapped a light pole with his baton. Several of the young men interviewed pointed out that the young men in the community exacerbate these contacts by talking back to the officers in such situations. The officers, in turn, get angrier and the situation becomes more volatile.

Also interviewed was a former civilian employee of the Los Angeles Police Department who worked on a program to improve relations between the Los Angeles Police Department and gangs in Lincoln Heights for the police-community relations unit. He described attempts to bring police

officers in the Hollenbeck Division together with the young men who were complaining about police conduct. A meeting was held at which the young men told the officers exactly what they thought was wrong with their actions in the community. The officers became defensive, the interviewee related, and the meeting broke up. No further meetings were held.

A Commission staff member visited one area cited by the young people as too heavily patrolled and "a sure street to get harassed on". He observed many police vehicles, some marked and others unmarked. A number of them were assigned to the Metro Squad. A police patrol helicopter passed over the area on several occasions.

Many persons alleged that police helicopters awaken people living in the housing projects by "buzzing" them unnecessarily late at night.

The young men were particularly critical of the Metro Squad, claiming that Metro officers stopped and checked out people repeatedly for no reason. An officer with the Los Angeles Police Department explained that the Metro Squad is called into a particular area at the request of the division captain to deal with a particular type of crime problem. When they are in an area the officers "shake, rattle, and roll" everyone in the area. In the process of saturating an area, they may inadvertently stop and question citizens who are traveling to and from work or otherwise engaged in legitimate activity. The officer stated that Metro Squad activities are effective in cutting down the crime rate. This is viewed by the police department as a legitimate crime prevention technique despite the adverse effect it may have on members of the community.

The alternative, law enforcement officials claim, is to evoke complaints from citizens and merchants in these areas that they are not receiving adequate police protection. The officials expressed bitterness about such complaints. "If we put in extra officers to provide more protection, we are accused of over-policing. If we don't, we are accused of ignoring the minority community."

Several young men who were interviewed are involved in a barrio group formed to organize young people in the housing projects to prevent the use of drugs and to seek change in the community. Members of this group said they had been singled out for severe harassment by local law enforcement officers because of their activities. They claimed that their headquarters is constantly watched and that when their meetings break up, cars belonging to people who attended are often stopped for no apparent reason.

Several Mexican American law students also said that law enforcement officers pick out the activists in the community for particular harassment, a method which they claim is used to maintain political control of the Mexican American community. In some cases, they claimed, police officers plant marijuana on activists when they are stopped as a device for an excuse to arrest them, as well as to discredit them in the community. Often, according to the law students, those arrested are eventually released with the charges dropped. The students reported that law enforcement officers are always present at meetings of activist community organizations, taking down license numbers, and stopping cars leaving the meetings. This type of harassment, they said, has the effect of increasing community frustration and the likelihood of violent confrontation. Similar tactics

are used by the sheriff's officers partolling Whittier Boulevard, they added. Cars with young Mexican Americans are stopped on the grounds that they have defective equipment or on suspicion that the driver does not possess a driver's license. The young people are asked to step out of their car. They are searched, and their cars are searched. (Captain Pinkston said that there was increased patrol in the area because he had received many complaints about traffic jams on Whittier Boulevard because young people were cruising in the area.)

It is clear that the youth of the community has a special problem. Many of them do not have a place to gather and thus are forced to spend their evenings on the street. There they come in contact with the many law enforcement officers assigned to patrol the areas where they hang out.

However, older residents of the community, while they are not on the street as much as the young people, also complain of harassment by law enforcement officers. Many of them observe that they were subjected to similar harassment when they were younger and, as a result, grew to distrust and dislike all law enforcement officers.

A law student told Commission investigators about a 35-year-old man who was watching television in his East Los Angeles home. He heard a disturbance outside and went to his window, where he saw several sheriff's deputies mishandling a Mexican American suspect. He yelled at the deputies to cut it out and they warned him to mind his own business. He went back into his house. Approximately 15 minutes later his house was surrounded by deputies, who allegedly broke in and arrested him for interfering with an arrest. Later, the man involved in the incident chose to plead guilty to a lesser charge and was fined 50.

A local clergyman, who has worked in the East Los Angeles community for 6 years, pointed out that many of the officers in that district totally lack understanding of it. Most of them do not live in the area and very few have ever lived there. They are not familiar with Mexican American culture and many of them do not speak Spanish. To many Mexican Americans, he said, the approach used by law enforcement officers often humiliates them and is an automatic trigger for argument and resistance.

A member of the Los Angeles Police Department told a Commission staff member that a large number of Anglo officers on the police force are not originally from Los Angeles and have had very little contact with Mexican Americans. When they are assigned to Hollenbeck Division, they find themselves in a totally new world and they learn about Mexican Americans by the contacts they make while on duty.

The clergyman also pointed out that the residents of East Los Angeles have very little control over their own affairs. As a result, they have almost no impact on reforming the educational system and other areas of policy which deeply concern them. They have tried to obtain beneficial change through the democratic process, but have been thwarted by the outside community. This has generated deep, growing frustration. Law enforcement officials, the clergyman felt, become a symbol of the power structure - the police and the deputies. However, law enforcement officers have contributed to the situation because of the way they have acted and the way they treat the residents of the barrios, he concluded.

A leading banker and businessman in East Los Angeles also spoke of the frustrations of the Mexican American community in trying to get help from the Government in solving the problems of education, welfare, and unemployment. He also mentioned the continuous contact between the poor

Mexican American, who uses his old car to go to work but is stopped by the law enforcement officer for driving a car with defective equipment. "This type of contact contributed to an atmosphere ripe for possible violence," as he remarked. "Once sparked, the kindling is there."

Persons contacted by Commission staff in connection with this report universally criticized existing police-community relations programs as being completely ineffective. A number of them commented on the fact that the police-community relations programs conducted by both the sheriff's department and the Los Angeles Police Department were either used for intelligence gathering or for strictly a public relations benefit. As an example, they mentioned the fact that sheriffs deputies involved in the community relations program testified before the local grand jury considering possible indictments in the school walkout case. In other instances, Mexican Americans said they learned that community relations officers were turning information over to intelligence units and could not be trusted. The information, they said, was used to help identify anyone in the Mexican American community who wanted change and who criticized law enforcement.

A young man recently employed as a civilian with the Los Angeles Police Department's Police-Community Relations Unit said that when he found out that all he was hired for was to gather information about street gangs for the Los Angeles Police Department he quit. Although he thought that some officers were deeply concerned about improving police-community relations, most officers, he claimed, were not. In his opinion, many law enforcement officers want things done their way and want everyone to be like them. "Their attitude is, if you are not like them, you are no good," the young man said.

When interviewed by Commission staff members, Captain Pinkston said that 30 percent of the men in his command have had in-house community relations training and more would be starting training. He added that many of the deputies resent it and do not want to go to the classes. There will be a volunteer Spanish class beginning in the East Los Angeles Station soon. Although as many as 50 men sign up for such up for such a class, Pinkston said, the class often ends up with five men because of scheduling conflicts.

A member of the Los Angeles Police Department said that most of the officers think community relations training is a waste of time and has nothing to do with their primary job--enforcement of the law.

Mrs. Sirel Forster, executive director of the East-Central Welfare Planning Council, also talked with a Commission representative. The East-Central Welfare Planning Council brings together the top supervisory people from both public and private agencies in an effort to coordinate efforts in the East Los Angeles community. Mrs. Forster stated that until a year ago, her agency had had a good working relationship with both the Los Angeles Police Department and the Los Angeles County Sheriff's Department; since that time no really effective communication has existed. To illustrate her point, she cited the police department's attitude when attempts to establish a Rumor Control Center in East Los Angeles were made.

About a year ago, her executive committee solicited the participation and cooperation of the captains of the Hollenbeck Station (LAPD) and the East Los Angeles Sheriff's Station. This action was prompted by increasing tensions between local high school students and police.

The captain at Hollenbeck declined to cooperate in the venture. It was his opinion that if persons wanted information they could contact the station. Since that time, there has been no real communication with her agency or, for that matter, with any of the other agencies represented on that committee, Mrs. Forster said. She added that there is a growing alienation on the part of these established agencies against the police. She observed that "Police as an institution are threatened by all agencies, especially now that Mexican Americans are demanding and pushing these traditional status quo agencies to respond more positively to the needs of the community. The police, on the other hand, have now alienated themselves from these agencies because they aren't happy with their association with what they consider to be militant organizations."

Historically, the police have always cooperated and worked closely with these agencies but, as Mrs. Forster stated, "Today the police suffer from an extreme case of paranoia and have completely set up barriers of communication, not only with residents of the community, but also with professional people working in the community." She added that law enforcement officials consider police-community relations important only when the police need help. "Police-community relations is now in the hands of the people, not the police," she commented.

Robert Buley, director of Casa Maravilla, a privately-funded youth drop-in center located in the middle of the Maravilla low-cost housing projects, described his attempts to establish communication with law enforcement agencies when the Center opened less than a year ago. The projects traditionally have been troublesome for law enforcement officers because of the high rate of gang activity and confrontations with police.

Buley asked the captains of both the Monterey Park Police Department and the East Los Angeles Sheriff's Station if they could stop by now and then and talk to the young men at the Center on an informal basis.

The Monterey Park police responded not only with regular visits to the Center, but by instituting a "ride-along" program for the youngsters at the Center.

Captain Pinkston of East Los Angeles explained that he could not authorize any such visits because of manpower shortages and importance of other priorities, Buley related. Relationships today are excellent with the Monterey Park police, but when the sheriffs finally did come around for a visit on the day following the moratorium trouble, Buley said that he had to advise the deputies to leave before sundown because he could not be responsible for their safety.

"When the community wants something, it's not important to the sheriffs, but now that they need the cooperation of the kids, it's top priority," Buley said. An ironic "benefit" from the confrontation of the 29th is that rival gangs are getting along better than ever now, he said. Unity is word of the day, and the new scrawls on the walls of the projects aren't competitive gang slogans. Now they say, "Down With the Pigs".

Richard Cardoza, director of a county probation department youth project in East Los Angeles, described the community relations program of the sheriff's department as "next-to-nothing," with the officers in it considered as being an extension of the intelligence division.

"Police are determined to keep law and order at any cost," he observed, "and that's a price the community won't pay any more."

Harassment and over-policing are the number one complaints of the youth of East Los Angeles but their individual grievances aren't likely

to attract any official attention.

They offered Commission investigators two basic reasons for not filing charges of misconduct against officers who abuse them:

1. They are afraid of retaliation and increased harassment.
2. They say that nothing will be done about it anyway.

As a general rule, the community indicated very little confidence in the current methods of dealing with misconduct complaints, particularly because they are handled by the agency the complaint is against. A local police officer told a Commission staff member that in his opinion the Los Angeles Police Department is tough on officers involved in such incidents and is anxious to identify and deal with any officers who are involved in misconduct. However, he also explained that officers with bad records are forced to remain on patrol, while hard-working officers with clean records are advanced to positions where they no longer have extensive contact with the public. Thus the officers who may have been involved in misconduct are still meeting the public, while the good officer is somewhere else in police work.

In its investigations in East Los Angeles, the Commission found police relations to be the Number 1 concern today. A feeling that the police were doing their job well was generally lacking. In its place were two attitudes toward the police: Anger and Fear.

Neither indicates that law enforcement is working for the Mexican American who lives in that community.

CHAPTER V  
RECOMMENDATIONS

1. In the view of this Committee there has been inadequate Federal concern for possible violations of Federal law which have occurred in the past in East Los Angeles and which may have occurred on August 29, 1970.  
No Federal agency has yet conducted an investigation to sort out the facts and to determine whether Federal laws were violated by local law enforcement agencies in the measures which they took to disperse the gathering of persons whose primary interest was a peaceful demonstration.  
The Committee is also concerned that no Federal agency has conducted an independent investigation into the circumstances surrounding the death of Ruben Salazar. It is aware that the United States Attorney is carefully monitoring the investigation being conducted by the Los Angeles County Sheriff's Department; had an observer present at the county coroner's inquest; and will receive a transcript of the proceedings of this inquest. It is also aware that this information is being reviewed by the Department of Justice in Washington. The United States Attorney has stated that he will await further action pending the completion of the sheriff's investigation and the coroner's inquest. These investigations, however, are limited to a determination of whether any State laws were violated and are in no way determinative of whether violations of Federal law were perpetrated by the individuals responsible for the death of Mr. Salazar.

In light of these circumstances, the Committee urgently recommends that the United States Commission on Civil Rights request that the Attorney General direct the Department of Justice to conduct a complete and independent investigation to determine whether the rights of any person protected by the Constitution of the United States were violated by law enforcement agencies in East Los Angeles on August 29, 1970.

The Committee urges specifically that the United States Commission on Civil Rights also request the Justice Department to conduct an independent investigation to determine whether the actions of the Los Angeles County Sheriff's Department which resulted in the death of Ruben Salazar constituted a violation of Federal law.

2. It is clear to this Committee that relations between law enforcement agencies and the Mexican American community in Los Angeles are bad and getting progressively worse. It believes that a thorough investigation and public airing of this situation are absolutely necessary as a minimum starting point for improvement in police-community relations. It, therefore, recommends that the United States Commission on Civil Rights hold a public hearing in Los Angeles to examine in detail the area of police-community relations, as it involves both the Los Angeles Police Department and the Los Angeles County Sheriff's Department.
3. Although many individuals in the Mexican American community indicated that that they had personally had experiences or witnessed incidents

involving questionable police conduct, they did not pursue these complaints through currently constituted channels. They had little faith that the Los Angeles Police Department or the sheriff's department would deal adequately with these complaints. A few individuals who had pursued such complaints said that they were subject to further harassment because they had filed a complaint. Unless citizens are willing to come forward and complain, and unless their complaints are handled with fairness, little purpose is served by current complaint methods.

In its December 2, 1965 report, Violence in the City -- An End Or A Beginning?, the Governor's Commission on the Los Angeles riots made several recommendations calling on the Los Angeles Police Department and the Los Angeles County Sheriff's Department to make certain changes in their complaint procedures. Four and one half years later few changes have been made in these procedures and the handling of civilian complaints alleging misconduct by law enforcement personnel is still an unresolved issue. The Committee recommends that an office with law enforcement agency representation, but operating independently of and with authority over law enforcement personnel, be established by the city and the county to accept and act upon complaints by citizens against law enforcement officers.

4. At the present time no agency other than the agencies directly involved in citizen complaints is independently monitoring and evaluating police-community relations in Los Angeles. The Committee, therefore, recommends

that the United States Commission on Civil Rights jointly with the United States Department of Justice Community Relations Service seek additional funds to enable staff observation, monitoring, and evaluation of police-community relations in the minority community in Los Angeles County, covering a period of 1 year.

5. To establish communications between local law enforcement officials and the Mexican American community, the Committee recommends that the Los Angeles City Council and the Los Angeles County Board of Supervisors direct the city and county human relations commissions to form a committee to include representatives of the Los Angeles Police Department, the sheriff's department, local businessmen, young people, and community leaders from such organizations as the Congress of Mexican American Unity. Such a group should be empowered to conduct appropriate investigations and to recommend changes in current law enforcement procedures and community relations programs.

APPENDIX  
 UNITED STATES COMMISSION ON CIVIL RIGHTS  
 WASHINGTON, D.C. 20425

ADDRESS REPLY TO:

Suite 602  
 704 South Spring Street  
 Los Angeles, California 90014

September 14, 1970

Herman Sillas, Esq., Chairman  
 California State Advisory Committee  
 U.S. Commission on Civil Rights  
 Los Angeles, California

Re: POLICE COMMUNICATION OR CONFRONTATION

Dear Mr. Sillas:

On June 7, 1968, the late Paul Coates wrote in the Los Angeles Times, (See page 12, hereunder) that help was needed by a student group in East Los Angeles which had been seeking to bridge the communications gap between the community and the Police Department, without success.

On July 18, 1968, the Silver Lake Advertiser, (Page 13, hereunder) made reference to a breakdown in community relations with the Police Department and its advisory council.

The Chief of Police had not followed recommendations, and non-cooperation with its own advisory group had increased community tension. The Unity Council was made up of the following organizations in the Eastside: MAPA, G.I. FORUM, LULAC, CSO, Association of Mexican American Educators and Council of Mexican American Affairs.

Prior thereto, on September 11, 1967, the intercession of District Attorney Evelle Younger had been sought by the General Counsel of MAPA, Atty. Manuel Ruiz, Jr., in writing, to arrange a high level conference with Chief of Police Tom Reddin. (See pages 6 to 9 hereunder).

It was believed that Chief Reddin's prestige among police and other law enforcement agencies, including the Los Angeles County Sheriff's Department, was pivotal. A letter had been written, (See pages 3-4), to Tom Reddin, by MAPA State President, Bert Corona, relevant to the misuse of firearms by law enforcement authorities, and offering cooperation. A request was made to

Herman Sillas, Esq., Chairman

-2-

confer on a planned format for "community implementation or collaboration with law enforcement authorities", should the same be needed at a time of crisis.

The relationship between law enforcement officials and the Mexican American community had been rapidly deteriorating for a period of time prior to 1968. (See letter to the U.S. Atty. General, pages 18-19).

The purpose of the sought for conference was to have an across the table discussion because of the alleged high incidence of fatalities and beatings suffered by Mexican Americans at the hands of law enforcement officers throughout the State of California. Attorney Ruiz had mailed to Chief Reddin a copy of an executive session resolution of MAPA, (See Resolution, pages 10-11), which was highly critical of Chief Reddin.

The Chief of Police did not answer the Resolution mailed to him, which offered collaboration and cooperation from State-wide Mexican American leadership. Instead, an investigation followed by law enforcement authorities as to whether the same could be attributed to communists!

Such imputation of subversion to good citizens was unfortunate.

Reference to the Resolution was published in the Los Angeles Times, dated September 21, 1968, and appears hereunder at page 2. It is to be noted that when the Chief was questioned by the news media concerning the same, that he was unable to recall the matter.

The Mexican American Political Association is a California statewide bi-partisan organization composed of local grass roots chapters. A copy of the statewide convention program held by MAPA in July, 1968, is added hereto, (See pages 20 et seq.,) to show that the objects and purposes of said state convention was in keeping with the best tradition of good American citizenship.

The erosion of relations between many Mexican Americans and law enforcement officers in California, goes back many years. At page 14, is a copy of a letter dated May 21, 1943, written by a young Mexican American, on Mexican American police relations, to Judge A.S. Guerin, now deceased, with copy to the undersigned. This was during the year of the Zoot Suit riots in Los Angeles. Said letter could well have been written yesterday. It is poignant. The answer of Judge Guerin is set forth in full at pages 16 to 17.

The above letters were discussed between the undersigned and




Herman Sillas, Esq., Chairman

-3-

11/14/70

Ruben Salazar, three days before the latter's death, on a proposed series of articles to be entitled, "WHAT PROGRESS IN THIRTY YEARS OF POLICE COMMUNITY RELATIONS?"

Very truly yours,



Manuel Ruiz, Commissioner

MR:adh

U.S. COMMISSION ON CIVIL RIGHTS,  
WESTERN REGIONAL OFFICE,  
Los Angeles, Calif., June 25, 1979.

To: WRO/Philip Montez.

Subject: Analysis of the Los Angeles City Charter As It Relates to the Los Angeles Police Department.

The powers and duties of city officers under the Los Angeles city charter as they relate to the police department are summarized below.<sup>1</sup>

## BOARD OF POLICE COMMISSIONERS

The board of police commissioners is comprised of five commissioners who have control and management of the police department (Secs. 70(b), 77, 78). Commissioners are appointed and removed by the mayor, subject to the approval of the city council in appointment and removal (Sec. 73). Commissioners serve for five year terms and are headed by a president and vice-president (Secs. 72, 74). When the mayor fails to make an appointment following an expired term, the city council president shall make the appointment. (Sec. 73).

The board of police commissioners has the power to appoint and remove the chief of police of the police department (Sec. 79(a)). The board may issue instructions to the chief of police concerning his exercise of any powers under the city charter; the chief's failure to comply with these instructions or his/her incompetency, dishonesty, discourtesy, or neglect of duties constitutes adequate grounds for removal from office by the board (Sec. 79(a)).

The board of police commissioners has the power at its option to divide the police department into two bureaus and appoint a general manager or chief administrative officer for each bureau in lieu of one general manager for the entire department. Both general managers shall be appointed by and directly responsible to the board. The chief of police shall be the general manager of one bureau, but not the bureau assigned to enforce traffic laws applicable to the city. The board may abolish the two bureaus and consolidate them again (Sec. 204).

## CHIEF OF POLICE

The chief of police is the general manager and chief administrative officer of the police department which enforces the charter's penal provisions, city ordinances, and federal and state laws (Secs. 198, 199). He/she is appointed and removed by the board of police commissioners (Sec. 199). The chief, who is under the control and management of the board, has the power and duty to administer the affairs of the department; appoint, discharge, suspend, or transfer employees of the department (other than the secretary of the board and the chief accounting employee of the department); expend funds of the department; and recommend the annual department budget (Secs. 80(a)).

## BOARD OF RIGHTS

No officer or employee of the police department can be suspended, removed, or deprived of office (other than by resignation) except for good cause shown by a finding of "guilty" following an impartial hearing before the board of rights which is comprised of three departmental officers of captain's rank or above. Pending the hearing, the chief of police may temporarily relieve an officer or employee from duty or suspend him/her from duty for no more than 30 days. Following the hearing, the chief of police has the discretion to impose a less severe penalty than that ordered by the board. If the accused officer or employee fails without reasonable excuse to appear before the board, the chief of police has the discretion to direct the board of rights to conduct a trial without the accused, or to impose the penalty of suspension or removal from duty (Sec. 202 (1)-(19)).<sup>2</sup>

## CITY COUNCIL

The city council is the city's governing body and all the city's legislative power is vested in the council subject to the mayor's veto power (Secs. 21, 22, 29).<sup>3</sup> The city council has full power to pass ordinances upon any subject of

<sup>1</sup>The attached provisions of the charter pertaining to these officers include amendments effective June 13, 1977. Changes made to the charter by the November 1978 city election are not applicable to these sections.

<sup>2</sup>Under Sec. 199, the powers and duties conferred on the chief of police and the board of rights by Sec. 202 are conferred respectively on the board of police commissioners and the board of civil service commissioners with regard to proceedings for removal, suspension and discharge of the chief of police.

<sup>3</sup>The council consists of 15 elected members (Sec. 20).

municipal control (Sec. 35). No grant of power to the board of police commissioners restricts the city council's power to enact ordinances under the city's police power (health, safety and welfare) (Sec. 78).

The city council is to divide the functions of city government into divisions equal to the number of council members; each member is to be chairman of a committee consisting of three members. Each committee's duty is to fully inform itself of one division's city business, and to report to the council and make recommendations for city legislation. No committee will have administrative control over city functions; committee work is investigative only (Sec. 34).

#### MAYOR

The mayor is the executive officer of the city; he/she has the duty to "exercise a careful supervision over all its affairs" (Sec. 40(1)). Some specific duties include presenting an annual statement to the city council about the condition and affairs of the city with recommendations for action, actively enforcing city ordinances, exercising constant supervision over the acts and conduct of all city officers and employees, and receiving and examining all complaints made against city officers and employees for their violation or neglect of duty (Sec. 40(2)-(3)).

While the mayor and city council each have the power to transfer or consolidate powers and duties of city departments, boards, and bureaus, this power is specifically inapplicable to disciplinary functions of the police department under Sec. 202; other powers and duties of the police department may be transferred to another department of consolidated only to the extent that "subordinate or auxiliary" powers and duties are involved and the primary purpose of the police department is unaltered (Sec. 32.1(a)).

LAURIE CAMPBELL,  
Attorney-Advisor,  
Western Regional Office.

Attachment.

#### POLICE-COMMUNITY RELATIONS IN SAN JOSE—A STAFF REPORT OF THE WESTERN REGIONAL OFFICE OF THE UNITED STATES COMMISSION ON CIVIL RIGHTS

##### U.S. COMMISSION ON CIVIL RIGHTS

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 and directed to:

Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, handicap, or national origin, or by reason of fraudulent practices;

Study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;

Appraise Federal laws and policies with respect to discrimination or the denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;

Serve as a national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin;

Submit reports, findings, and recommendations to the President and the Congress.

#### 1. INTRODUCTION

Since its creation by Congress in 1957, the United States Commission on Civil Rights has studied administration of justice issues throughout the nation.<sup>1</sup> A

<sup>1</sup> Reports of the Commission dealing with the administration of justice include: 1961 Statutory Report, vol. 5, Justice, Civil Rights: Interim Report of the U.S. Commission on Civil Rights (1963); Law Enforcement: A Report on Equal Protection in the South (1970); Who Will Wear the Badge? A Study of Minority Recruitment Efforts in the Protective Services (1971); The Southwest Indian Report (1973); and The State of Civil Rights: 1977 (1978). The legislative history demonstrates that Congress intended a separate and distinct grant of administration of justice jurisdiction for the Commission. In other words, Congress did not intend that the administration of justice jurisdiction be limited by the categories of race, color, religion, national origin or sex. Lawrence B. Glick, Acting General Counsel, memorandum to Staff Director and Commissioners, "Congressional Intent Behind the Term 'Administration of Justice', 1976."

Commission report, *The State of Civil Rights: 1977*, noted, "In a number of communities, police abuse of minority citizens intensified as a critical issue, poisoning police-community relations and contributing to disorders in several cities."<sup>2</sup>

In many communities, daily confrontations between civilians and police officers suggest the existence of questionable law enforcement practices. Community members complain that local municipalities do not redress grievances against law enforcement officers. Often these complaints are sent to Federal agencies such as the Commission on Civil Rights.

The Commission's Office of General Counsel in April 1978, noting an increase in the volume of complaints about law enforcement, proposed a study of policies that govern local law enforcement.<sup>3</sup> The study, begun in summer, 1978, includes such issues as police department administration, standards of police performance and behavior, training, citizen complaint mechanisms, and community relations.<sup>4</sup>

Since 1970 the California Advisory Committee to the Commission has received complaints from minority communities about the administration of justice.<sup>5</sup> For example, according to the Mexican-American Legal Defense and Educational Fund (MALDEF), in a 2-year period ending in February 1978, California law enforcement officers "killed five Chicano,<sup>6</sup> and shot and beat many more."<sup>7</sup>

In correspondence to the Commission, Virna Canson, regional director for the Western States, region I, National Association for the Advancement of Colored People, wrote:

"The issues I raise regarding the numerous instances of violence against blacks in the states in region I [including California] are very real, and I am fearful they will increase unless we are able to achieve greater accountability from persons in positions of authority in law enforcement."<sup>8</sup>

Ms. Canson provided documentation on questionable law enforcement behavior in the California cities of Taft, Keyes, Los Angeles, Richmond, Long Beach, Sacramento, Pasadena, and San Jose.<sup>9</sup>

The Commission's Western Regional Office has received complaints about law enforcement from minority community groups and individuals in Covina, East Los Angeles, East Palo Alto, Huntington Beach, Los Angeles, Oakland, Ontario, Oxnard, Riverside, Sacramento, Victorville, and San Jose.<sup>10</sup>

Following a request from San Jose city officials, the Commission's Western Regional Office monitored police-community relations in that city beginning in 1976. Staff interviewed over 120 persons, including city and law enforcement officials, clergy, representatives of public and private agencies, police officers, attorneys, and minority community representatives.

<sup>2</sup> U.S. Commission on Civil Rights, "The State of Civil Rights: 1977" (February 1978), p. iii.

<sup>3</sup> U.S. Commission on Civil Rights, Office of General Counsel, "Administration of Justice Proposal," Apr. 5, 1978, draft.

<sup>4</sup> The study has included a consultation held Dec. 12-13, 1978, in Washington, D.C., where views of 35 law enforcement experts—including academicians, police administrators, and representatives of civil rights organizations—were presented to the Commission. In addition, public hearings have been held in Philadelphia, Pa., on Feb. 6, 1979, and Apr. 16-17, 1979, and in Houston, Tex., on June 12, 1979 and Sept. 11-12, 1979.

<sup>5</sup> Prior to 1970 the Advisory Committee conducted informal open meetings on law enforcement issues in Los Angeles, September 1962; in San Francisco-Oakland, January 1963; in Oakland, May 1966; and in Los Angeles, June 1967 and August 1968. The Committee's reports and memoranda dealing with this subject include: "Report on California: Police-Minority Group Relations" (1963); "Analysis of the McCone Commission Report by a Subcommittee of the California State Advisory Committee" (mimeographed, 1966); "Civil Rights in Oakland, California" (mimeographed, 1967); and "Police-Community Relations in East Los Angeles, California" (1970).

<sup>6</sup> Chicano is a regional term for Mexican-American; regionalisms such as Chicano are used in this report where appropriate. The executive branch of the Federal Government requires all Federal agencies to use the standard classification "Hispanic," which includes "a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race" (Executive Office of the President, Office of Management and Budget, memorandum to heads of executive departments, "Revision of Circular No. A-46, Exhibit F, 'Race and Ethnic Standards for Federal Statistics and Administrative Reporting'," May 12, 1977).

<sup>7</sup> Vilma Martinez, general counsel, Mexican American Legal Defense and Education Fund, letter to Griffin B. Bell, Attorney General of the United States, Feb. 9, 1978.

<sup>8</sup> Virna Canson, regional director, region I, National Association for the Advancement of Colored People (NAACP), letter to John Buggs, Staff Director, U.S. Commission on Civil Rights, Feb. 2, 1976.

<sup>9</sup> Virna Canson, NAACP, letters to Philip Montez, Regional Director, Western Regional Office, U.S. Commission on Civil Rights, May 28, July 19, and Aug. 24, 1976.

<sup>10</sup> Complaints are on file in the Commission's Western Regional Office, Administration of Justice complaint file. See Apr. 7, 1978, memorandum, "Administration of Justice in California," from Philip Montez to Louis Nunez, Acting Staff Director, U.S. Commission on Civil Rights.

In 1976 community representatives in San Jose alleged that the police were committing many abuses, such as beatings of civilians, using tight handcuffs on suspects, unwarranted entry of homes, and unnecessary stops and searches. There were allegations that law officers used abusive and threatening language, threats of arrest if individuals complained, and deadly force.

In a June 23, 1976, interview, Mayor Janet Gray Hayes said, "that while complaints of abuses were numerous, it was difficult to get a handle [on the issue] because insufficient documentation was offered to support harassment concerns." The mayor and other members of the city council agreed that the number of complaints was significant enough to warrant a change in police practices.<sup>11</sup>

The Western Regional Office of the U.S. Commission on Civil Rights began its monitoring of police-community relations in San Jose in June, 1976, and continued through June, 1979. This report summarizes the results of that monitoring. It is a story of one community's attempt to improve police-community relations and may serve as a model for other California communities facing similar situations.

## 2. BACKGROUND

### The City

A 50-minute drive south of San Francisco, San Jose is the state's oldest city and was the first Spanish civilian settlement in California. The county seat of Santa Clara County, San Jose celebrated its 200th birthday in 1977 with a population of nearly 600,000.<sup>12</sup> Since 1950 it has grown from the world's largest canning and fruit packing center with a county population of 290,547 to an international center for the development of computers and microelectric and semiconductor technology with a county population of 1,222,800 in 1978. The county population includes 20,900 blacks (2 percent), 49,100 other nonwhite (4 percent), and 214,800 Hispanics (18 percent).<sup>13</sup>

Several San Jose residents suggested that the city's explosive growth had contributed to poor police-community relations. One police officer told Commission staff in June 1976:

"The city has a number of problems; the crime rate is going up pretty bad, high unemployment, little recreational activities, low employment of minorities and women in the police department, and tensions in the minority communities."<sup>14</sup>

Peter Stone, former city attorney, told Commission staff in a June 25, 1976, interview:

"The explosive growth of the city has been a major contributing factor to the loss of a sense of community. There is a terrible impersonality of residents and city officials; with distance comes suspicion."

Dr. Terry Johnston, a psychologist, in an August 5, 1976, interview added: "San Jose grew in such a topsy-turvy manner that the local citizenry didn't realize the police had become a military force to fear. The freeway cut up the community and created enclaves that cause police problems. There really is no police-community relationship in San Jose."

### The department

The police department had experienced the same growing pains as the city. It had grown from 122 sworn officers in 1959 and a budget of \$2,389,315 in 1961 to 868 sworn officers and a budget of \$18,955,000 in 1976.<sup>15</sup> Daniel Campos, city affirmative action officer, informed Commission staff on July 1, 1976, that "the police department's ethnic breakdown for uniform personnel is 18 black (2.2 percent), 6 Asian (.7 percent); 73 Spanish surname (9.1 percent); 2 American Indian (.3 percent); 4 Filipino (.5 percent); 7 other non-white (.9 percent); and 692 white (86.3 percent) for a total of 802 uniform employees; the number of female uniform personnel (stood) at 13."<sup>16</sup>

According to Officer Roger Finton, police personnel division, as of April 23,

<sup>11</sup> Janet Gray Hayes, mayor, San Jose, interview, June 23, 1976. In addition, June-July 1976 interviews with members of the city council and staff of city government espousing this view are on file in the Western Regional Office, San Jose Police-Community Relations Monitoring Project file.

<sup>12</sup> "San Jose, Downtown Renaissance," *Sunset*, November, 1977, pp. 98-105.

<sup>13</sup> The black, other non-white and Hispanic figures are July 1978 estimates prepared by the Employment Data and Research Division, California Department of Finance, and are based on projections from the 1970 census.

<sup>14</sup> Unless otherwise noted, all statements in this chapter are from interviews conducted in June-August 1976. On file, Western Regional Office, San Jose Police-Community Relations Monitoring Project file.

<sup>15</sup> San Jose Police Department, "Annual Report, 1976."

<sup>16</sup> Daniel Campos, city affirmative action officer, San Jose, letter to Thomas V. Pilla, Western Regional Office, U.S. Commission on Civil Rights, July 1, 1976.

1979 the San Jose police force had 779 sworn officers; 11.8 percent were Hispanic, 2.8 percent were black, and 2.6 other minority. Table 1 provides an ethnic breakdown of the department's sworn personnel.

In San Jose the police chief is hired by the city manager who in turn serves at the pleasure of an elected city council. During this monitoring project two police chiefs headed the department: Chief Robert Murphy, from 1971 to 1976, and Chief Joseph McNamara, from 1976 to the present.<sup>17</sup>

### The problem

In January, 1976, members of San Jose's minority communities requested that the Western Regional Office of the Commission on Civil Rights review allegations about the deterioration of police-community relations in that city.<sup>18</sup> On February 20, 1976, Commission staff met with 50 minority-group representatives who expressed anger, frustration, helplessness, mistrust, and fear of the San Jose police, Santa Clara County sheriffs and California highway patrol officers.

TABLE 1.—SAN JOSE POLICE DEPARTMENT, CURRENT SWORN PERSONNEL, BY RANK AND ETHNICITY, 1979

Rank	Asian		Black		Hispanic		Other minority		White	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Chief.....									1	0
Assistant chief.....									1	0
Deputy chief.....					1	0			2	0
Captains.....					0	0			7	0
Lieutenants.....	2	0			3	0			23	0
Sergeants.....	1	0	0	1	3	0	1	0	161	0
Officers.....	7	0	21	0	83	2	8	0	426	25
Total.....	10		21	1	90	2	9		621	25

Source: San Jose Police Department, Personnel Division, minority and female recruitment questionnaire, mimeograph, Apr. 23, 1979.

Apparently these concerns had festered for some time. Inez Jackson of the Garden City Women's Club told Commission staff in a June 21, 1976, interview: "The [San Jose] Police Department is insensitive to the black and Chicano communities and this has been a long-time practice." Lil Silberstein, National Conference of Christians and Jews, in a June 23, 1976, interview reinforced this view, "There is a climate of fear in San Jose between the police and the minority communities."

Concern about relations between the San Jose Police Department and minority communities was not limited to private citizens. In February and March, 1976, the San Jose City Council and the major formally requested that the Commission investigate police-community relations.<sup>19</sup>

A series of tragic incidents beginning in 1969 contributed to the growing concern in the city. Between 1969 and 1976 San Jose police and Santa Clara sheriffs killed 15 civilians in San Jose; 8 of these were Mexican American, 6 were black, and 1 was white. In this same 7-year period, one San Jose police officer was killed, while no county sheriffs were killed in the line of duty,<sup>20</sup> three Santa

<sup>17</sup> San Jose Police-Community Relations Monitoring Project, interview file.

<sup>18</sup> Jose Villa, telephone request to Phillip Montez, Regional Director, Western Regional Office, January, 1976. In a February 1976 telephone conversation with Susan Wilson, former city council member, the Commission's regional director scheduled a meeting to discuss the minority community's concerns.

<sup>19</sup> On February 24, 1976, the San Jose City Council passed a motion requesting that the U.S. Commission on Civil Rights investigate the minority communities' relationship with the city administration. This request read in part: "[this is] a formal request to conduct a full investigation of the problems of the minority residents of the city. . . . [T]his matter is of overriding importance, as it is affecting our total community." Janet Gray Hayes, mayor, San Jose, letter to Phillip Montez, Regional Director, Western Regional Office, U.S. Commission on Civil Rights, Mar. 1, 1976.

<sup>20</sup> Joseph McNamara, chief, San Jose Police Department, and others, telephone interview, July 24, 1979. "Officer Richard Eugene Huerta was murdered by the son of an Oakland police officer on the morning of August 6, 1970." Glen Castillo, vice president, San Jose Police Officers Association, letter to Phillip Montez, regional director, Western Regional Office, U.S. Commission on Civil Rights, Dec. 18, 1979. See Appendix A. Sergeant Castillo had been offered an opportunity to comment upon the Dec. 10, 1979 draft of this report. His comments, made in a Dec. 18, 1979, letter have been incorporated in the final draft where appropriate. (Hereinafter referred to as Castillo Letter.) Sergeant Castillo asked that a second letter dated Jan. 28, 1980, be included as part of the final report. See Appendix B.

Clara County sheriffs were indicted for involvement in a single shooting incident.<sup>21</sup>

According to Blair Egli, vice president and manager, San Jose Bank of America, the 1972 police killing of John Henry Smith, a black, sparked minority community protests and foreshadowed larger, angrier protests in 1976.<sup>22</sup> Following the death of John Henry Smith, the city council created an ad hoc committee to study police policies and procedures and make recommendations. The committee's 43 recommendations included suggestions for resolving citizen complaints, recruitment and training, weapons policies, services, and police administration reorganization. A priority recommendation was for an enforced policy that would limit the conditions under which deadly force could be used by police officers.<sup>23</sup>

By July 1975 the police department had implemented 21 of the 43 recommendations, partially implemented 14, and failed to deal with 8.<sup>24</sup> Of the 43, 5 recommendations dealt with a weapons policy, but only one of the five was fully implemented: "the possession and use of firearms off-duty must be controlled by the Department."<sup>25</sup>

The catalyst for renewed community concern and anger was the police killing of Dan Trevino on January 22, 1976.<sup>26</sup> The San Jose Mercury News reported:

The killing set off unprecedented Chicano protests in the city. Two thousand people marched in the streets. Hundreds descended on city hall. For five months, representatives of the Committee for Public Safety (COPS) formed after the shooting, attended city council meetings demanding an independent investigation.<sup>27</sup>

Following the Trevino incident, the minority community demanded an end to alleged verbal and physical abuse on the part of police which they claimed occurred daily. Demands were presented to the city council on January 27, 1976, by the Committee on Public Safety (COPS), a community organization formed in 1972 to deal with law enforcement issues. The demands included: (1) jailing of the two officers involved in the Trevino incident; (2) prosecution by the district attorney of the officers for murder; (3) independent investigation of the killing with access to evidence; (4) payment of damages to the victim's family; (5) an independent autopsy; (6) a review of police training; (7) a grand jury hearing open to the public; (8) removal of former law enforcement personnel as members of the grand jury panel for this hearing.<sup>28</sup>

Theodore G. Smith, counsel for COPS, wrote on February 3, 1976, to Judge Longinotti, the presiding judge of the superior court and Anton F. Peterson, foreman of the grand jury:

"The experience of the past several years with respect to homicides committed by police officers, particularly where the victims have been members of the minority community, has left deep wounds and smoldering resentments."

In a February 11, 1976, memorandum from Ted Tedesco, city manager, to the mayor and city council, five of COPS' demands presented to the city council on

<sup>21</sup> Norman Lariviere, attorney, interviews, San Jose, June 29, 1976. Two of the officers involved in the shooting incident were fired; the third was suspended from duty.

<sup>22</sup> Interview, June 30, 1976.  
<sup>23</sup> "Final report of the Ad Hoc Committee on the Policies and Procedures of the Police Department of the City of San Jose," May 18, 1972. In addition the Eastside Ad Hoc Committee on Public Safety in spring 1973 submitted 11 recommendations to Ted Tedesco, city manager, and Robert Murphy, police chief. None of the 11 recommendations was implemented according to community members interviewed by Commission staff in June, 1976. Also, Chicanos En Accion, Inc., wrote to the police community relations committee of the San Jose City Human Relations Commission on Aug. 14, 1975, with a proposal for a citizen complaint mechanism, which, according to Accion, was not fully acted upon by the committee.

<sup>24</sup> City of San Jose, "Response to the Ad Hoc Committee Report, Summary Status of Implementation, July 1975," Feb. 17, 1976.

<sup>25</sup> These five recommendations were (1) the use of deadly force is justifiable only as a means of preserving life. The discharge of firearms is never justifiable solely for the purposes of apprehension. (2) All weapons must be standardized and closely controlled by the department. (3) A comprehensive system of accountability must be developed based upon the reporting, recording, and review of incidents involving the use of weapons. (4) The off-duty possession and use of firearms should be closely controlled by the department. (5) A comprehensive training program should be undertaken to ensure the implementation of departmental policies regulating the use of weapons. Robert B. Murphy, chief of police, "Ad Hoc Police Report, July 1975" to Ted Tedesco, city manager, Feb. 17, 1976.

<sup>26</sup> While the city council specifically requested the Commission on Civil Rights to investigate the Trevino death, the Commission has no power to apply specific remedies in individual cases.

<sup>27</sup> "Trevino Slaying, a Probe—And 2 Years of Silence." San Jose Mercury News, Jan. 22, 1978, p. 17.

<sup>28</sup> Ted Tedesco, city manager, memorandum to the mayor and city council, "Report on Committee on Public Safety Demands Relating to Trevino Case," Feb. 11, 1976.

January 27 were adopted for study.<sup>29</sup> Following the city council action Jose Villa of COPS wrote the Commission in April, 1976: "The City of San Jose has not been adequately responsive to our grievances. Action to correct these conditions is slow and on an extremely reluctant basis.<sup>30</sup> Community members believed that an outside agency could move the city to action and written and oral complaints alleging discrimination by law enforcement agencies in San Jose and Santa Clara County were addressed to the Commission's Western Regional Office.

While study of the problems by city officials continued, the staff of the Western Regional Office in June 1976 began to monitor developments. Subsequent events included the hiring of a new police chief and his administrative actions to alleviate police-community tensions. The remainder of the report focuses upon community concerns expressed during the monitoring process (chapter 3) and changes that occurred as a result of several initiatives (chapter 4). The concluding section outlines major findings.

### 3. COMMUNITY PERCEPTIONS AND POLICE DEPARTMENT RESPONSE

Citizens seldom quarrel with the functions and responsibilities of police officers; police work is a necessary community service. Citizens do question law enforcement practices and procedures they perceive to be arbitrary, unjust or selectively applied.

Community perceptions of San Jose's police practices in 1976 were not positive. A San Jose resident quoted in the Mercury News said: "They [the police] discriminate a lot. Not only against the Mexicans, but any poor people. Our children have no respect for them, only fear."<sup>31</sup> Reynaldo Flores, branch manager of the Center for Employment and Training, and resident of San Jose since 1961, told Commission staff in an August 5, 1976, interview:

"The relationship between the minority communities and the San Jose Police Department has never been good, with many incidents of police brutality. An adequate response has never been given by the police. There is no confidence in the police."<sup>32</sup>

An editorial in the Alma/South San Jose *Sun* of April 14, 1976, stated: "The shooting [of Danny Trevino] by San Jose Police is only the latest in a series of similar incidents during the past few years. Each one erodes a little further our sense of confidence in the police department."<sup>33</sup>

From 1970 to 1976, citizens complained in increasing numbers of incidents of police abuse. The number of complaints filed with the police department rose from 369 in 1970 to 805 in 1976.<sup>34</sup> Summarized below are examples of community complaints that came primarily from minority communities.

#### *Alienation between police and minority communities*

Commission staff heard many minority community representatives express fear and mistrust of law enforcement stemming from alleged police harassment and brutality. Jose Villareal, a county human relations specialist, in a July 1, 1976, interview with Commission staff said: "If you look like a Chicano, they [the police] will stop you and ask 'What are you doing here?', etc., usually without any basis." Robin Yeamans, private attorney, told Commission staff on August 5, 1976, that "The San Jose police department has a history of police brutality against blacks and browns."

Mike Johnson, San Jose resident, in an August 6, 1976, interview noted: "The department has a very negative image; it is too centralized and has few substations in minority communities. The department overreacts in the minority community, but does not do so in white neighborhoods."

Lil Silberstein of the National Conference of Christians and Jews told Commission staff on June 23, 1976:

"Trouble has been the result of unfortunate isolation. There is a void of information about minority cultures, a lack of familiarity, and this is the big problem. There have been some minor attempts at human relations training."

<sup>29</sup> Ibid.

<sup>30</sup> Villa letter.

<sup>31</sup> Inquiring Reporter, "Do Police Treat the Mexican American Community Fairly?" Feb. 9, 1976.

<sup>32</sup> Unless otherwise noted, all interviews were conducted during the period June-August, 1976. On file, Western Regional Office, San Jose Police-Community Relations Monitoring Project.

<sup>33</sup> Apr. 14, 1976.

<sup>34</sup> Joseph McNamara, Chief, San Jose Police Department, telephone interview, July 24, 1979.

Father Richard Garcia, St. Catherine's Church, Morgan Hill, told Commission staff in an August 6, 1976, interview that, "San Jose police are alienated from the community. Leadership in the San Jose Police Department has been lacking." Father Garcia added that youngsters had related to him many occasions of unnecessary and unwarranted brutalization by police officers.

Ernestine Garcia of the Confederacion de la Raza told Commission staff on June 24, 1976, that:

"It is not easy to get the police department to understand the importance of making the community know they are there to help. People say, 'Look, I'm afraid to ask the police for help; they might crack my head or they don't come anyway when you call'."

Ms. Garcia added that her office received two to three complaints a week alleging police misconduct.

James Ono, an attorney in San Jose, in a June 22, 1976, interview noted:

"The manner in which the police handle situations is highly suspect. They are very brusque even with law-abiding citizens. Their attitude is that everybody is a trouble-maker in the minority community."

"The San Jose situation is not unique. The big question is what role the police should play. The clash comes because of a difference in view of what this role should be between the community and the police."

Some officers agreed with the minority communities about the alienation. In a June 24, 1976, interview with Commission staff, Sgt. Robert Lira, a San Jose police officer since 1952, said:

"There are areas of antagonism and programs to alleviate them. There are bones of contention. Certain groups contend discrimination; others contend response time is atrocious city-wide. The department is doing some things. Recently, a community issues forum was held and the police athletic league program (for youth) is going very well."

#### *Verbal and physical abuse*

In addition to alienation, allegations of police verbal and physical abuse contributed to the deteriorating relations between civilians and officers. Allen L. Seid, former chairman of the Santa Clara County Human Relations Commission, told Commission staff on July 1, 1976, that: "almost every 2 years there is a killing of a minority by either the San Jose police or the county sheriffs."

Community members expressed fear that any contact with a law enforcement officer would end in a beating or death. Ernestine Garcia, in a June 24, 1976, interview related this incident:

"There was one case where two kids were riding together and the car stopped to let one off. The police stopped and asked for their identification, which they were not able to produce. The kids were arrested and charged with not having proper identification. The parents called (the Confederacion) to say the kid had not been home. Then they got a call from him and he said he was in jail and needed his I.D. (located) in the car's glove compartment. The kid had stitches from being beaten with a flashlight by the police."

"This is not an isolated incident," she added. "We have files filled with similar complaints."

Sofia Mendoza, an outreach worker with the Family Service Association in San Jose, in an August 6, 1976, interview stated: "Police show their guns even on a (stop for a) minor traffic violation. They approach cars with their guns drawn and shoot and kill people on the slightest provocation." Adam Escoto, counselor, Center for Employment and Training, told Commission staff in a July 1, 1976, interview:

"Police homicides are commonplace and the officers involved are acquitted. The San Jose Police Department is insensitive to the black and Chicano communities and this has been a long-time practice."

#### *Complaint process*

One method for alleviating friction between civilians and police is an impartial system for reviewing complaints about alleged police abuses. In San Jose civilians stated that police were not responsive to community complaints. The fact that the internal investigations unit was housed in the police department was thought by many to discourage complaint filing.<sup>35</sup> Civilians expressed

<sup>35</sup> The internal investigations unit is manned by a lieutenant, two sworn officers, a civilian and two secretaries. Sworn officer personnel are rotated every two years. The present unit director began his rotation July 8, 1979.

the belief that officers were seldom disciplined because the police investigated themselves. In an August 6, 1976, interview with Commission staff, John McGee, project manager, Santa Clara Needs Assessment Project, said: "Another problem is the way complaints are handled. There is no procedure for questioning police behavior. In San Jose, the police violate the civil rights of others." On June 19, 1976, Henry Gage, president San Jose branch, National Association for the Advancement of Colored People, told Commission staff that, "there is no recourse for citizen complaints because the police investigate themselves."

Jose Villa, director, Mexican American Community Service Agency, Inc., in a June 30, 1976, interview with Commission staff said: "Not enough information is provided the community on the various procedures and processes available for redress of grievances. When people do complain, nothing happens."

Peter Stone, former city attorney, told Commission staff in a June 25, 1976, interview, "The mechanisms for grievance don't work. The community feels it cannot trust the city to investigate itself any more."

Community members alleged that the internal investigations unit protected police officers. If there were any sanctions imposed upon police officers for brutality and use of deadly force, civilians were not aware of them. Community representatives perceived that shootings by officers were always found justifiable by the police department.

#### *Police department leadership*

Community representatives complained that San Jose's Chief of Police Robert B. Murphy failed to exert the leadership necessary to minimize police abuses. In a June 22, 1976, interview, Morton Levine, executive editor, Suburban Newspaper Group, told Commission staff: "The chief doesn't control the department. The Police Officers Association and strong-minded deputies, captains, and lieutenants do." Daniel Campos, former affirmative action officer for the city told Commission staff in a June 23, 1976, interview that: "There is a strong peace officer association that is influential in departmental policy-making. The association appears to fight any change."

James Ono, attorney, in a June 22, 1976, interview, added: "The administration in the San Jose Police Department has problems. The chief is a nice guy, but the job requires more. He is not forceful enough and the system works against him."

San Jose representatives complained that in addition to his lack of forceful leadership the chief also failed to maintain liaison with community groups. Mary Raw, a resource staff person with the Mexican American Community Service Agency, said in a July 1, 1976, interview, "the San Jose Police Department is very centralized and this makes it very rigid." Morton Levine added, "The unwillingness or inability of the police department to decentralize and create a neighborhood presence has been a major disappointment."

#### *Police department response*

Department response to community frustration and alienation was halting and sporadic on issues of weapons policy, training, complaint processing, and leadership. Robert B. Murphy, chief of San Jose's Police Department from 1971 to 1976, defended his officers in a June 23, 1976, interview, saying: "Most citizens don't understand the physical jeopardy officers are placed in at times." However, to "reflect the values of the communities served," he revised the policy on use of force. In a memorandum to all divisions dated January 23, 1975, Chief Murphy wrote:

"The discharge of firearms is never justifiable solely for the purpose of apprehension. It should be emphasized that there is nothing in this policy that prohibits police officers from protecting themselves or another person from a danger of death or of great bodily injury."<sup>36</sup>

According to several police officers, the revised policy "strapped" their ability to perform their function. The Police Officers Association (POA), representing "approximately 80 percent of the police officers in the department," formally challenged the implementation of this policy.<sup>37</sup>

As a result, in an April 2, 1975, memorandum to all division, Chief Murphy rescinded the policy, stating:

<sup>36</sup> City of San Jose, San Jose Police Department, "Use of Force" (mimeographed).

<sup>37</sup> The Police Officers Association (POA) was chartered in 1963 as a social and economic group and has provided legal representation for members involved in disciplinary incidents. Its 15-member board of directors consists entirely of white males. San Jose police officer interview, March, 1978.

"Since the introduction of the department's "Use of Force" policy, [effective] January 26, 1975, it has become apparent to me that certain portions of the policy may be unnecessarily complicated and/or vague, and that the mandatory language of the policy does not reflect my intention that it serve as a guideline to assist officers in arriving at decisions respecting when the use of deadly force might be employed.

"In view of the problems of interpretation that have arisen, and in the light of the deficiencies noted above, said policy is hereby rescinded and of no further force and effect, and the policy previously in effect, that dated May 1, 1972, is continued in full force and effect."<sup>38</sup>

The May 1, 1972, use of firearms policy read:

"Firearms may be discharged in the performance of a police duty only under the circumstances listed below: (1) At an approved range. (2) When killing seriously wounded or dangerous animals when other disposition is impractical. (3) When necessary to effect the capture of, or prevent the escape or rescue of a person when the member has reasonable cause to believe he has committed a felony involving the use or a threat to use deadly force, when all other reasonable means have failed."<sup>39</sup>

In a June 23, 1976, telephone interview with Commission staff, Ed Peoples, administration of justice department, California State University, San Jose, noted the department's efforts to improve officer training:

"The [police] department is doing some things to train officers to deal with violent situations. They are attempting to lower the level of violence and to provide alternatives for the officers. In training there is an emphasis on what you say and how [you say it]."

Despite this training effort, community representatives continued to complain that the police were insensitive.

Regarding community frustration with complaint processing, Peter Stone, former city attorney, said in a June 25, 1976, interview:

"Staff of the [police department] internal investigations unit are dedicated, hardworking, not necessarily protective of fellow officers. There may be an unconscious defensive attitude. The rotation of officers affects the system. After a certain time, the officers return to other duties."

With regard to department leadership, in a June 23, 1976, interview Chief Murphy responded:

"The chief's position is a frustrating one. I philosophically understand the minority community's point of view. The political situation and power structure in the city of San Jose are under change. The frustrating elements include the selection, training and supervision of police officers; the number of police needed versus the number the city can afford; and the fact that the dissident community members, city council, and police officers cannot all be placated."

In a June 23, 1976, interview with then city manager Ted Tedesco, he expressed dissatisfaction with Chief Murphy's efforts to control the police department and took steps to remove the chief from office, stating: "I had a lack of satisfaction with the chief's ability to eradicate problems and establish a working philosophy in the police department." Conceding that many of the chief's problems were inherited from an earlier administration, Mr. Tedesco added that the city council also had responsibility for assuring an effective police force. Mayor Janet Gray Hayes, interviewed on June 23, 1976, agreed that the council had responsibility, "Police-community relations are always something of a concern to a mayor when the minority community is 20 percent of the population. [I] want police investigated when there are problems."

It was clear that significant change was needed in San Jose. Community and official elements expressed the view that a crisis in credibility and operations had developed by June 1976 and that police-community relations were at a fragile impasse.

#### 4. PERIOD OF CHANGE

In his June 23, 1976, interview with Commission staff, Ted Tedesco, former city manager, had stated that: "[The city should be] concerned about a number of issues related to the police department, such as management-level supervision, seniority issue allocation of manpower and planning-research." The lack of focus on these issues, Tedesco believed, reflected a need for administrative change. By

<sup>38</sup> City of San Jose, San Jose Police Department, "Use of Force Policy" (mimeographed).  
<sup>39</sup> City of San Jose, San Jose Police Department, San Jose Police Manual, vol. I, art. III, part XI, § 3111.1 a.

summer 1976 there was a serious credibility gap between the minority community and city government. In the view of the community, police-community relations were negative and fragile.

To fill what he believed to be a vacuum in leadership, Mr. Tedesco appointed Joseph D. McNamara as chief of the San Jose Police Department effective October 17, 1976.<sup>40</sup> On October 30, 1976, an article in the Peninsula Bulletin entitled "New Police Chief Comes to San Jose with Impressive Record" quoted Rev. Emanuel Cleaver of Kansas City, national board member of the Southern Christian Leadership Conference:

"Dr. McNamara is genuinely sympathetic to the problems and plight of the police, as shown by his efforts to professionalize the Kansas City Department—increasing their salaries, providing better training, demanding higher standards of conduct and according them greater status and respect in the community.

"During his [Kansas City] administration, blacks for the first time began to see police as public servants. When problems did arise between blacks and police . . . there was confidence that fair and impartial investigations would be conducted."<sup>41</sup>

In December 1976, Commission staff canvassed community representatives and city officials in San Jose to ascertain the initial effect of the new chief on police-community relations. The community had developed a "wait-and-see" attitude. Ernestine Garcia, Confederacion de la Raza, in a December 1976 telephone conversation with Commission staff said, "He's [McNamara] met with the community and handled some tough questions. We'll see if what he has said will change does [change]." Jack Brito of the Mexican American Community Service Agency in a December 1976 telephone interview added: "[The chief] is tough, but seems fair. The community should give him a chance to develop his programs."

Susan Wilson, a council member in December 1976, said: "The chief has only been here a short time. He must have an opportunity to exert leadership. Only then can we assess the impact of change."

Throughout 1977 and 1978 staff of the Commission's Western Regional Office continued to monitor the police-community relations situation in San Jose. In a December 19, 1977, interview with Commission staff, James McEntee, director, Santa Clara Human Relations Commission, said: "McNamara [the police chief] is doing a decent job, but is battling the POA [Police Officers Association] over a number of issues including improved community relations." Each area that had concerned minority communities in 1976 was reviewed. Overall, those interviewed in 1978 and 1979 believed police-community relations had improved.

#### *Alienation between police and minority communities*

In a December 13, 1978, presentation before the Commission on Civil Rights in Washington, D.C., Chief McNamara said, "The chief's job is to control standards of policing and a good chief who is attempting to do that needs widespread community support."<sup>42</sup> A major element in effecting good community relations is to establish credibility and rapport with the community. According to minority spokespersons, the chief's attempt to generate community support was obvious. In a March 7, 1978, interview Jack Brito, staff, Mexican American Community Service Agency, said:

"[McNamara's] is the best program approach in a long while. He has an identified police-community relations program [that has] every officer striving to be a community-oriented person. He moved the internal investigations unit out of the centralized police building and into a rented office building. A civilian was hired on the internal investigations staff. These were positive steps."

Jose Villa, Mexican American Services Community Services Agency noted:

"The police chief is sensitive to problems between the department and the community. He has taken action recommended by [the community's] Committee on Police. He has instituted some changes to dispel the [negative] image and has exerted leadership in the department."<sup>43</sup>

<sup>40</sup> Joseph McNamara had served as a sergeant in the New York City Police Department and had earned a doctorate in public administration at Harvard before becoming chief of the Kansas City, Missouri Police Department in 1973.

<sup>41</sup> "New Police Chief Comes to San Jose with Impressive Record," The Peninsula Bulletin, Oct. 30, 1976.

<sup>42</sup> U.S. Commission on Civil Rights, "Police Practices and the Preservation of Civil Rights," (September, 1979), p. 118 (proceedings of a consultation sponsored by the U.S. Commission on Civil Rights, Washington, D.C., Dec. 12-13, 1978) (Hereinafter cited as Proceedings).

<sup>43</sup> Jose Villa, Mexican American Community Services Agency (MACSA), interview, San Jose, Mar. 7, 1978.

Julio Galindez, Concilio de Boricua, stated: "The police situation has improved since the chief has been on board. He is involved with the community more and has tried to reach people."<sup>44</sup>

Although community representatives gave Chief McNamara high marks, they questioned the improvement of relations between civilians and subordinate officers. In a March 15, 1978 telephone interview with Commission staff, Bea Robinson of the Women's Alliance noted:

"He [McNamara] makes a real effort to keep in contact with the community to learn of their problems and needs . . . his efforts are hampered by the POA [Police Officers Association]. It will probably take longer to change officers' attitudes toward the community, since officers have reacted negatively to [his efforts]."

Betsy Bryant of the National Conference of Christians and Jews added, "the police-community relations program of the chief is working [but] his line staff is the problem."<sup>45</sup>

Macario Ortiz, Confederacion de la Raza, in a March 3, 1978, interview agreed: "Complaints about police abuse are about the same. McNamara doesn't have much support from the officers for his involvement with the community."

Sophia Mendoza, outreach worker, Family Services Association, told Commission staff on March 8, 1978 that "whereas [she] sees McNamara as a strong person, [she doesn't] see police officers acting any differently than before." She added, "Improvements are needed in the attitudes of police toward the community."

Fred Hirsch, a resident of San Jose, pointed out that "the continuation of fear toward police by the community still exists. McNamara's presence has improved officers' behavior, but old attitudes remain."<sup>46</sup>

This community view was shared by some city officials. For example, Ted Laskin, deputy city attorney, told Commission staff in a July 12, 1979, interview, "The chief has better relations with minorities and youth. The majority of the rank-and-file police officers share a different position."

Executive officers of the Police Officers Association (POA) addressed the issue of community relations. Sgt. Glen Castlio, an 18-year veteran of the San Jose Police Department and vice president of the POA, told Commission staff:

"There is a difference in what constitutes good law enforcement. The chief has his ideas and we [the POA] have ours. [In a known east San Jose area where kids congregate, the chief feels we should have or show a low profile. To the officers this means no profile. The chief is more interested in appeasing the so-called minority representatives rather than having strong law enforcement.]"

Chief McNamara was more optimistic about attitudinal changes of the officers: "We have been somewhat successful in convincing police officers in our training program that without the public support which comes with good credibility, we are not an effective police agency."<sup>48</sup>

Responses from others in San Jose suggest that some of the chief's optimism was justified. In September and October 1977, approximately one year after McNamara began his tenure as police chief, the Patrol Emphasis Program<sup>49</sup> of the San Jose Police Department conducted a survey of 793 randomly-selected citizens to determine public attitudes about police services. The results were released on March 24, 1978. Findings of the study included:

Ninety percent of the citizens who called for police assistance felt positive about the service they received.

Ninety-three percent of those who called for service said they would call the San Jose police again for similar problems.

Seventy percent of those surveyed felt positive toward San Jose police officers and 16 percent reported some negative feelings.

Seventy-one percent of those surveyed felt that San Jose police officers sincerely tried to help them and 6 percent felt officers had not tried.

<sup>44</sup> Julio Galindez, Concilio de Boricua, interview, San Jose, Mar. 8, 1978.

<sup>45</sup> Betsy Bryant, National Conference of Christians and Jews, interview, San Jose, Mar. 7, 1978.

<sup>46</sup> Fred Hirsch, interview, San Jose, Mar. 7, 1978.

<sup>47</sup> Sgt. Glen Castlio, San Jose Police Department, interview, San Jose, Nov. 3, 1979. Sergeant Castlio wrote: "You will recall I emphasized very much that 'no profile' was due to the lack of manpower, coupled with the extremely heavy calls for service. Whereas, if a strong high profile position had been maintained the socio-cultural thing would have run along without the high incidence of violent criminal activities." Castlio letter.

<sup>48</sup> Proceedings, p. 117.

<sup>49</sup> The patrol emphasis program (PEP) is a 3-year, \$1 million project funded by the Law Enforcement Assistance Administration, U.S. Department of Justice. PEP projects are intended to improve the delivery of police services.

Eighty-nine percent of those who had contact with police felt the officers had made sufficient explanations and answered their questions.

Robert Stroughter, director, Mayfair Community Center, in a March 7, 1978, interview said, "[There is] a real attempt on the part of individual officers to maintain good contacts with the community and to understand its problems."<sup>50</sup>

Lt. William Mallet, internal investigations unit, told Commission staff that "The chief is highly respected in the minority communities and has established much credibility with them. Initially, officers did not seem to like the new chief, but he has proven to be pretty valuable."<sup>51</sup>

In a November 14, 1978 letter to the Western Regional Office, Chief McNamara wrote:

"We have been continuously emphasizing the need for courtesy and professional police conduct in our training and supervisory and disciplinary actions . . . our efforts are achieving some success."<sup>52</sup>

Whether or not civilians believed attitudes of officers had changed, by 1979 many in the minority community believed they could bring problems to the police chief and that discussion toward resolving concerns would take place.<sup>53</sup>

#### *Verbal and physical abuse*

In December 1978 Chief McNamara told the U.S. Commission on Civil Rights: "It is the role of police management to establish the climate by which officers adopt voluntarily a professional code of conduct which is accepted by the department rather than rejected."<sup>54</sup>

Jack Brito, Mexican American Community Service Agency, told Commission staff "Incidents of police abuse, overreaction and brutality have diminished about 80 percent. He [McNamara] has the department operating in a professional way." Jose Villa, Mexican American Community Service Agency, told Commission staff in a July 12, 1979 interview that "there has not been a minority killed by San Jose police officers since January 1976."<sup>55</sup>

In February 1977 a weapons policy for the San Jose Police Department was adopted which stated that "the police are to be quite restrained in the use of weapons." The number of shootings by officers decreased from 14 in 1975 to 8 in 1978. Seven shootings by officers occurred from January 1 to July 20, 1979. Since January 1977 there have been two fatalities, neither of which was a minority person. One officer has been killed in the line of duty during the last 10 years.<sup>56</sup>

Despite the improvements shown by the statistics on weapons abuses, Kevin M. Aslanian of the Welfare Recipients League, Inc., noted in a March 8, 1978, interview that there had been no change in the level of police abuse complaints. This view is shared by other community members who are attempting to document the level of police abuse complaints. For example, Teresa Contreras, Legal Coalition Against Police Misconduct noted in July 1979 that the coalition was recently reactivated and that her office is receiving about two complaints a day alleging police misconduct. The coalition planned to conduct a survey regarding the question of police abuse. Ms. Contreras alleged that among young minorities, Hispanics in particular, harassment and physical abuse by police has not abated.<sup>57</sup>

Sgt. Glen Castlio, San Jose police officer, in a November 3, 1979 interview said:

"[The chief] handles the community differently and they seem to like his way but it is not good law enforcement. Police would initiate activity before, now they fear being aggressive because they know the chief won't back them up."

In July 1979, allegations were made to Commission staff that police officers still harass, intimidate and abuse young minorities. Community organizations such as the Confederation de la Raza, Mexican American Community Services

<sup>50</sup> San Jose Police Department, Patrol Emphasis Department, "Attitudes About Police Service in the City of San Jose" (March 1978).

<sup>51</sup> Lt. William Mallett, Internal Investigations Unit, San Jose Police Department, interview, San Jose, July 11, 1979.

<sup>52</sup> Chief McNamara was provided an opportunity to review and comment upon the September 17, 1979, draft of this report. His comments were incorporated into this final report where appropriate. Joseph McNamara, chief of police, San Jose Police Department, "Comments on the Report," (Sept. 17, 1979 draft), Nov. 14, 1979 (hereinafter cited as Comments).

<sup>53</sup> Western Regional Office, San Jose Police Community Relations Monitoring Project file.

<sup>54</sup> Proceedings, p. 116.

<sup>55</sup> Jack Brito, MACSA, interview, San Jose, Mar. 7, 1978.

<sup>56</sup> Chief Joseph McNamara, telephone interview, July 24, 1979. (See also Castlio letter.)

<sup>57</sup> Teresa Contreras, Legal Coalition Against Police Abuse, interview, San Jose, July 12, 1979.

Agency, and Legal Coalition Against Police Abuse allege continual harassment by police despite the chief's efforts.

#### Complaint process

Police department figures show a decrease in number of complaints filed.<sup>58</sup> In 1976, 805 complaints of police misconduct were filed with the department. The number of such complaints decreased to 306 in 1978 and to 173 for the period January 1 through July 20, 1979.<sup>59</sup>

In 1976 Chief McNamara moved the internal investigations unit out of the police building and added a civilian professional to the existing professional staff of one lieutenant and two officers. He told the Commission on Civil Rights in December 1978:

"[The civilian's] presence there was a clear demonstration on the part of the police agency that we had nothing to hide, that we viewed the process as fair and one that would withstand public scrutiny."<sup>60</sup>

A police officer told Commission staff in 1977 that the Police Officers Association (POA) formally denounced the chief for these two actions. Chief McNamara acknowledged that the POA action made it difficult for the complaint process to be totally effective: "No system of police discipline is effective unless it has the commitment of the rank-and-file police officers."<sup>61</sup>

In addition to processing civilian complaints, the police department increased the number of department-initiated internal investigations. There were 36 department-initiated internal investigations in 1975, 39 in 1976, 58 in 1977, 77 in 1978, and for the period January 1 through July 20, 1979, there were 33.<sup>62</sup>

Lt. William Mallett, director, internal investigations unit, told Commission staff in a July 1, 1979 interview that officers have been disciplined for having an excessive number of civilian and internal complaints filed against them. In 1977 there were 7 formal letters of reprimand, 554 hours of suspension (11 officers), and 4 terminations; in 1978, 26 formal letters of reprimand, 1,464 hours of suspension (10 officers), and no terminations; and in 1979, 25 formal letters of reprimand, 226 hours of suspension (6 officers), and 5 terminations to date.<sup>63</sup> Table 2 provides disciplinary action information for the period 1969 through 1979. The letters of reprimand for the years 1978 and 1979 represent the first and second highest number issued in the 10-year period. In addition the 1,464 hours of suspension for 10 officers in 1978 are the most given in any one year during this 10-year period.

#### Police department leadership

Officers must be accountable to their chief and to the public for their actions. Chief McNamara told Commission staff in an April 3, 1978 interview that: "You have to be fair with staff. Previous police management [here] had not sent out its philosophy to all officers. I want an attitude of service and protection."

In October 1977, Chief McNamara initiated a newsletter for officers, The San Jose Police Profile, "to keep all members of the department fully informed of department philosophy and policy."

<sup>58</sup> In 1976 there were two mechanisms for filing complaints against a police officer: the city ombudsman's office and the police department's internal investigation unit. On April 21, 1971, in response to community pressure, the city council established the position of ombudsman "to serve as an advocate/investigator for citizens who have grievances against any city agency." On June 11, 1973, the ad hoc committee on policies and procedures of the police department recommended "that the role of the ombudsman be strengthened . . . to ensure the capability to verify that thorough and complete investigations have been conducted in response to all citizen complaints [against the police department]." During the period July 1976 to June 1978, the office of the ombudsman received 785 complaints with 57.7 percent pertaining to the police. The 1978 ombudsman's report made two points regarding police complaints: (1) complaints had decreased dramatically, over 57 percent, in the 2-year period, and (2) the highest number of complaints were in the area of procedural questions and complaints of illegal or improper procedure. The number of complaints in the areas of force, rudeness, or unofficerlike conduct was small. In a July 11, 1979, interview with Commission staff, Rafael Jimenez, director, Citizens' Assistance, City of San Jose, said: "During last month, half of the complaints received concerned police matters. These were not very many. The complaints are usually referred to the internal investigations unit of the police department."

<sup>59</sup> Chief Joseph McNamara, telephone interview, July 24, 1979.

<sup>60</sup> Proceedings, p. 116.

<sup>61</sup> Ibid.

<sup>62</sup> Chief Joseph McNamara, telephone interview, July 24, 1979.

<sup>63</sup> Lt. William Mallett, telephone interview Nov. 16, 1979. In 1978 the 1,464 hours of suspension include 1,200 for one officer; "to date in 1979" means as of Nov. 15, 1979.

TABLE 2.—SAN JOSE POLICE DEPARTMENT, DISCIPLINARY ACTION, 1969-79

Disciplinary action	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979
Written reprimand.....	4	6	13	4	9	12	6	6	7	26	25
Suspension (hours/ number of officers)...	320/4	216/4	880/8	940/9	200/4+	340/11	206/6	518/10	554/11	1,464/10	226/6
Dismissal.....	2	0	4	3	0	5	3	2	4	0	5

Source: San Jose Police Department, Internal Investigations Unit, annual report, 1974 (January 1975). Data for the period 1975 through 1979 was provided by Lt. D. William Mallett, Internal Investigations Unit, San Jose Police Department, Dec. 21, 1979. In addition, the department has statistics for the number of officers requiring counseling, training, oral reprimand, and/or demotion for the period 1969 through 1976.

In addition he began a participatory management program that allows the rank-and-file to offer suggestions for improving policy and practices.<sup>64</sup> An officer told Commission staff in 1978 that the department's administration now listens to officer comments and suggestions before changes are implemented. However, another officer wrote in the July 1979 San Jose Peace Officers Vanguard, a newsletter published by the Police Officers Association (POA) that "[the chief's] lack of communication with the members of the department has caused a certain amount of frustration, resulting in a lack of motivation on the part of some employees. . . ."

Without evaluating the success or failure of the chief's efforts to inform his officers and listen to their suggestions, officers agree that conflict exists between the POA and the department's administration. In addition to denouncing the chief for moving the internal investigations unit and hiring a civilian for that staff, the POA challenged the firearms policy initiated in February 1977, polled its membership on stalled contract negotiations and announced a vote of no confidence in the chief.<sup>65</sup>

Sgt. Castlio, vice president of the POA said:

"There is low morale among the law enforcement officers and many good officers are leaving the department and will continue to do so. The attrition rate in the department is the highest it has ever been. People are leaving and going to other police departments. The working conditions have gotten very bad since Chief McNamara came to this department. He has no feelings for the officers; he is cold and unresponsive."<sup>66</sup>

Jose Villa, Mexican American Community Service Agency, commented in a July 12, 1979 interview:

"The chief has never had much cooperation from the police in the department. His efforts to transfer women and minorities to certain police units were challenged [by the POA] and reversed [by a State negotiator]."

POA President Hal Ratliff, quoted in the Vanguard said, "The [employee] assignments just never should have taken place." An editorial in the same issue states:

"The decision rendered [by the State arbitrator] says we [POA] were correct in grieving these particular assignments.

"We do not contend that the chief should not be allowed to make assignments. We do, however, hold it is our absolute right to be able to grieve the chief—or anyone else for that matter—if we believe he has acted arbitrarily or capriciously."<sup>67</sup>

Relative to the role of police labor associations, Chief McNamara told the Commission:

"I think the police labor movement is a beneficial fact and, I think, one which we need to adjust to and work with, but the fact is that all unions . . . will resist change and do have a competitive posture in regards to management."<sup>68</sup>

Differences between the chief and the POA have not been resolved. A Vanguard editorial in June 1979 stated, "The chief should resign or be fired." In response to this editorial an officer wrote in the July 1979 issue:

"You cannot ask for a man's termination just because 'you don't like him.' It has to be shown that he has been derelict in his responsibilities, incapable of

<sup>64</sup> Chief Joseph McNamara, telephone interview, July 24, 1979.

<sup>65</sup> Vanguard, vol. XIII, no. 3 (June 1979).

<sup>66</sup> Sgt. Glen Castlio, San Jose Police Department, interview, San Jose, Nov. 3, 1979.

<sup>67</sup> Vanguard, vol. XIII, no. 3 (June 1979).

<sup>68</sup> Proceedings, p. 117.



performing his duties or guilty of a criminal act. None of these elements has been proven against the current administrator."

Sgt. Castlio told Commission staff in a November 3, 1979 interview:

"The chief should resign or be fired because he has shown no leadership to his troops. Something could happen that would make me change my feelings, but as of now he should resign or be fired."

Chief McNamara told Commission staff in a November 2, 1979 interview that:

"Each police officer has to be responsible for what he does while on duty. I have let everyone in the department know that because of individual responsibility there will be no blanket endorsement of the officers' behavior until all the facts are in."

Despite this conflict with some officers, the chief's acceptance in minority communities has, for the most part, improved. City officials are aware of the change. Mayor Janet Gray Hayes told Commission staff in a July 13, 1979, interview:

"Police-community relations are greatly improved. Complaints are down dramatically. The department is more neighborhood oriented and there are good relations in minority neighborhoods."

The community believes this to be important. Jack Brito of the Mexican American Community Services Agency told Commission staff on November 2, 1979:

"It is very important that the city fathers support the work of Chief McNamara. If the political system does not support our chief, we will have the same problems we had before he came. We need good strong law enforcement that all people feel is here to serve them. Under Chief McNamara the community has this feeling.

#### 5. FINDINGS

In 1976 police-community relations in San Jose were poor. Spokespersons from the community alleged widespread mistrust and fear of San Jose police and Santa Clara County sheriffs. There were many allegations of abuse of authority and excessive force. The situation was heated and tense. The response of city officials to community grievances and recommendations was alleged to be inadequate. A pattern of civilian fatalities by police over a 7-year period coupled with daily confrontations with law enforcement officers led citizens to demand change. The community believed that police officers were seldom disciplined and that the department's internal investigations unit was a closed shop which protected officers. The department's administrator was viewed as ineffective.

In 1979 the level of fear, mistrust and hostility toward the police of San Jose does not appear to approximate that of 1976. There is a recognizable and definable police-community relations program. There is a police department administrative emphasis on courtesy and professional service. There has been a decrease in the number of officer-involved shootings.

Although minority community relations with police have improved, incidents of abuse are still reported. However, there has been an increase in the number of department-initiated internal investigations.

The minority community believes there are some police officers who refuse to adhere to the chief's espoused focus on service and protection. Interviews indicated that within the police department a conflict exists over whether the emphasis should be on enforcement or service. This conflict has not been resolved. The community believes that the emphasis on professional service has provided the foundation for an effective police-community relations program in San Jose.

The record of remarkable improvement in police-community relations in San Jose from 1976 to 1979 serves to demonstrate to other communities the value of developing effective leadership and maintaining open lines of communication. The intriguing question left unanswered is whether or not improved external relationships between a police chief and minority leadership must be gained at the expense of deteriorating internal relationships between the chief and the rank and file. In conclusion, perhaps Chief McNamara can shed some light on the issue:

"[An issue that concerns] me was the implication that the POA criticism of my community relations efforts and tightened disciplinary procedures represented condemnation by the rank-and-file police officers. In fact, during the past three years, I have had occasion to publicly criticize certain statements by various individuals in the POA leadership as being unprofessional and damaging to efforts to improve police-minority relations. On all occasions when I felt

compelled to take issue, I urged caution in assuming that these individuals representing the POA spoke universally for the police officers themselves. In fact, some of these self-proclaimed spokespersons have been criticized by other officers for letting their personal career frustrations lead them to lose objectivity. The strident tone of some of their comments has been damaging to our efforts to project a professional image of police officers.

"Unfortunately, the discord and statements of spokespersons on both sides can polarize the issue of police-community relations with resultant damage to the ability to live and function together harmoniously in our densely populated urban center. . . . The challenge to the community and the Police Department is to rise above negative extremists on both sides and to continue the improvement of police-community relations."<sup>69</sup>

#### APPENDIX A

SAN JOSE PEACE OFFICERS' ASSOCIATION,  
San Jose, Calif., December 18, 1979.

Mr. PHILIP MONTEZ,  
Regional Officer Director,  
Western Regional Office,  
312 North Spring Street, Room 1015,  
Los Angeles, Calif.

DEAR MR. MONTEZ: I've read the draft you sent and found it very interesting. I appreciate receiving it in a timely manner. I don't necessarily agree with all of it but understand how it all came together. "Documentation" from personal interviews with no appreciable "proof"—as we in the police service have come to know "proof"—leaves something to be desired insofar as coming to conclusions is concerned.

I noted what I believe to be a couple of glaring errors. On pages 10 and 35 you refer to having no San Jose Officers die in the line of duty: Page 10 "In this same seven years period, no San Jose Police Officer nor County Sheriff were killed in line of duty"; and on page 35, "No Officers have been killed in the line of duty during the last ten years". This is absolutely wrong. Officer Richard Eugene Huerta was murdered by Emile Thompson, a black man, son of an Oakland Police Officer, on the morning of August 6, 1970.

On page 32 you refer to a conversation you and I had about law enforcement in the King and Story area. I stated, ". . . The Chief feels we should have or show a low profile to the Officers. This means NO profile". You will recall I emphasized very much that "no profile" was due to the lack of man power, coupled with the extremely heavy calls for service. Whereas, if a strong high profile position had been maintained the socio-cultural thing would have run along without the high incidence of violent criminal activities.

Inasmuch as there are no conclusions drawn with this report I must be curious enough to inquire—are there to be any conclusions? If so, will conclusions be drawn based on the basically hearsay statements listed as "documentation"? I would appreciate your attention to these matters. If I, or my Association, can be of any assistance please do not hesitate to call.

Very truly yours,

GLEN A. CASTLIO, Vice President.

#### APPENDIX B

SAN JOSE PEACE OFFICERS' ASSOCIATION,  
San Jose, Calif., January 28, 1980.

Mr. PHILIP MONTEZ,  
Regional Office Director,  
Western Regional Office,  
312 North Spring Street, Room 1015,  
Los Angeles, Calif.

DEAR MR. MONTEZ: Several interesting things have happened regarding our dispute between the San Jose Police Officers and their Chief. As of the 20th of December the election by the San Jose Peace Officers of myself, as President, and a new Board of Directors has brought about certain interesting changes within the Department.

<sup>69</sup> Comments, Nov. 14, 1979.

We have had some ongoing meetings with the Chief's office, specifically to set up a better system of communications between the rank and file and the Chief of Police. These are meetings on a monthly basis. Further, the Chief has been invited to attend Association general meetings, which are also on a monthly basis. The Chief did, in fact, attend the January meeting at which time he spoke with the troops and answered questions for one solid hour. Both meetings with the Chief have been extremely positive and very rewarding on both sides.

I believe if things continue in their present vein the morale of the Department insofar as the Chief is concerned will be somewhat better. The Chief plans to publically support the Association's position on wages and we intend to fully support his position on manpower and other items of mutual benefit.

If this is something which can be included in your conclusions on the San Jose Police Department, feel free to include it—either direct or by a copy of this letter.

If I can be of any further service to you please do not hesitate to call.

Very truly yours,

GLEN A. CASTLIO, *President.*

#### STATEMENT OF ASSOCIATION OF BLACK LAW ENFORCEMENT EXECUTIVES

##### INTRODUCTION

The Association of Black Law Enforcement Executives (ABLE) appreciates this opportunity to participate in the proceedings of the Congressional Subcommittee on Crime. Any efforts to improve conditions of life, especially in the minority community which suffers from an overabundance of property and personal crime, is most welcome.

The Association of Black Law Enforcement Executives is an organization of management level law enforcement officers employed by several Southern California law enforcement agencies including the Los Angeles Police Department and the Los Angeles Sheriff's Department. The membership of ABLE hopes to address the problems and needs of minority communities especially as they relate to law enforcement. The Association of Black Law Enforcement Officers is prepared to participate in the Committee's hearings. We ABLE members feel we have valuable insights to contribute to the law enforcement community and to this and other similar fact-finding bodies. We have the unique vantage points of our city, our institution and our race. It is as though we observe from the outside while participating in more than one dimension simultaneously. Our vantage point allows us to observe firsthand the results of the educational system, the impact of the social service system and to observe the results of the overabundance of crime and its accompanying despair. We see both the victim and the perpetrator. We see the loss of life, the loss of property and the psychological impact on our community that crime causes. We see the wasted lives, the fear of the elderly and we hear the voices of the great majority of our neighbors who cry out for professional, responsive law enforcement. The Black community needs law enforcement and historically has supported law enforcement more than any other community.

##### CONCERNS

Members of ABLE are concerned with the low success rate of public education in the inner city, especially Black schools. This educational process is hampered by a lack of an environment conducive to learning. The low level of discipline in our schools prevents even the sincere student from obtaining quality education so necessary to compete in today's society. The public education system places Blacks in three general categories: the under-educated; the under-employed; or the unemployable black.

Members of ABLE are concerned with the impact on commerce in our community caused by crime and the perception of crime in the Black community. Businesses are fleeing the Black community and taking jobs with them. Unemployment among young Black males is a national disgrace. A generation or more of Black males has little job skills and job experience. The cultural and entertainment outlets of the Black Community are generally the first to leave, creating a vacuum. Every legitimate business outlet that moves from the community creates an eyesore and gathering place for under-educated, unemployed Black youths.

We ABLE members are concerned about the epidemic of drug abuse in the Black community. Sales, use and often the manufacture of illicit drugs is ram-

pant in the Black community. So many members of the Black community accept drug use and abuse as a matter of everyday life. This acceptance level is reinforced by the lack of strict prosecution and most antisocial behavior stems from drug abuse.

The Association of Black Law Enforcement Executives is concerned about violent crime in the Black community. Gangs in the Black community spread havoc and fear throughout the community. Crime impacts on the daily lives of most blacks who must utilize the services of public transportation, public schools or public walkways. It has been said, and we agree, that all too often the good citizen is locked behind bars in his home and the criminal remains free. Historically the level of violence that exists between community members generates a similar reaction by law enforcement personnel. This historical violence within the community is the root cause that prevents the community and police in many instances from working together to resolve community crime problems. The lack of good community-police relations can generally be traced to a specific negative incident within the community which cuts off positive communications and interaction.

The Association of Black Law Enforcement Executives is concerned with recruitment and upward mobility of minorities, especially Blacks within the system. The lack of a reasonable number of Blacks within law enforcement discourages many young Black candidates from seeking law enforcement careers. Increased representation of Blacks at all ranks in law enforcement would enhance both police-community relations and the success rate of attracting qualified Black candidates.

##### RECOMMENDATIONS

Federal, state and local agencies with responsibilities in the area of education should stress the basics; those skills which prepare a person to contribute to society and be a productive member. These same agencies should monitor and ensure that a positive academic atmosphere exists in all schools. The educational process should assist in reestablishing the family as the fundamental unit in society. The educational institution must ensure that an atmosphere conducive to learning exists in all schools.

##### COMMERCE AND EMPLOYMENT

Reducing crime will reduce the cost of doing business in the Black community and reduce the number of vacant businesses that are eyesores in the community. As commerce increases, joblessness decreases. This provides positive activities and models for youths and contributes to a more productive citizenry thereby further reducing crime.

##### CRIMINAL JUSTICE SYSTEM

The Criminal Justice System must take a more realistic approach in dealing with participants in drug trafficking, violent crime and gang activity. The community is unable to cope with the current trend which calls for the "community treatment" of drug offenders, violent criminals and recidivists. We recommend full implementation of mandatory sentencing for specific crimes. Prosecutorial agencies must give greater consideration to community safety and welfare and less on conviction rates. The judiciary must likewise show concern for the community in its findings and sentencing.

##### RECRUITMENT AND UPGRADING

The present antiquated civil service system which purports to be based on "merit" has proven to be an obstacle to affirmative action. The entire system needs reevaluation in order to increase the representation at all ranks which reflects more closely the population being served.

##### CONCLUSION

The aforementioned concerns and recommendations are not offered as all inclusive remedies, but are fundamental concerns which affect the minority community and contribute to the crime rate. These contributing factors, although most of which are not within the purview of law enforcement, certainly places law enforcement in a position to deal with the failures of each system. Although the area of police abuse is an important issue within any community and should

never be condoned, it is also offered that corollary issues such as lack of education, deteriorating economic situation, the proliferation of narcotic use and violent crime and gang activities should be considered as equally as important. It should also be understood that there is a direct corollation of police use of force in a community to the use of force by community members against each other. The root causes of the latter, are in most instances non-criminal and out of the scope of the duties of law enforcement personnel. The final factor that is in need of consideration is that regardless of the extensive training provided by law enforcement in general to its personnel, the human element can never be removed from the community and police contact and as long as the human element is present, the possibility of human error and overreaction will continue to exist. If the Subcommittee's intent is merely to explore the area of police abuse within the community without reviewing the overall perspective of community violence and the root causes of violent crime, then the results of the Subcommittee's investigation can only be viewed in a very narrow perspective and in no way will it address the real problems that currently confront urban communities in general and specifically minority communities.

ASSEMBLY, CALIFORNIA LEGISLATURE,  
January 15, 1980.

The PRESIDENT,  
The White House,  
Washington, D.C.

Mr. PRESIDENT: Recent questionable police killings and the use of "deadly force" have become a major issue in the City of Los Angeles and in other major cities throughout the United States.

One year ago, on January 3, 1979, two members of the Los Angeles Police Department shot and killed Eulia Love on her front lawn over a \$22.09 utility bill.

Last November, a police shooting in Watts was riddled with both conflicting eyewitness/police reports and other incidents including gunshot wounds identified at the hospital but not accounted for at the scene of the shooting.

On December 29, 1979, four days before the anniversary of the Love killing, William Gavin, Jr., described as disturbed but harmless, was surrounded by some 8 officers and gunned down from within 10 feet by four .38 caliber revolvers and a 12 gauge shotgun. His weapon, disputed by eyewitnesses, was a knife.

Similar incidents have occurred in other parts of California and across the nation. In March, Melvin Black, a 15 year old youth, was shot to death by the Oakland Police Department after he allegedly pointed a pellet gun at an officer. In spite of District Attorney and Grand Jury investigations, there were no convictions, but instead, just eight months later, the same officer shot and killed another Oakland resident with a bullet in the back of his head. There have been nine (9) killings of Black male citizens by Oakland police in the past eight (8) months.

The nation is now witnessing a nightmare in Miami, Florida where Arthur McDuffie died in a coma on December 21, 1979 from beatings he received from law enforcement officers. The hospital report accorded the injuries to a motorcycle accident, while officers who witnessed the beatings that induced the December 17th coma, tell us to watch the trials for the "real horror story." Dade County officials have gone on record saying that McDuffie was beaten to death by law enforcement officers with flashlights, clubs and nightsticks.

The facts are appalling.

In the past ten years alone, "over 6,000 men, women and children ranging in age from 10 to 81 were killed by policemen." (New York Times, November 26, 1979) In addition, a Justice Department's Law Enforcement Assistance Administration report gave "voluminous evidence that race is a factor in police killings", when it stated that 45 percent of all people killed by policemen are Black; and in cities like Chicago and Philadelphia that rate increases to over 70 percent.

These police killings have aroused in the Black community, and the Chicano and white communities across the state, a deep-seated anger that has made the police themselves suspect when these incidents occur. And this anger and sus-

picion has been aroused almost entirely by the law enforcement agencies themselves.

It is clear that a major issue for Black people in the 1980's is police killings. But our law enforcement agencies—quick to respond when a policeman is killed, yet ruling only less than 1 percent of all police killings unjustifiable—have not, and seemingly cannot, expedite long overdue reforms and restore substance to the role of a "peace officer".

I am, therefore, calling on the offices of the President of the United States to appoint a Black-Ribbon Commission of distinguished Americans to serve the same function in these police killings as the McCone Commission served in the Los Angeles revolt of 1965: to fully and impartially investigate the circumstances of the epidemic of violence, to report fully and completely to the American public on the reasons for these deaths, and to recommend to all the appropriate bodies, including the Los Angeles Police Department, County Sheriff's Department and the California State Legislature, the appropriate action to take to prevent these killings from continuing.

This body should have the same power to subpoena witnesses, look into police files, review coroners' reports, carry out its own investigations, etc., as did the McCone Commission. It should present its report within a reasonable time as a first step to stemming the tide of wanton killings in California and across the nation.

I look forward to your support and the call for review and reform so long overdue.

Respectfully submitted,

MAXINE WATERS,  
Assemblywoman, 48th District.

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, D.C., February 7, 1980.

President JIMMY CARTER,  
The White House,  
1600 Pennsylvania Avenue,  
Washington, D.C.

DEAR MR. PRESIDENT: For the past few years the incidence of police killings (because of police use of deadly force), have been on the increase in Los Angeles, California. These killings have caused a great deal of concern, consternation and anger, in the Black community, where a significant number of these killings have occurred.

The most publicized of these killings, involving the shooting death of Eula Love, on January 3, 1979, lead to a major Los Angeles Board of Police Commissioner's analysis of police policy and practices in these kinds of matters.

This analysis occurred because of the overwhelming angry response of the whole city to this senseless incident, and resulted in a series of reports ("The Report of the Board of Police Commissioners Concerning the Shooting of Eula Love and the Use of Deadly Force"), and Board recommendations.

Since the publication of these reports, there have been other police killings, which further concern me, because of the question of the possible abridgement of the civil rights of the victims and because of the continued agitation of many segments of the Los Angeles Community over this matter.

In attempts to address the serious issues involved here, I have met with my constituents, local community organizations, local elected officials, and local public officials.

I have also had innumerable contacts with the Department of Justice, and just recently met with Assistant Attorney General Drew Days of Justice's Civil Rights Division, concerning some serious charges relating to police conduct in these matters.

After a careful study and analysis of the situation, I have determined that the issue involved here are national in scope and so potentially dangerous to the Nation's stability that a White House call to examine this epidemic of police violence needs to be initiated.

And so I join my colleague, California State Assemblywoman Maxine Waters, in respectfully requesting that our Office bring together a distinguished panel

of Americans to address the issues as outlined in Ms. Waters January 15, 1980 letter to you.

I am looking forward to your response to the particulars I have outlined in this communication, with the hope that we will be able to assist in the resolving of this very critical problem.

With best regards, I am

Sincerely,

AUGUSTUS F. HAWKINS,  
Member of Congress.

TESTIMONY OF LINDA VALENTINO

I am Linda Valentino, coordinator of the Citizens' Commission on Police Repression. The Citizens' Commission is a coalition of fifty organizations working to end illegal government spying and harassment of citizens engaged in lawful political activity.

Representatives of many organizations have already presented well-documented testimony on the issue of police abuse and the use of deadly force. I will not repeat their testimony. Rather, I would like to bring to your attention a related issue which has posed a serious threat to police-community relations, and, ultimately, to the democratic process.

The issue of police spying is closely connected to the issue of police brutality and use of deadly force. Both problems are symptomatic of some law enforcement agencies' basic disregard for fundamental human rights and constitutional liberties. In Los Angeles, these issues have become even more closely connected as a result of what can only be construed as conscious policy decisions on the part of the Los Angeles Police Department's leadership.

In our investigation of the LAPD and its Public Disorder Intelligence Division (PDID), it has become clear to us that whenever organizations voice criticism of LAPD practices, particularly when those groups complain about police brutality and officer-involved killings, they are then targeted by the department for surveillance, infiltration and ultimate disruption. This policy is documented by our discovery of five LAPD undercover officers assigned to infiltrate numerous organizations which engage in lawful political activity, including several whose primary purpose is to monitor and oppose police misconduct. It is also documented by several occasions on which critics of police practices have been photographed or have had their names or car license numbers recorded by PDID officers.

From 1971-1977, Sergeant Jon Dial infiltrated countless groups in the movement for peace and social justice, including the Citizens' Research Investigation Committee (CRIC). CRIC came to national attention when it exposed the illegal activities of the LAPD's Criminal Conspiracy Section and surfaced a self-confessed police informant and provocateur, Louis Tackwood.

From 1975-1977, Officer Connie Milazzo infiltrated, among many groups, the Campaign for Democratic Freedoms (CDF). CDF, like the Citizens' Commission, mobilized opposition to government spying and police abuse. Milazzo was a member of the CDF steering committee. She later joined the Coalition Against Police Abuse as a representative of the Committee Against Racism. She also infiltrated the L.A. Vanguard, an alternative newspaper which had published several articles critical of police practices.

From 1976-1978, Officer Georgia Odom infiltrated the Anthony Brown Defense Committee, which was composed of relatives and friends of Brown, the victim of a questionable police shooting. She then joined the Coalition Against Police Abuse (CAPA), ultimately serving as its recording secretary. She also attended meetings and demonstrations held by the Friends of Ron Burkholder, another group demanding a full investigation of a controversial LAPD shooting.

From 1976-1978, Officer Eddie Solomon infiltrated the Watts Justice Committee, CAPA and the National Alliance Against Racist and Political Repression. He served as a paid office manager for the latter organization.

In April, 1979, members of The Gathering, a coalition of some of the most respected ministers in the black community, held a march to City Hall in protest of the Eulia Love killing. These ministers were followed, photographed, and had their license numbers recorded by PDID officers.

In April, 1979, the LAPD Board of Police Commissioners held a public hearing on the Love case. Two PDID officers sat in the audience and recorded the names of those in attendance.

These are just a few illustrations of the LAPD's spying activities. The problem is absolutely pervasive and utterly chilling. As recently as 1975, the PDID maintained a list of 201 organizations which it felt posed a "threat to the public order," hereby justifying the department's spying. Over half the organizations were based in the black, brown and Asian communities, a fact we consider to be a clear illustration of the Department's racism. The overwhelming majority of these groups have never been involved in illegal activity.

The probable consequences of political spying are still fresh in our memories. We have only to look back to the results of another time when our law enforcement agencies collected dossiers on political activists, "neutralized" lawful political organizations and their leaders, and characterized all those who dared to dissent as "subversives." America reaped a bitter harvest of fear, intimidation and betrayal of our fundamental constitutional principles. The most tragic result was the reluctance of our citizens to exercise their legal rights--to freely associate, to openly express their political views and to petition their government for redress of grievances.

What can the federal government do about local police spying? We realize that your jurisdiction is limited in these matters, but we do have some suggestions.

First, we ask that you fight to maintain the federal Freedom of Information Act. It is a vital tool in exposing and stopping government spying and repression. We would also suggest that you consider extending the FOIA to state and local agencies which receive federal funding. Similar legislation to combat secret government at the state and local levels is either non-existent or, as in the case of California's so-called "Public Records Act," woefully inadequate.

Second, we ask that you impose and enforce severe restrictions on the exchange, between local and federal agencies, of intelligence data on lawful political activities.

Last, we ask that you maintain and enforce restrictions adopted in June, 1978, regarding LEAA funding of local and state intelligence gathering operations.

The Citizens' Commission on Police Repression believes that these three steps will help to guarantee the right of individuals and organizations to monitor and criticize police practices, and to seek to remedy these problems without interference or retaliation by law enforcement agencies.

Thank you.

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NORMANDIE AVENUE JUSTICE COMMITTEE,  
Los Angeles, Calif.

Edward M. Jackson—Founder

Members of the Criminal Justice Subcommittee of the House of Representatives  
Judiciary Committee, Representative John Conyers, Jr., and Representative  
Lamar Gudger.

GENTLEMEN: If you agree that within our form of government the people are sovereign and supreme, without regard to color or creed, language or religion, our socio-economic-educational status, our sexual preference, or place of residence, without regard to our manner of speech or dress, if you agree that within the four corners of our National Constitution the people are sovereign and supreme, and are guaranteed due process of law and equal protection of the law, and if you further agree that we the people have given to you the powers to protect and to preserve our freedoms, our liberties, our privileges and immunities, and that you have a duty to hold us safe from the encroachments of the State, county, and municipal police powers, your presence is timely. If you do not agree, you have come in vain.

Our Federal safeguards against unreasonable searches and seizures, against illegal detentions, against cruel and unusual punishment, safeguards and guarantees that you took a solemn oath to protect, have been washed away in the blood of Leonard Deadwiler, Jerry Lee Amie, Richard Ochoa, William Allen Norman, Ruben Salazar, Alfred James Whitehead, Luis Reynoso, Wilbert Williams, Ruben Cortez, Armando Montez, Tina Mayfield, Jimmy Blando, Michael Porras, Carlos Washington, Daniel Miramontez, and in the blood of innumerable victims of excessive and deadly police force.

As you can see, much blood has been shed in our community through the abuse and improper exercise of police power. Nor is this all. Many homes have been illegally entered, and women and children in their underwear have been driven into the streets and alleys at gunpoint and with shotguns and searched and questioned and detained without respect for their sex, their privacy or their dignity, and are then arrested and charged with interfering, or resisting arrest.

To give you a cellular example of the people's loss of respect for law and justice in this community, the death of Eulia Mae Love will serve. She is accused of throwing a knife at two policemen named Edward Hopson and Lloyd O'Callaghan. The knife misses everything. No one is injured. Thereafter, the said officers at pointblank range, and in cold blood, empty their service revolvers into the prostrate person of Mrs. Love. The police chief calls her death a proper killing by honorable and virtuous officers conforming to departmental standards. And he promises there will be more such killings. And his promises have come true. The police commissioner found that the officers were premature in drawing their weapons and they fired an excessive number of shots; but they also recommended that the officers not be disciplined since that would constitute double jeopardy. The police chief then said that if the people resent the excessive number of shots fired, give him bullets that will make bigger holes. Only Maxine Waters cared enough about our lives and our rights to call for his removal from office. And of course the district attorney found the death of Eulia Mae Love to be justifiable homicide.

Since the police commissioner and the city council and the city attorney have been usurped by the police lobby through campaign contributions, police courtesies, and conflict of interest, and since the district attorney cannot differentiate between justifiable homicide and first degree murder, the people become victims of police terror and violence.

And now the people turn to this committee for justice and due process of law, and for equal protection of the law. Do you care about our broken bones and broken homes? Do you care about nightsticks pressed against our throats? Do you care about the cruel and vicious "chokehold" applied against our arteries? Do you care about American citizens being forced to crawl through the gutter on their bellies at police gunpoint? Do you care about the violence being inflicted upon Americans in patrol cars and paddy wagons, in holding tanks and booking lineups, in the jails and prisons? Do you care about a mother 4' 11" tall, weighing less than 100 pounds being struck with such force by an officer's fist that her spleen was ruptured and surgically removed?

Does this committee care about us? We, the people who have lost confidence in the ability of law enforcement to provide equal protection of the law and due process of law to those of us who live in certain economically deprived and cul-

turally disadvantaged sections, who may have no permanent place of residence, who face language or skills barriers, who have annual gross incomes far below the national averages, who suffer high unemployment, and who suffer excessive arrest and detention, and who suffer cruel and unusual punishment? Does this committee care?

As we bring to a close our brief petition, we demand and we pray that this committee shall exercise the extraordinary powers that we the people have given you:

1. To cause the local police powers to forthwith cease and desist their institutional invasion upon our rights and liberties, our persons and property, our dignity as human beings and upon our patriotism as American citizens.

2. To cause to be reviewed the finding in 1979 by the U.S. Attorney Andrea Ordini that the manner of death of Mr. Eulia Mae Love did not constitute a violation of her civil rights.

3. To cause the U.S. Civil Rights Commission to forthwith commence public hearings into the violations of Federal laws by the police and sheriff's departments, to recommend punishment and the enactment of appropriate legislation.

Respectfully yours,

EDWARD M. JACKSON.

**END**