

**FIVE YEARS LATER:**

**A Report to the  
Los Angeles Police Commission  
on the  
Los Angeles Police Department's  
Implementation of Independent Commission  
Recommendations**

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## Foreword

Nearly five years ago, on July 9, 1991, the Independent Commission on the Los Angeles Police Department, under the chairmanship of Warren Christopher, transmitted its Report following the March 3, 1991 beating of Rodney King to Mayor Tom Bradley, the City Council, and Chief of Police Daryl Gates. The authors of that Report — which immediately became known as the Christopher Commission Report — said the Report was "blunt," "plainspoken," and unequivocal in its conclusions and recommendations:

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

Our findings drive our principal recommendations. We urge that the leadership of the LAPD go beyond rhetoric in carrying out its existing policies against excessive force. From the Chief of Police on down to the sergeants, this means taking a firm stand against the 'bad guys' on the

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force and employing all the instruments available — training, discipline, assignments, and promotion. It also means monitoring and auditing all available data — patrol car transmissions, use of force reports, and citizen complaints — and then acting on the data. We urge a comparable effort to monitor and root out the manifestations of racism and bias.

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

Christopher Commission Report ("CC" hereafter), pp. iii, iv.

It is now the Spring of 1996. This Commission has asked for an investigation and a report on the status of the Christopher Commission reforms. This Report, however, is not the second Christopher Commission Report.

For one thing, the Christopher Commission is no longer in existence. But more importantly, unlike the Christopher Commission investigation, this Report was not commissioned by the Mayor during a state of crisis or because of any particular untoward incident involving the LAPD. Nor does this Report purport to replace the Christopher Commission Report and its recommendations — the Christopher Commission Report is as valid and vital today as it was five years ago.

Rather, this Report was sought by a significantly strengthened Police Commission fulfilling its Charter mandate as the "head" of the Department to "supervise, control, regulate, and manage" the LAPD. This Commission has articulated two main goals for this Report — first, to assess how far the LAPD has come in implementing the key Christopher Commission recommendations; and second, to provide direction for the Inspector General who will soon take office and to give further



focus for this Commission's Task Forces.

Inside and outside the Department, there are new individuals in charge, several of whom were not in positions of authority at the time of Rodney King. Los Angeles has a new Mayor, Richard Riordan, who has made expansion of the force and more businesslike management of the police a priority. The Police Commission, to whom this Report is directed, has entirely turned over in membership — not one current Commissioner served at the time of the Rodney King beating. The City Council has gained several new members in recent years, and two of the three appointees to the Council's Public Safety Committee — Laura Chick and Mike Feuer — were not even members of the City Council five years ago.

Willie L. Williams is the Chief of Police, the first Chief in recent memory whose previous career was not with the LAPD. He has stated that implementation of the Christopher reforms is a priority. The command structure of the LAPD has undergone substantial change over the last five years.

Accordingly, this Report is based upon this Commission's instructions to undertake an analysis of the LAPD **today**, not as it was five years ago. This Report is thus based upon multiple interviews with the current leadership of the LAPD — including Chief Williams, each of the Assistant Chiefs, and most of the Deputy Chiefs and senior civilian administrators, as well as other officers of all ranks within the Department.

This Report is based upon research at the LAPD headquarters in Parker Center, in the Valley Bureau headquarters in Van Nuys, in the West Bureau headquarters in Hollywood, and meetings with several captains, lieutenants, and sergeants at Parker Center or at their various commands, including Newton and Hollenbeck stations. The research also includes interviews with Department psychologists.

The investigation for this Report included interviews with members of the City Council and representatives of the Mayor's office, as well as with the members of this Commission and with this Commission's staff. The investigation included talks with

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members of the plaintiffs' civil rights bar and representatives of civil rights and civil liberties organizations. The research included interviews with experts in the criminal justice field who follow the LAPD, and knowledgeable law enforcement representatives from other southern California police agencies.

This Report is informed by a review of many thousands of pages of documents, including a detailed analysis of a substantial number of investigations over the last five years of citizen- and Department-initiated complaints alleging excessive force, unauthorized tactics, and racial remarks or bias. It includes analysis of each complaint in the last two years that the Department chose not to deal with formally as a "personnel complaint" but rather disposed of as a "miscellaneous memo." The investigation includes the review of documentation and attendance at hearings of the Use of Force Board regarding certain officer-involved shootings.

Chief Williams obviously takes great pride in the Department and had confidence that this Report would acknowledge the progress that has been made. And, in fact, some progress is apparent in a number of areas. Yet today's LAPD is somewhat at odds with itself. The changes inaugurated in the last five years, combined with a voter-approved decrease in the power of the office of Chief of Police, have made more visible than ever before the LAPD's internal frictions. Sometimes tense relationships within the LAPD along racial and gender fault lines are exposed to public view and comment. More generally, the LAPD has changed in the last five years from a tightly-controlled, insular, and monolithic organization, where open expression of dissent was a rarity, to a Department where open expression of support and loyalty up and down the chain of command are a rarity. All things considered, it is better to hear the open griping and the dissonance of competing voices than the former monotone. Yet, the loss of morale among LAPD officers is a matter of substantial concern.

We discuss our specific findings in the Chapters that follow. A few general observations so permeate this Report, however, that they warrant mention here.

In the last five years, some progress has been made in a variety of critical areas.

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The use of force has declined in absolute numbers, although not as a percentage of arrests; the severity of force used has decreased with the deployment of chemical spray, which has all but eliminated the use of the baton; diversity is improving overall, although far too slowly in the upper ranks; and the increased role of Internal Affairs has enhanced the quality of disciplinary investigations. Ugly incidents have diminished and, although arrests are down, the reductions in serious injury to suspects have not been accompanied by feared increases in the crime rate or by significant increases in the numbers of officers injured.

It is not easy to assess the relative weight of the various reasons that have contributed to that progress. Some are matters of fortuitous timing: A demographic dip in the numbers of young adults has contributed to the reduction in the crime rate; the recent emergence of pepper spray has reduced the need for police to use the baton. Others are a result of greater public oversight and vigilance: Heightened scrutiny by public officials, including this Commission, combined with intelligent press reporting and commentary, have kept the LAPD properly in the public eye. Still others are the result of new management within the Department and leadership from this Commission (past and present).

Nonetheless, now is not the time for complacency. For example, despite the strong recommendation in the Christopher Report, there is no comprehensive system in place to collect, analyze, and disseminate data on the risk of excessive force. The LAPD cannot demonstrate objectively that it has promulgated and applied rigorous standards holding supervisors, managers, and executives personally accountable for failures to act and for affirmative management of liability risk. Judgments and settlements in LAPD litigation are still costing the Los Angeles taxpayer far too much: \$67.5 million in the period 1991-95, including \$13.6 in 1995 alone. The dollars expended by Los Angeles on police-related litigation is particularly troublesome in the current era of tight budgets and diminishing resources. Money that more usefully could be spent on salaries for officers, equipment, police cars, training, and more officers is

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being spent instead on excessive force and related police litigation. It is possible to manage both exposure and cost, and the LAPD is doing neither to a satisfactory degree. Internal management is not as coherent or efficient as it could be or must become, and internal LAPD culture has not undergone the necessary "sea change" to allow the reforms that have been made to become fully effective or completely take root.

Given the five years that have elapsed since the Christopher Report was published, we conclude that the Department has not undergone reform to the extent that was possible or required. For the most part, what reform there has been is more attributable to the acts of dedicated individuals than a coordinated plan or effort, integrating budgetary and other resource allocations with specific goals and objectives.

We have not attempted to ascribe or attribute blame in this Report. In our view, such attribution is less important than providing an accurate overview of the state of reform and a blueprint for the direction of future reform.

Under the guidance of this Commission, today's LAPD has changed since 1991 in certain positive ways. Overall, however, the LAPD could benefit from more focused, deft, and efficient internal management. The Report that follows will, at times, be critical. The unresolved issues raised by the Christopher Commission Report are not trivial. Much is still at stake and remains to be done. But the LAPD is moving — slowly and at times painfully — in the right direction.

## Chapter One: Use of Force

Many ask whether, in the years since the Rodney King incident and the Christopher Commission Report, the LAPD uses less force and whether the kind of force the LAPD uses causes less injury to suspects. Oversight and monitoring of the Department in these areas are central to the agenda of this Commission, particularly for its Task Force on Use of Force and for the Inspector General. Accordingly, in this Chapter we shed some light on these important questions.

First, have the Rodney King incident and the Christopher Commission Report made officers reluctant to use even **reasonable** force? As this Chapter will demonstrate, the answer is no. The data suggest that officers use force no more and no less than before the Rodney King incident.

Second, are officers using the baton less frequently? The answer is clearly yes.

Third, has the decline in the frequency of use of the baton led to greater use of the gun and other deadly force? The answer is no — officer-involved shooting data suggest that officers have not increased their reliance on deadly force. If anything, the

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use of chemical spray — a less than lethal force option — has more than displaced the use of the baton.

Here, as elsewhere, there are important caveats: As noted throughout this Report, the LAPD does not collect and report, in easily accessible form, the basic data from which certain of these answers could be researched and double-checked. For example, the LAPD includes in its database only rudimentary information about injuries to suspects and officers, and does not even disseminate this information.

As discussed later in our Chapter on Monitoring, Supervision, and Accountability, the Christopher Commission recommended that the LAPD develop a comprehensive system to better monitor and manage the use of force in order to prevent the abuse of force. As noted throughout this Report, although piecemeal steps have been taken, the LAPD continues to lack a comprehensive system to analyze and manage use of force, the first step toward prevention of abuse of force.

If the LAPD had fully implemented the Christopher Commission recommendations, it would by now have a sophisticated, incident-driven computerized database. The LAPD is nowhere near having such a database. To be sure, the creation of it would have been an expense. But in our view, the LAPD has too long sought refuge in untested assertions that it lacks resources to implement Christopher Commission reforms. Further, the cost of not having such systems is far greater than the cost of implementing the systems.

On a "bottom line" level, the City spends substantial sums settling or paying judgments in force-related cases. Without a system to monitor the use of force in a systematic manner, it is unlikely that significant savings on such payments will be realized.

On a broader level, the public perception among some segments of the City's population that the LAPD over-uses force can never be rebutted effectively without accurate, reliable, objective data. The LAPD currently lacks such data. The cost to the City in terms of the way in which the LAPD is viewed by those parts of the population,

and the lack of cooperation with and respect for law enforcement that goes with it, is immeasurable.

Not surprisingly, the Department's lack of an adequate database has hampered our efforts. To ensure the accuracy of our data, we have cross-checked the various data we obtained, and at times have hand-counted information. Sometimes, we simply had to choose what appeared to be the most accurate statistic. However, the trends we report in this Chapter, and throughout the Report, are borne out by all of the various measures available to us.

With these caveats and observations in mind, we now turn to an examination of LAPD's use of force for the past six years.

## **The Frequency of the Use of Force**

Both use of force incidents and officer-involved shootings dropped dramatically in total numbers between 1990 and 1995. As shown by Table 1, use of force incidents declined 36% from 1990 (3403) to 1995 (2187).<sup>1</sup>

TABLE 1  
NUMBER OF USE OF FORCE INCIDENTS  
AND OFFICER-INVOLVED SHOOTINGS  
1990 THROUGH 1995

YEAR	1990	1991	1992	1993	1994	1995
NUMBER OF USE OF FORCE INCIDENTS	3403	2427	2168	2725	2381	2187
NUMBER OF SHOOTINGS	166	142	162	147	111	106

(Source: LAPD Human Resources Bureau)

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The most dramatic decline in use of force incidents occurred between 1990 (3403) and 1991 (2427), when use of force incidents declined 29%. As shown by Table 1, the number of incidents remained relatively stable after 1991.

Likewise, Table 1 shows that the number of officer-involved shootings (defined as any incident in which an officer fired a gun) declined 36% from 1990 (166) to 1995 (106). The most dramatic decline occurred between 1993 (147) and 1994 (111), when officer-involved shootings declined 24%.

Thus, the number of both use of force incidents and officer-involved shootings declined dramatically between 1990 and 1995. At first blush, this would seem to lend credence to the suggestion that officers have become less willing to use force in the aftermath of the Rodney King incident and the release of the Christopher Commission Report.

Such numbers by themselves, however, do not and cannot answer the question whether officers are resorting to force less often today than in 1990. The reason for this is simple: The declining numbers may reflect a decrease in officers' opportunity to use force rather than a decrease in officers' willingness to use force. Put another way, the decline in the use of force may be due to decreased contact between officers and suspects rather than a decrease in officers' use of force when they do come into contact with suspects.

For this reason, we consider the proper focus not to be the raw number of uses of force and officer-involved shootings, but rather the rate of such occurrences. Therefore, we believe it is more useful to the Commission to analyze the numbers in the context of the number of arrests. Arrests were chosen as the benchmark because: (1) the LAPD has reported that almost all use of force incidents occur during arrests; and (2) arrest statistics are readily available and are a practical barometer of officer/suspect contact.

As shown by Table 2, when the number of use of force incidents are analyzed in the context of the number of arrests, use of force incidents neither increased nor



decreased between 1990 and 1995; indeed, the ratio of uses of force to arrests remained remarkably stable during that period. In each year from 1990 to 1995, use of force incidents occurred in about 1% of all arrests.<sup>2</sup>

TABLE 2  
USE OF FORCE INCIDENTS AND  
OFFICER-INVOLVED SHOOTINGS  
BY ARRESTS  
1990 THROUGH 1995

YEAR	1990	1991	1992	1993	1994	1995
TOTAL PART 1 & 2 ARRESTS	312870	252026	216449	195278	191596	189191
NUMBER OF USE OF FORCE INCIDENTS	3403	2427	2168	2725	2381	2187
INCIDENTS AS PERCENTAGE OF ARRESTS	1.1%	1%	1%	1.4%	1.2%	1.2%
NUMBER OF SHOOTINGS	166	142	162	147	111	106
SHOOTINGS PER ARRESTS	1 per 1885	1 per 1775	1 per 1336	1 per 1328	1 per 1726	1 per 1785
SHOOTINGS DETERMINED TO BE OUT OF POLICY	19	22	24	22	13	13

(Source: The arrest figure included in Table 2 is the official Department total, as calculated by the Information Resources Division (IRD); LAPD Human Resources Bureau reported slightly different figures)

Likewise, as shown by Table 2, when the number of officer-involved shootings is analyzed in the context of the number of arrests, there was no discernable trend between 1990 and 1995.<sup>3</sup> The rate of such shootings in 1994 and 1995 was practically

identical to the rate of such shootings in 1991, noticeably higher than the rate of such shootings in 1990, but somewhat lower than the rate of shootings in 1992 and 1993.<sup>4</sup>

**Thus, it does not appear that officers either increased or decreased their use of force as a percentage of arrests significantly following the Rodney King incident or the release of the Christopher Commission Report.<sup>5</sup>** Instead, the past six years were marked by a dramatic decline in the number of arrests, thereby leading to a reduction in the number of incidents involving force. We believe that there is a causal relationship between the number of arrests and the decline in uses of force.

These data have a number of implications. First, while the arrest statistics may provide support to those that argue that officers have become reluctant to engage in activity that may lead to an arrest, the use of force statistics themselves suggest that, when they do make arrests, officers are using force no more and no less than before the Rodney King incident and the release of the Christopher Commission Report. Second, the officer-involved shooting statistics suggest that officers have neither increased nor decreased their reliance on deadly force. Third, the use of force statistics highlight that, both before and after the Rodney King incident and the release of the Christopher Commission Report, the LAPD did not report the use of force very often; use of nonlethal force occurs in about 1% of arrests, and use of a gun is rarer still. Fourth, the statistics highlight the danger of simply relying on the number of force incidents and officer-involved shootings; if not examined in the context of arrests — or some other measure of officer/suspect contact — such numbers make it artificially appear as if use of force incidents and officer-involved shootings have declined dramatically.

### **The Type of Force Used**

Although it appears that the use of force did not decline after the Rodney King incident and the release of the Christopher Commission Report, the use of one type of

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force did decline, and it declined dramatically. As shown by Table 3, while batons were used 500 times in 1990, they were used only 43 times 1995.<sup>6</sup>

Indeed, baton use dropped every year from 1990 to 1995 (except for 1995, when baton use was almost identical to 1994). More importantly, there was a dramatic decline in the rate of baton use; batons were used in 14.7% of use of force incidents in 1990, but only 2% of use of force incidents in 1995. The most significant decline in baton use occurred between 1990 (500 times) and 1991 (167 times); 1991, of course, was the year of the Rodney King incident.

TABLE 3  
TYPES OF FORCE IN USE OF FORCE INCIDENTS  
1990 THROUGH 1995

YEAR	1990	1991	1992	1993	1994	1995
NUMBER OF USE OF FORCE INCIDENTS	3403	2427	2168	2725	2381	2187
BATON USE	500	167	102	67	42	43
PERCENTAGE OF INCIDENTS IN WHICH BATON WAS USED	14.7%	6.9%	4.7%	2.5%	1.8%	2.0%
CHEMICAL AGENT USE	21	22	53	674	835	650
PERCENTAGE OF INCIDENTS IN WHICH CHEMICAL AGENT WAS USED	0.6%	0.9%	2.4%	24.7%	35.1%	29.7%

(Source: Data re: number of force incidents, baton use, and chemical agent use from LAPD Human Resources Bureau)

Table 3 also shows that there was a dramatic increase in the use of chemical agents, or "pepper spray," between 1990 and 1995: Although such agents were used

only 21 times in 1990, they were used 835 times in 1994 and 650 times in 1995. Again, there was an increase in the rate of the use of such agents as well: Chemical agents were used in only 0.6% of all use of force incidents in 1990, but in 35.1% of such incidents in 1994 and 29.7% of such incidents in 1995.

The introduction of pepper spray was the result of a pilot program, monitored closely by the Commission, resulting in a general deployment of this tool. Based on the results of that pilot, the Department was included as part of a study being conducted nationwide by the Department of Justice. In this way, the LAPD is at the nation's forefront of reducing the level of force used by officers.<sup>7</sup>

It is interesting to note that chemical agents were used much more often in 1994 and 1995 than batons were used in 1990. It thus appears that officers do not just view such agents as a replacement for the baton, but rather that chemical spray is being used in a wide range of situations. This wider use of chemical spray is an interesting phenomenon and one that the Commission may want to consider further. Without in any way suggesting that chemical spray is being misused, it is prudent, given the rapid increase in its deployment as the non-lethal force option of choice, for the Commission to satisfy itself that there are adequate standards for use of the spray. There is anecdotal evidence — from departments other than the LAPD — that on occasion the spray has been used to punish a suspect with respect to whom control is not an issue. That being said, these data suggest that officers have been able to reduce their reliance on the baton without increasing their reliance on the gun.

## **Suspect Injuries, Hospitalizations, and Deaths**

### ***Suspect Injuries and Hospitalizations in Use of Force Incidents***

As shown in Table 4, the number of suspects injured during use of force incidents decreased from 1841 in 1990 to 913 in 1995.

More importantly, there appears to have been a modest decrease in the rate of suspect injuries as well; suspects were injured in 54% of use of force incidents in 1990, but in only 42% of use of force incidents in 1995. The biggest decline occurred between 1990 (54%) and 1991 (45%), correlating to the years in which the biggest decline in baton use also occurred. The lowest rates occurred in 1993 (38%) and 1994 (39%), the first two years in which chemical agents were frequently put to use.

TABLE 4  
SUSPECT INJURIES AND HOSPITALIZATIONS  
IN USE OF FORCE INCIDENTS  
1990 THROUGH 1995

YEAR	1990	1991	1992	1993	1994	1995
NUMBER OF USE OF FORCE INCIDENTS	3403	2427	2168	2725	2381	2187
NUMBER OF SUSPECTS INJURED	1841	1085	1013	1047	926	913
PERCENTAGE OF INCIDENTS IN WHICH SUSPECT INJURED	54%	45%	47%	38%	39%	42%
NUMBER OF SUSPECTS HOSPITALIZED	62	33	17	31	21	17
PERCENTAGE OF INCIDENTS IN WHICH SUSPECT HOSPITALIZED	1.8%	1.4%	.8%	1.1%	.9%	.8%

(Source: Data on injuries, hospitalizations, and force incidents from LAPD Human Resources Bureau)

Likewise, Table 4 shows that the number of suspects hospitalized following a use of force incident has declined dramatically from 1990 (62) to 1995 (17). More importantly, there appears to have been a decrease in the rate of suspect hospitalizations as well: Suspects were hospitalized in 1.8% of use of force incidents

in 1990, but in 0.9% of use of force incidents in 1994 and 0.8% of use of force incidents in 1995.

The drop in both injuries and hospitalizations occurred at the same time that baton use declined, although baton use declined much more precipitously than either the injury or hospitalization rate. This suggests that, to the extent that other types of force — such as chemical agents — were being used in lieu of the baton, these types of force also lead to injury and hospitalization but at a lesser rate. Again, we recommend to this Commission that your Use of Force Task Force and Inspector General very closely monitor and conduct detailed reviews of all instances where suspects receive serious injuries or are hospitalized. Also, as discussed in detail in Chapter 4, we recommend that roll-out teams automatically be deployed to serious force incidents and hospitalizations.

In any case, it is welcome news that the rate of suspect injuries and hospitalization from use of force has declined. One caveat is in order, however. The injury data discussed above — which are the injury data tracked and disseminated by the LAPD — include all injuries complained of by a suspect, whether serious, minor or imaginary. Thus, these data tell us nothing about the change, if any, in the rate of "serious" injuries that are more troubling from a societal perspective and more likely to create a liability risk for the LAPD.

The LAPD does include in its database rudimentary information about the types of injuries suffered by suspects.<sup>8</sup> Suspect injuries are placed in one of three categories: (1) "major (usually hospitalized)"; (2) "visible (not hospitalized)"; and (3) "complained of only." However, it appears that only injuries that result in hospitalization are classified as "major."

Such data cannot be used to track trends in serious injuries that do not result in hospitalization. We recommend that this Commission or the Inspector General require the Department to prepare and present to the Commission on a monthly basis a compilation breaking down injuries to suspects by injury type (e.g., broken bones).

Because the use of force form that must be completed for each reportable use of force already requires a brief description of the injury or injuries sustained by a suspect, this should not be an unreasonable requirement.

It should also be noted that, while suspect injuries are down, the data show that about 4 out of every 10 suspects involved in use of force incidents are still complaining of injuries. In the abstract, this appears to be quite high. Once again, however, without more detailed information about the type of injuries being complained of, it is hard to draw any conclusions from this fact. Again, in order better to monitor and reach judgments about whether too many suspects are suffering serious injuries, the Commission and Inspector General should keep careful track of injuries and the Department should be required to supply the information at frequent intervals. It might also be useful for the Inspector General or the Use of Force Task Force to compare the LAPD's injury data to those of other law enforcement departments.

Finally, the LAPD's seeming failure to track adequately the seriousness of suspect injuries has another implication — it may hinder the LAPD's ability to engage in effective risk management. As noted throughout this Report, the Department lacks a comprehensive system to monitor and manage risk. These data are only one example of information that should be collected and centrally analyzed for the benefit of the entire Department.

### ***Suspect Injuries and Deaths in Officer-Involved Shootings***

With respect to suspect injuries and deaths resulting from officer-involved shootings, the number of suspects injured or killed declined dramatically from 1990 to 1995. As shown by Table 5, there were 72 injuries and 32 deaths in 1990, 28 injuries and 13 deaths in 1994 and 27 injuries and 17 deaths in 1995.

More importantly, there appears to have been a decrease in the rate of both injuries and deaths during that same period. While injuries and deaths did not go

steadily down each year from 1991 to 1995, the rate was lower in each of those years than in 1990. Thus, with the caveat footnoted below, the data suggest that both suspect injuries and deaths resulting from officer-involved shootings have declined.<sup>9</sup>

TABLE 5  
SUSPECT INJURIES AND DEATHS  
IN OFFICER-INVOLVED SHOOTINGS  
1990 THROUGH 1995

YEAR	1990	1991	1992	1993	1994	1995
NUMBER OF SHOOTINGS	166	142	162	147	111	106
NUMBER OF SUSPECTS INJURED	72	43	54	54	28	27
INJURIES per SHOOTING	1 per 2.3	1 per 3.3	1 per 3	1 per 2.7	1 per 4.0	1 per 3.9
NUMBER OF SUSPECTS KILLED	32	22	21	21	13	17
DEATHS per SHOOTING	1 per 5.2	1 per 6.5	1 per 7.7	1 per 7	1 per 8.5	1 per 6.2

(Source: LAPD Human Resources Bureau)

### ***Officer Injuries and Deaths***

#### **Officer Injuries in Use of Force Incidents**

As discussed earlier in this Chapter, although the frequency with which officers use force has not changed since 1990, the frequency with which they use certain types of force has changed. This raises the question whether the change in tactics has been accompanied by a change in the number of officers being injured or killed when they do use force.



TABLE 6  
OFFICER INJURIES IN USE OF FORCE INCIDENTS  
1990 THROUGH 1995

YEAR	1990	1991	1992	1993	1994	1995
USE OF FORCE INCIDENTS	3403	2427	2168	2725	2381	2187
OFFICERS INJURED	603	514	501	443	447	477
INJURIES PER INCIDENT	1 per 5.6	1 per 4.7	1 per 4.3	1 per 6.2	1 per 5.3	1 per 4.6

(Source: LAPD Human Resources Bureau)

Table 6 shows that, with the exception of 1993, the rate of officer injuries was somewhat higher in every year from 1991 to 1995 than it had been in 1990.<sup>10</sup> Moreover, the data show a slight upward trend from 1993 to 1995.

While preliminary, these data raise the possibility that in recent years officers are slightly more likely to be injured when they use force. The reasons why this might be so are not obvious. It may be due to increased aggressiveness by suspects, but if this were so one might expect to see an increase in suspect injuries as well. It may be due to the officers' decreased reliance on the baton, but this explanation seems to fall flat as well; the rate of officer injuries in 1990 — when officers used the baton more often — was about the same as the incidence of such injuries in 1993 and 1994, when officers used the baton much less frequently.

As with suspect injuries, the data regarding officer injuries must be analyzed with caution. Once again, these data include all injuries, serious and minor, real or imagined, i.e., any injury complained of by an officer. As with injuries to suspects, injuries to officers are classified as "major," "visible" and "complained of only."<sup>11</sup> The number of officer injuries classified as "major" has been very small between 1990 and

1995; out of approximately 3000 officer injuries during that period, only 27 have been classified as "major." Moreover, there does not appear to have been an upward trend in "major" injuries to officers during this period.

Once again, however, a great variety of injuries to officers may be lumped together in the "visible" category, which represents over two-thirds of such injuries. Thus, the same criticism of the data regarding suspect injuries applies here.<sup>12</sup>

It also appears that the rate of officer injuries is quite high in the abstract. Once again, however, without detailed information about the type of injuries being sustained, it is hard to draw any conclusions from this fact. Again, it might be useful to compare the LAPD's injury data to those of other law enforcement departments.

Finally, the seeming inability to track the seriousness of officer injuries may hinder the LAPD's ability to determine which use of force situations are more likely to lead to serious injuries to its officers. As a result, we recommend that the Commission require the Department to track officer injuries and report back to it in the same way as we recommend reports concerning suspect injuries. Just as the Commission and the Inspector General should be making sure that injuries to suspects are minimized, so too should they be making sure that injuries to officers are minimized.

### Officer Injuries and Deaths in Officer-Involved Shootings

As Table 7 shows, there is no discernable pattern in the incidence of officer injuries in officer-involved shootings from 1990 to 1995.

For example, while it appears that the highest rate of such injuries occurred in 1995, the lowest rate occurred in 1994. The year 1992 had the second lowest rate, while 1993 had the second highest. In other words, it cannot be said that officer-involved shootings have become either more or less dangerous for officers.

TABLE 7

OFFICER INJURIES AND DEATHS  
IN OFFICER-INVOLVED SHOOTINGS  
1990 THROUGH 1995

YEAR	1990	1991	1992	1993	1994	1995
NUMBER OF SHOOTINGS	166	142	162	147	111	106
NUMBER OF OFFICERS INJURED	11	9	7	11	4	13
INJURIES PER SHOOTING	1 per 15.1	1 per 15.8	1 per 23.1	1 per 13.4	1 per 27.8	1 per 8.2
NUMBER OF OFFICERS KILLED	1	1	0	0	1	0

(Source: LAPD Human Resources Bureau)

With respect to officer deaths resulting from officer-involved shootings, the numbers have remained consistently low; three of the years saw one death, the other three years saw none.

## Conclusion

The issues discussed herein merit further detailed study by this Commission and the LAPD. Indeed, how force is used and who is injured are subjects that are central to the mission of the Use of Force Task Force and the Inspector General. The LAPD needs to devote time and attention to the collection and analysis of basic data to sharpen analysis of these issues. Tight budgets are not an excuse: The taxpayers of the City of Los Angeles are spending far more on unnecessary litigation than the cost of assembling data that, if properly used, could allow the Department to be better able to identify and manage when its use of force generates avoidable risk.

We cannot end this Chapter without mention of an additional management deficiency. We have seen no evidence of a meaningful, institutionalized effort by the Department to do work history reviews for officers generating an unusually high number of uses of force or force-related complaints. As the Christopher Commission emphasized, continuous monitoring and evaluation of such officers is a critical management issue. The Christopher Report found that the LAPD management had failed in that regard and that failure has not been rectified. We emphasize that identifying such officers does not of itself mean that the officers are in need of discipline or that their careers should be retarded or jeopardized. Any number of factors, from bad luck to a difficult assignment to poor training to outright misconduct, may contribute to the anomaly. Such individuals simply warrant careful management attention to determine why the officer stands out and, if necessary, to take speedy appropriate action, including additional training, to control the situation. The absence of such proactive management (with a few isolated exceptions) five years after the Christopher Report is a matter of substantial concern.<sup>13</sup>

### Endnotes

1 Occurrences of the use of nonlethal forms of force (which are referred to in this Chapter as "use of force incidents") are tracked separately from lethal forms of force, such as the use of a firearm. There is a separate use of force "incident" for each suspect upon whom reportable force is used. Thus, for example, the fact that there were 3403 "incidents" of force in 1990 means that reportable force was used on 3403 suspects in that year.

2 While the percentage did hover around 1% between 1990 and 1995, there was an increase in the percent of use of force incidents, as measured against arrests, during that period. There are simply too many variables to draw any conclusions from this increase, however.

3 Officer-involved shootings are analyzed as a ratio, rather than as a percentage of arrests, because it is not known whether all or even most such shootings occur during an arrest. For this reason, it may be misleading to simply divide officer-involved shootings by arrests and state that, e.g., officer-involved shootings occurred in 5% of arrests in a particular year. Arrests, however, still appear to be a good benchmark against which to measure the rate of officer-involved shootings because it is a measure of officer contact with suspects.

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4 The reasons for these differences are unknown. It should also be noted from Table 2 that the percentage of officer-involved shootings determined by the LAPD to be out of policy remained remarkably stable over the entire six-year period.

5 It is, of course, possible that officers responded to the Rodney King incident and/or the release of the Christopher Commission Report by decreasing the frequency with which they reported force, and that this has artificially lowered the rate of force since that time. We have not undertaken to determine what, if any, effect under-reporting may have on these statistics. The Inspector General should do so.

6 Because 1990 was the first year analyzed by this Chapter, there remains the possibility that 1990 was an anomalous year. Even so, the sharp decline is significant.

7 The Department is also examining the use of the Rip-Hobble, beanbags, and rubber pellets. These items are presently available in only limited circumstances, and we have no useful statistical data on their effectiveness.

8 While the LAPD does include such information in its database, it does not disseminate or even track injury type. Indeed, the LAPD had great difficulty even retrieving this information in response to our request.

9 The total officer-involved shooting figures include shootings that do not involve human suspects (e.g., shootings involving animals). Further, not every injury to a suspect was a gunshot injury, yet any injury suffered by a suspect involved in an officer-involved shooting is counted toward the total (e.g., the suspect may have sustained bruises after falling to the ground in the wake of the discharge of the officer's gun). Moreover, this ratio must be interpreted with great care, because it says nothing about whether these shootings are in or out of policy.

10 Once again, because use of force incidents are suspect, rather than officer, driven, it may be misleading to analyze officer injuries as a percentage of use of force incidents.

11 It is unknown whether only officer injuries resulting in hospitalizations are characterized as "major."

12 In addition, the officer injury data were as difficult to retrieve as the suspect injury data.

13 We discuss the TEAMS database in Chapter 4. For the reasons spelled out there, we conclude that TEAMS is not an adequate response to the problem, although, if used properly, it is a first step.



## Chapter Two: Racism and Bias

The Christopher Commission found a nexus between racial, ethnic, and sexual orientation bias and the use of excessive force by the LAPD. It found further that bias within the LAPD embraced widespread and strongly felt gender bias as well. The Christopher Commission acknowledged that within the minority communities of Los Angeles, there were widely held views that police misconduct was commonplace and that LAPD officers frequently treated minorities differently from Anglos: LAPD officers were perceived more often to use disrespectful and abusive language, employ unnecessarily intrusive practices such as the prone-out, and more frequently use canines in areas of the City with significant minority populations. In a finding confirmed by the Police Commission, the Christopher Commission also uncovered evidence of bias directed by some members of the Department against others in the LAPD.

The Christopher Commission further found that the LAPD had a well-documented history of discrimination against gays and lesbians. That prejudice appeared to affect officers' interactions with members of the gay community and contributed to excessive use of force.

The Christopher Commission similarly commented upon the disparity between official policy and unofficial practice regarding females, noting that former Chief of Police Gates had conceded that female officers had a "real tough time" in achieving acceptance within the Department and admitted that full equality for female officers remained a problem.

At the same time, although the Christopher Commission acknowledged substantial progress by the LAPD in hiring minorities and women, it noted that the vast majority of minority officers were concentrated in the entry level, Police Officer ranks of the Department. The Christopher Commission also pointed out that internal Department studies confirmed that minorities and women were underrepresented in coveted positions and other career-enhancing promotional opportunities. The Christopher Commission concluded in particular that the Asian population was underrepresented in the LAPD.

Among other recommendations to deal with racism and bias, the Christopher Commission urged that the LAPD's recruitment efforts for African-American, Latino, and female officers should be sustained and that special efforts should be mounted to recruit Asian officers. The Christopher Report stated that female and minority officers should be given full and equal opportunity to assume leadership positions in the LAPD, including assignment to coveted positions on a nondiscriminatory basis. This Chapter will assess for this Commission the progress of the Department to date in these areas.

### **Overall Percentages of Women and Minorities**

As a baseline from which to measure progress, we start with the Christopher Commission's observation that in June 1990, minorities constituted 37.1% of the LAPD's sworn officers (13.4% African-American; 21% Latino; 2.7% Asian) and that women constituted 12.6%. Table 1 (next page) displays the results as of March 17, 1996 of recruitment efforts for minorities and women.



TABLE 1

SWORN PERSONNEL BY RANK, SEX & ETHNICITY  
MARCH 17, 1996

RANK	Sex	Black Number Percent	Hispanic Number Percent	Asian American Number Percent	Caucasian Number Percent	American Indian Number Percent	Filipino Number Percent	Total Number Percent
CHIEF	M	1 100.00%						1 100.00%
	F							
	T	1 100.00%						1 100.00%
DEPUTY CHIEF II	M	1 33.33%			2 66.67%			3 100.00%
	F							
	T	1 33.33%			2 66.67%			3 100.00%
DEPUTY CHIEF I	M	1 12.50%	2 25.00%		5 62.50%			8 100.00%
	F							
	T	1 12.50%	2 25.00%		5 62.50%			8 100.00%
COMMANDER	M	3 17.65%	3 17.65%		11 64.71%			17 100.00%
	F							
	T	3 17.65%	3 17.65%		11 64.71%			17 100.00%
CAPTAIN III	M	2 6.90%	1 3.45%		25 86.21%			28 96.55%
	F				1 3.45%			1 3.45%
	T	2 6.90%	1 3.45%		26 89.66%			29 100.00%
CAPTAIN II	M		2 11.76%		13 76.47%			15 88.24%
	F				2 11.76%			2 11.76%
	T		2 11.76%		15 88.24%			17 100.00%
CAPTAIN I	M	2 10.53%	2 10.53%	1 5.26%	14 73.68%			19 100.00%
	F							
	T	2 10.53%	2 10.53%	1 5.26%	14 73.68%			19 100.00%
LIEUTENANT II	M	14 10.37%	23 17.04%	1 0.74%	93 68.89%			131 97.04%
	F				4 2.96%			4 2.96%
	T	14 10.37%	23 17.04%	1 0.74%	97 71.85%			135 100.00%
LIEUTENANT I	M	10 11.24%	8 8.99%	3 3.37%	59 66.29%			80 89.89%
	F	3 3.37%			6 6.74%			9 10.11%
	T	13 14.61%	8 8.99%	3 3.37%	65 73.03%			89 100.00%

TABLE 1 (continued)

**SWORN PERSONNEL BY RANK, SEX & ETHNICITY**  
**MARCH 17, 1996**

RANK	Sex	Black Number Percent	Hispanic Number Percent	Asian American Number Percent	Caucasian Number Percent	American Indian Number Percent	Filipino Number Percent	Total Number Percent
SERGEANT II	M	35 10.70%	49 14.98%	6 1.83%	207 63.30%	2 0.61%	1 0.31%	300 91.74%
	F	4 1.22%	5 1.53%		18 5.50%			27 8.26%
	T	39 11.93%	54 16.51%	6 1.83%	225 68.81%	2 0.61%	1 0.31%	327 100.00%
SERGEANT I	M	72 12.83%	88 15.69%	21 3.74%	320 57.04%	2 0.36%	2 0.36%	505 90.02%
	F	11 1.96%	13 2.32%	2 0.36%	29 5.17%	1 0.18%		56 9.98%
	T	83 14.80%	101 18.00%	23 4.10%	349 62.21%	3 0.53%	2 0.36%	561 100.00%
DETECTIVE III	M	24 7.57%	47 14.83%	5 1.58%	219 69.09%		1 0.32%	296 93.38%
	F	4 1.26%	4 1.26%		13 4.10%			21 6.62%
	T	28 8.83%	51 16.09%	5 1.58%	232 73.19%		1 0.32%	317 100.00%
DETECTIVE II	M	46 7.54%	110 18.03%	16 2.62%	357 58.52%	2 0.33%		531 87.05%
	F	18 2.95%	22 3.61%	1 0.16%	36 5.90%	1 0.16%	1 0.16%	79 12.95%
	T	64 10.49%	132 21.64%	17 2.79%	393 64.43%	3 0.49%	1 0.16%	610 100.00%
DETECTIVE I	M	70 12.57%	104 18.67%	17 3.05%	256 45.96%	2 0.36%	4 0.72%	455 81.33%
	F	21 3.77%	33 5.92%		50 8.98%			104 18.67%
	T	91 16.34%	137 24.60%	17 3.05%	306 54.94%	2 0.36%	4 0.72%	557 100.00%
P.O. III - DETECTIVE TRAINEES	M	19 13.67%	43 30.94%	1 0.72%	35 25.18%		1 0.72%	99 71.22%
	F	9 6.47%	8 5.76%		23 16.55%			40 28.78%
	T	28 20.14%	51 36.69%	1 0.72%	58 41.73%		1 0.72%	139 100.00%
POLICE OFFICER III	M	234 12.98%	405 22.46%	57 3.16%	826 45.81%	2 0.11%	10 0.55%	1534 85.08%
	F	47 2.61%	55 3.05%	14 0.78%	150 8.32%	3 0.17%	3 0.17%	269 14.92%
	T	281 15.59%	460 25.51%	71 3.94%	976 54.13%	5 0.28%	10 0.55%	1803 100.00%
POLICE OFFICER II	M	351 13.66%	675 26.26%	99 3.85%	875 34.05%	8 0.31%	26 1.01%	2034 79.14%
	F	97 3.77%	155 6.03%	22 0.86%	256 9.96%	1 0.04%	5 0.19%	536 20.86%
	T	448 17.43%	830 32.30%	121 4.71%	1131 44.01%	9 0.35%	31 1.21%	2570 100.00%
POLICE OFFICER I	M	110 7.43%	451 30.45%	77 5.20%	464 31.33%	9 0.61%	31 2.09%	1142 77.11%
	F	33 2.23%	134 9.05%	15 1.01%	150 10.13%	3 0.20%	4 0.27%	339 22.89%
	T	143 9.66%	585 39.50%	92 6.21%	614 41.46%	12 0.81%	35 2.36%	1481 100.00%
TOTAL	M	995 11.46%	2013 23.18%	304 3.50%	3781 43.54%	27 0.31%	76 0.88%	7196 82.87%
	F	247 2.84%	429 4.94%	54 0.62%	738 8.50%	9 0.10%	10 0.12%	1487 17.13%
	T	1242 16.30%	2442 28.12%	358 4.12%	4519 52.04%	36 0.41%	86 0.99%	8683 100.00%

As of March 1996, minority officers constituted 45.9% of the LAPD's sworn officers (14.30% African-American; 28.1% Latino; 4.12% Asian). Women constituted 17.13% of the force.

By comparison, the City of Los Angeles is approximately 40% Latino; 37% Anglo; 13% African-American; and 10% Asian. Within the County of Los Angeles as a whole, women constitute approximately 43% of the civilian work force; African-Americans, approximately 10%; Latinos, approximately 35%; and Asians, approximately 7.5%. **Measured against these statistics, it appears that with the exception of African-Americans, the LAPD still has a way to go before its composition reflects the diversity either of the City's population or the County's labor pool, although progress continues to be made.** In part as a reflection of the work of the Women's Advisory Council and the urging of this Commission, the Los Angeles City Council in 1994 set a long-term annual hiring goal of 43.4% for LAPD female officers. The City increased its interim annual hiring goal for female officers from 25% to 30%.<sup>1</sup>

**Although there is substantial room for further progress, there are areas in which the LAPD is nonetheless leading the state of California.** On a national basis as of 1993 — the last year for which statistics are readily available — women constituted 16% of police and detectives. Interestingly, no major metropolitan police force in California had a larger percentage of women than the LAPD's then percentage of 14.4%: San Diego was 13.8%, San Francisco was 12.8%, the Los Angeles County Sheriff's Department was 12.5%, Sacramento was 9.8%; Oakland was 8.6%, and Fresno was 7.5%.

Putting the various statistical data in context, we conclude that the LAPD is making steady progress toward increasing the general percentages of women. **The LAPD and this Commission are to be commended that the LAPD is a leader in California in the percentages of women and minorities. At the same time, there is still a long way to go, particularly with respect to the overall percentage of**

women and Asians in the force and in tangible results from fuller opportunities for women and most minorities to assume leadership positions in the ranks of lieutenant and above. This Commission and its Task Forces should closely monitor the Department's efforts in these areas.

## **Women and Minorities in Leadership Positions**

### ***The Overall Command Structure***

The Christopher Commission did not provide a rank-by-rank demographic breakdown of the Department as of the time of its Report, although it noted that the vast majority of women and minorities — approximately 80% — were in entry-level positions. Currently, African-Americans continue to make gains in positions of authority through the ranks. Women and Latinos are breaking through, but remain concentrated heavily in the lower ranks. Although women and Latinos are beginning to move up with some rapidity, Asians are doing so to a lesser degree.

Table 1 displays a rank-by-rank breakdown as of March 1996. Table 2 (next page) provides the same rank-by-rank breakdown as of March 1991, the month of the Rodney King beating, for comparative purposes.

The highest ranking woman in the LAPD today is a Captain III. There are no female commanders, deputy chiefs or assistant chiefs, and the Chief of Police is male. **It is a matter of serious concern that women are not represented in the highest ranks of the Department.** By contrast, the Los Angeles County Sheriff's Department — although in general trailing behind the LAPD in numbers of women and minorities — nonetheless has one female chief and three female commanders.

It is instructive to examine Tables 1 and 2 to note where there are significant gaps in the numbers or percentages of women in the command structure and, in particular, where women constitute less than 10% of a given rank. The gaps have tended to close over time, and women constitute 10% or more in significantly more

TABLE 2

**SWORN PERSONNEL BY RANK, SEX & ETHNICITY**  
**MARCH 24, 1991**

RANK	Sex	Black Number Percent	Hispanic Number Percent	Asian American Number Percent	Caucasian Number Percent	American Indian Number Percent	Filipino Number Percent	Total Number Percent
CHIEF	M				1 100.00%			1 100.00%
	F				1 100.00%			1 100.00%
	T							
DEPUTY CHIEF II	M				2 100.00%			2 100.00%
	F				2 100.00%			2 100.00%
	T							
DEPUTY CHIEF I	M	1 18.67%			5 83.33%			6 100.00%
	F	1 16.67%			5 83.33%			6 100.00%
	T							
COMMANDER	M	1 5.25%	2 10.53%		16 84.21%			19 100.00%
	F	1 5.25%	2 10.53%		16 84.21%			19 100.00%
	T							
CAPTAIN III	M	3 10.71%	2 7.14%		22 78.57%			27 96.43%
	F	3 10.71%	2 7.14%		1 3.57%			1 3.57%
	T				23 82.14%			28 100.00%
CAPTAIN II	M				17 100.00%			17 100.00%
	F				17 100.00%			17 100.00%
	T							
CAPTAIN I	M	2 9.52%	2 9.52%		17 80.95%			21 100.00%
	F	2 9.52%	2 9.52%		17 80.95%			21 100.00%
	T							
LIEUTENANT II	M	8 6.25%	13 10.16%	1 0.78%	100 78.13%			122 95.31%
	F	8 6.25%	1 0.78%		5 3.81%			6 4.69%
	T		14 10.94%	1 0.78%	105 82.03%			128 100.00%
LIEUTENANT I	M	6 5.94%	8 7.92%	1 0.99%	84 83.17%			99 98.02%
	F	6 5.94%	8 7.92%	1 0.99%	2 1.98%			2 1.98%
	T			1 0.99%	86 85.15%			101 100.00%

TABLE 2 (continued)

**SWORN PERSONNEL BY RANK, SEX & ETHNICITY**  
**MARCH 24, 1991**

RANK	Sex	Black Number Percent	Hispanic Number Percent	Asian American Number Percent	Caucasian Number Percent	American Indian Number Percent	Filipino Number Percent	Total Number Percent
DETECTIVE III	M	20 6.51%	30 9.77%	2 0.65%	242 78.83%		1 0.33%	295 96.09%
	F	1 0.33%			11 3.58%			12 3.91%
	T	21 6.84%	30 9.77%	2 0.65%	253 82.41%		1 0.33%	307 100.00%
DETECTIVE II	M	28 4.74%	80 13.54%	8 1.35%	440 74.45%	2 0.34%		558 84.42%
	F	4 0.68%	4 0.68%		25 4.23%			33 5.58%
	T	32 5.41%	84 14.21%	8 1.35%	465 78.68%	2 0.34%		591 100.00%
DETECTIVE I	M	37 7.25%	79 15.49%	16 3.14%	315 61.76%	1 0.20%	2 0.39%	450 88.24%
	F	11 2.16%	13 2.55%	1 0.20%	35 8.88%			60 11.76%
	T	48 9.41%	92 18.04%	17 3.33%	350 68.53%	1 0.20%	2 0.39%	510 100.00%
SERGEANT II	M	30 10.10%	35 11.78%	2 0.67%	224 75.42%			291 97.98%
	F				6 2.02%			6 2.02%
	T	30 10.10%	35 11.78%	2 0.67%	230 77.44%			297 100.00%
SERGEANT I	M	49 8.52%	84 11.13%	12 2.09%	423 73.57%	1 0.17%	2 0.35%	551 95.83%
	F	6 1.04%	2 0.35%		16 2.78%			24 4.17%
	T	55 9.57%	86 11.48%	12 2.09%	439 76.35%	1 0.17%	2 0.35%	575 100.00%
POLICE OFFICER III	M	272 12.25%	392 17.65%	47 2.12%	1201 54.07%	7 0.32%	9 0.41%	1928 86.81%
	F	52 2.34%	70 3.15%	4 0.18%	161 7.25%	5 0.23%	1 0.05%	293 13.19%
	T	324 14.59%	462 20.80%	51 2.30%	1362 61.32%	12 0.54%	10 0.45%	2221 100.00%
POLICE OFFICER II	M	322 12.81%	580 23.25%	61 2.44%	1087 43.57%	5 0.20%	13 0.52%	2068 82.89%
	F	88 3.53%	106 4.25%	15 0.80%	217 8.70%	1 0.04%		427 17.11%
	T	410 16.43%	686 27.49%	76 3.05%	1304 52.26%	6 0.24%	13 0.52%	2495 100.00%
POLICE OFFICER I	M	162 15.79%	264 25.73%	38 3.70%	309 30.12%	1 0.10%	7 0.68%	781 76.12%
	F	47 4.58%	58 5.65%	9 0.88%	128 12.48%	1 0.10%	2 0.19%	245 23.88%
	T	209 20.37%	322 31.38%	47 4.58%	437 42.58%	2 0.19%	9 0.88%	1026 100.00%
TOTAL	M	941 11.28%	1551 18.59%	188 2.25%	4505 53.98%	17 0.20%	34 0.41%	7236 86.71%
	F	209 2.50%	254 3.04%	29 0.35%	607 7.27%	7 0.08%	3 0.04%	1109 13.29%
	T	1150 13.78%	1805 21.63%	217 2.60%	5112 61.26%	24 0.28%	37 0.44%	8345 100.00%

ranks in 1996 than they did in 1991. Even so, in the command ranks (Captain I and above), women constitute only 3% of the officers.

Turning from women to African-Americans, in 1991, 82% of the African-Americans in the force were in the Police Officer ranks; in 1996, the number dropped to 72%. There are African-Americans represented at every rank of the Department, including the Chief of Police, and African-Americans constitute at or about 10% of most ranks. This represents good progress.

Latinos have made somewhat less progress. Although Latinos registered increases in nearly every rank and in absolute numbers, Latinos remain heavily concentrated in the entry-level ranks. In 1991, 81% were in the Police Officer ranks; in 1995, 79%.

As can also be seen from the tables, Asians have made modest gains in overall numbers but remain in the vast majority in entry-level ranks. In March 1991, the highest-ranked Asian was a Lieutenant II. Of the 217 Asians, 174, or 80%, were in the Police Officer ranks. In 1996, there were four Asian Lieutenants and one recently promoted Captain. Of the 58 Asians, 79.6% are in the Police Officer ranks.

In the command ranks overall, progress has been made, but there remains a large disproportion of white males. In 1991, 85% of all command officers (Captain I and above) were white males. Five years later, in 1996, the percentage has dropped to 75, a number still too large.

### ***Coveted Positions***

The Christopher Commission cited certain assignments and units within the LAPD that are officially recognized as coveted positions — ones that are generally perceived as more desirable, attractive, and prestigious or that provide career-enhancing promotion opportunities. In 1990, the Department issued its Coveted Position Report confirming that minorities and females were underrepresented in these

desirable assignments. In 1991, the Christopher Commission identified assignments to the Metropolitan Division, Narcotics, and Internal Affairs as examples of coveted positions, and it is interesting to re-examine those positions today.

Unfortunately, not much has changed, particularly as regards women. The elite Metropolitan unit had 206 members in June 1995. Of these, 96.6% were male. The Narcotics Group had 335 members as of June 1995. Males constituted 88%. The Internal Affairs Division had 81 members as of June 1995. Males were 80%. There were other divisions where very low percentages of various minorities and women stood out. The Organized Crime Intelligence Division had 45 members in June 1995. The Division was nearly 90% male and 75% white. The Air Support Division had 78 members and was 97% male and 83% white. The Robbery-Homicide Division, with 73 members, was 94.5% male and 70% white.

The dearth of women and minorities in these coveted positions is especially troubling. The Christopher Commission pointed to anecdotal evidence that at least some of these units resisted the influx of women, minorities, and gays and lesbians. Moreover, the transfer of officers to these positions is entirely discretionary — no civil service rules or limitations apply. **Accordingly, rectifying the imbalances identified five years ago should have been among the most straightforward and speediest reforms to implement fully. Instead, particularly as regards women, few significant gains have been made. This Commission or the Inspector General should undertake a study to probe the reasons underlying the seemingly intractable problem of underrepresentation of women and minorities. A thorough examination of all aspects of the promotional exam and interview process may disclose practices that need change. Formal validation studies and fairness analyses of applicable tests and evaluations should be performed to find out if there is unfair impact by gender, race, ethnicity, or sexual orientation.**



The lack of progress in this area could also give rise to civil liability. For example, a jury recently awarded an officer millions of dollars after finding that the LAPD discriminated against him by not giving him a fair opportunity for assignment in the Air Support Division.

We also looked briefly at the underrepresentation of women and minorities in certain patrol areas, where the problems are particularly complex because of four different but equally important kinds of diversity goals that at times are difficult to reconcile. The first goal is racial, ethnic, and gender diversity in the work force within each patrol area or station; the second is that a given station reflect the diversity of the community served. The third is that there be regular turn over of patrol officers, sergeants, and lieutenants at any given station so that cliques, in-groups, or corruption does not develop. The fourth is that there be continuity in staffing to promote deeper familiarity by officers of the immediate community served by the station. To achieve the proper mix at any given station is a difficult and delicate task.

Nonetheless, within certain bureaus, there are patrol areas with what appears to be too few African-Americans and Latinos. In the Valley Bureau, the Foothill station is only slightly more than 5% African-American and Devonshire is only 6.7% African-American. In the Central Bureau, the Hollenbeck and Northeast areas have relatively few African-Americans. In the South Bureau, the Harbor station has relatively few African-Americans.

Overall, the LAPD is making mixed progress expanding promotional opportunities for women and minorities. Black and Latino males are beginning to occupy positions throughout the rank structure, including the upper ranks, and, in many instances, in greater than token amounts. Women are starting to rise through the ranks, though still in token numbers in the middle ranks and virtually absent in the upper ranks with the exception of one Captain III. Asians are starting to reach the middle ranks but only in token numbers.

Although the LAPD is to be congratulated for having a police force with relatively greater overall diversity of composition and relatively better distribution of women and minorities through the ranks and across the Department than many large urban police agencies, there is a long way to go until the entire force, looked at both horizontally and vertically, generally reflects the County's labor force and the City's demographic diversity. The Christopher Commission recommendations in this area have only partly been fulfilled. This Commission and its Task Forces should continue to direct the Department's efforts to speedy implementation of these important Christopher Commission recommendations.

### **Discrimination Unit**

The Christopher Commission found that it was essential that officers in the LAPD have a means to address discrimination grievances to someone other than the officer in charge of the station where the act occurred. The Christopher Commission's findings were echoed by a growing number of voices from within the Department that complaints of discrimination were not being properly investigated or handled. This Commission responded to those growing concerns by approving (over the Department's objections) the creation of a Discrimination Unit to be staffed by 13 people. The Unit would report to the Commission directly, not through the Department's chain of command. Unfortunately, implementation of the Unit has been long delayed by the City Council. Recent reports indicate that the final Council roadblocks have now been removed, and that the Unit should be in place shortly. We view this as a significant step forward toward addressing the important problem of bias within the Department.

## **Cultural Diversity and Sexual Harassment Training**

One of the most graphic parts of the Christopher Commission report was its quotation of racial comments and ethnic slurs in MDT transmissions and similar remarks overheard on an ongoing basis at roll call or in the locker rooms. Recently, quotations from the Fuhrman tapes used at the O.J. Simpson trial re-focused public attention on the issue of racism and sexism in the LAPD.

The Christopher Commission recommended that the LAPD do "all it can to change those attitudes, including holding command officers responsible for continued incidents by their subordinates." CC, p. 91. The Commission further recommended that the Chief of Police establish through discipline and other tangible ways that racial, ethnic, gender, and sexual orientation bias will "not be tolerated" at all within the Department. The Christopher Commission stated that the LAPD must establish a program of cultural awareness training to eliminate stereotypes for all officers.

The recommendations for cultural diversity training have been implemented only in small part. As of early 1996, only 1700 employees and 1000 recruits had received cultural diversity training. Sexual harassment training had been given to substantially more officers: 9900 employees.

The Christopher Commission recommendations concerning cultural awareness and sexual harassment training are no less urgent today. Our examination of personnel complaints filed in recent years by one officer against another provides troublesome indications that racial, ethnic, and gender tensions within the LAPD are growing. It was disturbing to review personnel complaints replete with charges and countercharges of gender and other bias. The increasing use of personnel complaints to resolve interpersonal problems between LAPD officers is troublesome and must be investigated and addressed. **It is insufficient that so few members of the Department have been exposed to cultural awareness training in the five years**

since the Christopher Report. This Christopher Commission recommendation has not been implemented, as this Commission is aware.

### **Bias Based on Sexual Orientation**

The Christopher Commission said that the Department must fully implement policies of nondiscrimination in the recruitment and promotion of gay and lesbian officers. There has been progress in this area. At the time the Christopher Commission convened, there was not one openly gay or lesbian LAPD officer. The Christopher Commission staff interviewed more than 50 gay and lesbian LAPD officers, virtually all of whom said that they believed that they could not reveal their sexual orientation without jeopardizing their careers and many of whom believed they could not do so without jeopardizing their physical safety. Shortly before the release of the Christopher Commission Report, several gay and lesbian officers publicly identified themselves.

Since then, many other officers have identified themselves as gay and lesbian. Some have publicly identified themselves; others have made their sexual orientation known to patrol car partners or close associates in the Department. Throughout the ranks, at least up to the senior command level, there are gay LAPD officers. In response to a lawsuit brought by a former LAPD sergeant who is gay, the LAPD in 1993 entered into a settlement hailed by gay-rights activists as historic that set new standards to protect gays. Since then, the LAPD has actively recruited in the gay and lesbian community, advertised in publications calculated to reach a gay and lesbian audience, and has adopted other procedures to deal with sexual orientation issues and discrimination. The LAPD was the first police department ever to co-sponsor the Gay and Lesbian Police Convention in Southern California in August 1995. **Although discrimination and bias surely still exist and must be guarded against and eliminated, there has been measurable progress in implementing the Christopher**

**Commission recommendations regarding sexual orientation bias.** The active interest and oversight of this Commission have contributed substantially to the progress made.

### **The Fuhrman Tapes**

The alleged incidents described in the Fuhrman tapes — all of which preceded the Christopher Commission Report and none of which apparently occurred later than the 1980's — caused widespread questioning whether the LAPD has fulfilled the Christopher Commission recommendation that racism and sexism be eliminated through education and re-training, if possible, and by discipline and termination, if necessary. Internal Affairs, under the command of Commander J.I. Davis, is conducting a wide investigation of each incident described in the Fuhrman tapes to determine if the incident can be verified as having actually occurred, if there were violations of policy or other wrongdoing in connection with the incident, and whether discipline or punishment is merited to the extent that it still could be imposed. Our Report is not the place to publish the results of the inquiry or comment upon its findings — that is the job of the Department and this Commission. Nor have we undertaken to oversee or review that investigation. For purposes of this Report, it is sufficient to note that this Commission has given clear and explicit direction to the Department with respect to the breadth and integrity of the investigation and receives regular reports on its progress.

Nonetheless, it is important to comment on the investigation from the perspective of the Christopher Commission's mandate that the Department demonstrate in tangible ways, including discipline, that racial, ethnic, gender and sexual orientation bias will not be tolerated in the slightest. The inflammatory statements and language from the tapes abraded still raw and unhealed old wounds and opened new ones.

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How the Department leadership deals with the consequences of the tapes will be widely judged with respect to whether the Christopher Commission's mandate on elimination of bias has been obeyed. Law enforcement agencies with jurisdiction over the LAPD will make far-reaching judgments regarding the adequacy of the Department's response.

Accordingly, as this Commission has noted, it will not be enough to verify or refute the existence of specific incidents described on the tapes. To the degree that the investigation substantiates the existence of racism within the LAPD, or of tolerance of brutal conduct, even if the events took place many years ago, this Commission has put the Department on notice that it will expect and require concrete steps to assure that such events will not — and cannot — happen again.

But even if it should turn out that the incidents described on the tapes did not occur or happened very differently from Mr. Fuhrman's description, **this Commission has also put the Department on notice that the end of the investigation must include ongoing steps to ensure to the extent possible that those whose conduct is tinged by bias or its clear potential are neither selected to serve in the LAPD nor retained in its ranks. What has been accomplished to date is not enough, and these important Christopher Commission recommendations have not been adequately implemented. Nothing less than detailed, fully-articulated programs and procedures to eliminate racism, sexism, ethnic and sexual orientation bias, root and branch, will suffice.**

The crisis caused by the Fuhrman tapes is a good example of why this Commission must have adequate support in its mission to oversee and direct the affairs of the LAPD. The activities of the Los Angeles Police Department have national and international repercussions. Certainly, the image of the City of Los Angeles turns in part on the image of its Police Department. But more importantly, the continuing ability of the LAPD to operate under local authority hinges in part on the efficacy of this Commission in exercising its control and demonstrating results. Absent such results,

the risk of intervention and supervision by federal and state authorities, including the courts, is a real possibility.

### Endnotes

1 In reaching these conclusions, we did not examine in detail the demographic breakdown of the applicant pool for the LAPD. Nor did we compare the applicant pool to the general County labor pool. We did not test whether adequate efforts are made to reach underrepresented groups. And finally, we did not audit whether women and minorities have significantly different rates of acceptance into the LAPD training academy. These issues are important ones for this Commission and its Task Forces to consider at greater length.





## Chapter Three: Complaints and Discipline

The handling of public complaints against police officers reflects many things about the LAPD. It reflects what the public considers misconduct, what the Department considers misconduct, how many officers are engaging in such misconduct, and, based on the punishments for misconduct, what the Department discourages most in its officers. The internal discipline process is essentially a window on public opinion and the Department's value structure.

To the extent this window accurately portrays the Department, the Department has improved since 1991. Our review of the complaint procedure indicates that internal investigations are more thorough and adjudications appear more fair than was the case when the Christopher Commission Report issued.

Internal Affairs has taken a greater role in the investigation of complaints, and there has been a noticeable improvement in the quality of the investigations. Improvement in the adjudication of complaints also has occurred, though to a lesser extent as bias in favor of officers persists. In particular, the unwritten practice that the "tie goes to the officer"

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remains prevalent, as does the problem of identifying the "independent witnesses."

In addition to being investigated more thoroughly and adjudicated more fairly, complaints appear to be occurring less frequently. Complaints of misconduct involving use of force are down considerably both overall and as a percentage of arrests and uses of force.

Despite these positive trends, some problems identified by the Christopher Commission persist. Though relatively rare, incidents of biased or lax investigations, unfair adjudications, and lenient punishments remain. We also found too few examples of discipline for code of silence-related misconduct (e.g., lying to Internal Affairs, failing to report misconduct).

We are also troubled by the Department's use of the "Miscellaneous Memo" procedure, which we describe in greater detail below. Although designed as a rare and limited alternative to lodging a formal complaint where the allegations, even if true, would not result in discipline, the practice is markedly broader.

Equally troubling is the poor quality of information available about complaints. Our three separate requests for data resulted in three separate sets of numbers being provided, some of which could not be reconciled (although all were consistent with the general trends discussed above). In addition, the Department relies significantly on manual counting, which is shocking in light of modern information systems. Information about internal discipline is simply too important to be as inaccessible as it is currently, and resources should be devoted to improve the information systems.

In short, the Department has improved its processing of complaints, and officers appear to be engaging in less conduct giving rise to a formal complaint. Nevertheless, questions remain about the punishment and investigation of misconduct, as well as the quality of the Department's information systems.

### **Background**

The processing of complaints against officers involves four steps: intake, investigation, classification and punishment.

Complaints may be made by the public or by the Department itself. After the complaint is received, an investigator from either Internal Affairs or the division at which the officer works will be assigned to investigate. This investigation is then documented in a report, which is given to the accused officer's Division Commanding Officer (usually a Captain I) for classification.

The Commanding Officer may choose from four possible classifications for each allegation in the complaint: Sustained (i.e., guilty); Not Resolved (i.e., insufficient evidence to establish the truth or falsity of the allegations); Unfounded (i.e., conduct did not occur); or Exonerated (i.e., conduct occurred but it did not violate policy). The adjudication is accompanied by an "Administrative Insight," which is designed to be a candid assessment of the complaint. If the complaint is sustained, the Commanding Officer recommends a penalty. Penalties include one or more of the following: Warning (informal censure by Commanding Officer); Admonishment (formal censure by Commanding Officer); Official Reprimand (formal written censure from Chief of Police); Suspension (off duty without pay); Demotion (reduction in rank or grade); or Removal (termination of employment).<sup>1</sup>

The adjudication and penalty are then reviewed by the area and bureau commanders, who may approve or disagree (via "Military Endorsement") with the result. If the penalty is official reprimand, suspension, or removal, the Chief of Police will review the file and may accept, increase, or decrease the punishment. Suspensions over 22 days, demotion, or removal may be imposed only by a Board of Rights. Suspensions of any length may, at the officer's election, be referred to a Board of Rights. If the Board of Rights finds an officer guilty, then the Chief of Police may accept or decrease the penalty the Board imposes. In any case where the Chief of Police reduces a recommended

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penalty, he should explain in writing his justification for doing so.

The Christopher Commission found faults in all aspects of the complaint process. These shortcomings fell generally into one of three categories: (1) public complaints were discouraged at the intake level in part by uncooperative police officers at stations, (2) investigations and adjudications were lax and biased in favor of officers, and (3) penalties were lenient for excessive force.

In order to review the progress of the Department, we did the following:

- reviewed over 130 investigative files involving either use of force or ethnic bias;
- reviewed an additional 130 "face sheets," that is, one page summaries of adjudicated complaints;
- reviewed the personnel files of several officers who had a history of complaints;
- visited five police stations and requested complaint forms;
- interviewed Internal Affairs personnel; and
- spoke with advocacy groups involved with the complaint process.

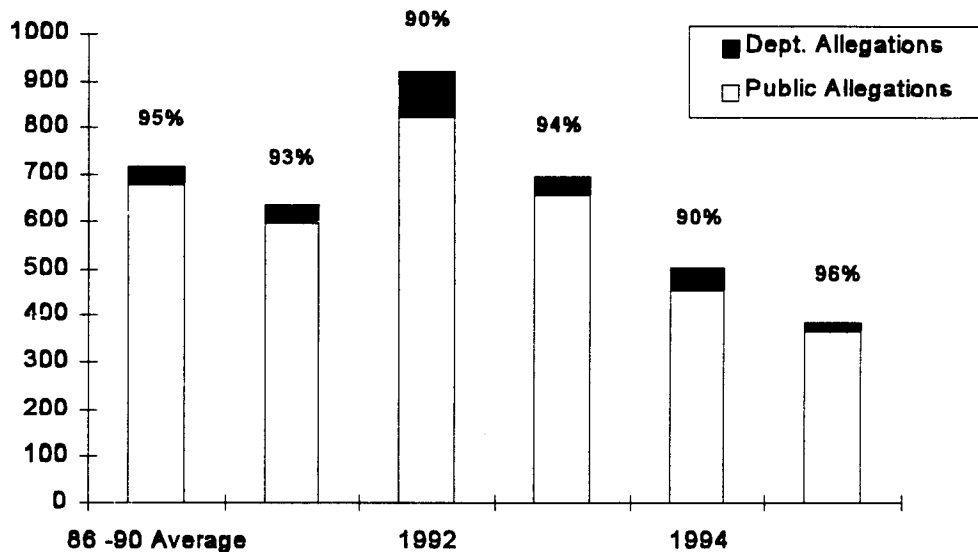
### **Allegations of Force-Related Misconduct Have Decreased Significantly Since 1991**

Allegations of force-related misconduct, that is, unauthorized force and unauthorized tactics complaints, have decreased significantly since 1991.

Graph 1 (next page) depicts total allegations of improper force-related conduct in adjudicated complaints for the years 1991-1995, as well as the average for the years 1986-90.<sup>2</sup> This bar graph is split between allegations brought by the public and those brought by the Department. The percentages shown at the top of each bar reflect the percentage of all force-related allegations that arise from citizen, as opposed to Department complaints.

Graph 1

ADJUDICATED ALLEGATIONS OF  
FORCE-RELATED MISCONDUCT



(Source: LAPD Complaints Database)

Because the figures in the graph above represent the year in which the allegation was adjudicated, the yearly totals actually reflect conduct that occurred partly in that year and partly the prior year. Accordingly, there will be complaints made in one year that will be reflected in the following year.

Graph 1 demonstrates that force-related allegations have decreased steadily since 1995 and are presently well below the pre-Christopher Commission levels.<sup>3</sup> Complaints by the public continue to account for the vast majority of all complaints. In light of the concurrent declines in arrests and uses of force discussed in Chapter 2, we also reviewed the allegations of force-related misconduct as a percentage of arrests and as a percentage

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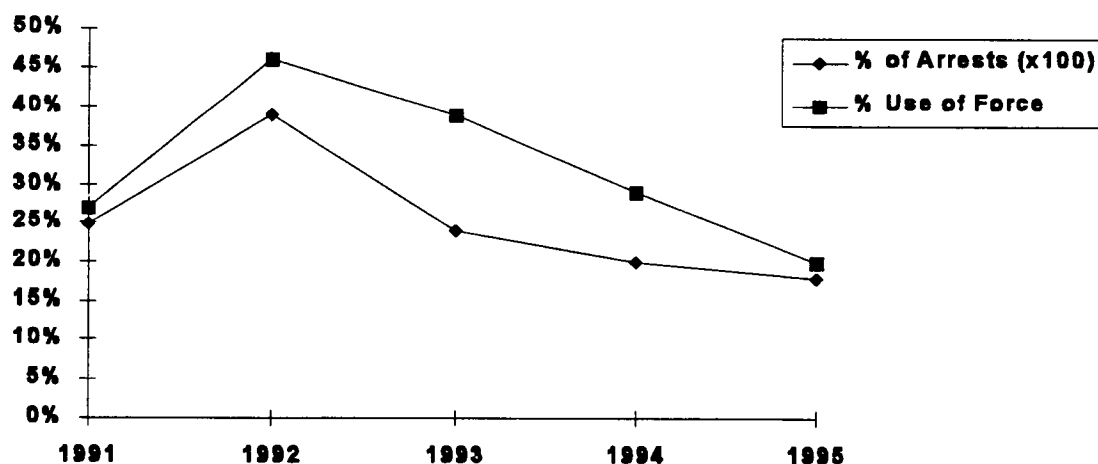
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of uses of force.

As shown by Graph 2, even viewed as percentages, allegations since 1992 of force-related misconduct have decreased significantly. In other words, on average fewer arrests and uses of force are leading to allegations of wrongdoing. However, we cannot determine from these statistics whether this decline is a result of changed behavior by LAPD officers, a reduction in the public's willingness to pursue formal complaints back to pre-Rodney King levels, or a combination of both.

Graph 2

### ADJUDICATED ALLEGATIONS OF FORCE-RELATED MISCONDUCT AS A PERCENTAGE OF USES OF FORCE AND ARRESTS



(Source: LAPD Complaints Database)

[Note: In order to fit both figures on one graph, the per arrest figure had to be multiplied by 100 since there is less than one force-related complaint for every hundred arrests.]

The figures in Graph 2 reflect the date of adjudications, while arrests and uses of force are reported in the year they occurred. Therefore, to ensure accuracy in the pattern

reported, we also compared force-related allegations with arrests and uses of force from the prior year, and found the same decreasing trend.

Notwithstanding the positive trend demonstrated by the foregoing graphs, the conduct complained of remains egregious and disturbing. For example, in one sustained case we audited, an unknown officer drove up to an African-American pedestrian and, without provocation, sprayed the citizen with pepper spray and allegedly called him a "fuckin' nigger." In another sustained case, an arrestee requested some toilet paper for his jail cell, and an officer responded by asking "what the fuck do you think this is, the Hilton" and then punching the arrestee in the stomach. (The officer claimed that the arrestee ran into the officer's outstretched fist.) The arrestee then asked another officer to speak to a supervisor and to see a doctor, and this other officer laughed and walked away. (For such conduct, the officer hitting the arrestee was suspended for 15 days. The officer who failed to report the event or help the arrestee was admonished.)

No level of such conduct is tolerable in any police department, particularly since this conduct reflects poorly on the many exemplary officers on the LAPD. Although there has been a decrease in such conduct, the Department must continue to seek an even lower rate of misconduct.

### **The Department Has Made Progress In Its Processing Of Complaints, But Problems Persist**

According to the Christopher Commission Report, "no area of police operations received more adverse comment . . . than the Department's handling of public complaints against LAPD officers, particularly allegations involving excessive use of force." CC, p. 153. The Christopher Commission reported inaccessible intake procedures, biased or lax investigations, unfair results, and unjust punishment. We studied each aspect of the complaint procedure (except intake).<sup>4</sup>

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## *Investigation*

After reviewing 700 investigative files, the Christopher Commission came to several conclusions, the most disturbing of which were that:

- The overall quality of investigations was low.
- Procedures were biased in favor of officers.
- Adjudications were not often fair or well considered.
- The level of sanctions were low for force-related cases.

On the whole, based on our review of 130 complaint files, the quality of the investigations was substantially improved. Relevant witnesses were identified and spoken to, physical evidence was collected, and the procedures appeared fair. We did not find instances of the most egregious procedures identified in the Christopher Commission Report.

It appears that the increase in the number of Internal Affairs investigations has improved the quality of the investigations. Internal Affairs has played a much more significant role than it did prior to the Christopher Commission. Internal Affairs personnel are now staffed in two Bureaus (South and West) with plans to expand to the remaining Bureaus. Consequently, Internal Affairs now conducts approximately 40 percent of the total investigations. At the time of the Christopher Commission that percentage was negligible. These changes have led to noticeable improvements.

Along these lines, we reiterate the Christopher Commission recommendation that tours of duty in Internal Affairs be extended. Such a modification will enhance Internal Affairs' expertise and, accordingly, the quality of investigations.

Despite these general conclusions, we did observe problems reminiscent of those prevalent before the Christopher Commission. Specifically, we found that in some cases officers were subject to less rigorous questioning than were witnesses. We also found a case of unauthorized force in which the investigator (an officer in the accused officer's



division) failed to interview the treating physician about injuries to the complainant. Another case involved an arrestee who alleged that the arresting officer used excessive force, but the investigator could not identify the officer making the arrest, a claim which appeared difficult to believe. Though of concern, these problems appeared relatively isolated, and were most often in cases not investigated by Internal Affairs.<sup>5</sup>

We have, however, heard complaints from attorneys representing complainants in civil litigation that even Internal Affairs interviews are biased, and often hostile. We have not reviewed the tape recordings of such interviews, nor have we interviewed complainants to ascertain the validity of this criteria, but we do suggest that such a review be conducted.

### *Classification*

The Christopher Commission found many problems with the classifications. One of the most prevalent was a bias in favor of the officer, manifested through any one of the following: An unwritten practice that "tie goes to the officer," insubstantial inconsistencies being used to discredit witnesses, and officers' credibility being weighed too heavily. The Christopher Commission also found that there was no consistent standard for determining whether a witness is "independent." We found that such concerns remain, although they are less problematic than in the past.

#### *The "Tie Goes to the Officer" Issue*

The "tie goes to the officer" practice was noticeable in many of the 130 cases reviewed, and raises a difficult issue. In a typical case, there are two main witnesses to the alleged misconduct, the complainant and the officer. The remaining evidence is often inconclusive or offsetting. In these cases, the classifications were always either Not Resolved or Unfounded.

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Although it would be unfair to punish an officer for conduct that cannot be proven, it is also unwise to presume conclusively that nothing can or should be done in any of these cases. To take one area of concern, we uncovered repeated allegations of racial slurs by officers that were heard only by the complainant. Although virtually all of these were classified as either Not Resolved or Unfounded, we suspect that some of these comments may actually have been made. Moreover, where a complainant has credibility problems, complaints are at times deemed Unfounded, while the converse rarely occurs.

We are aware of the problem facing a Commanding Officer confronted with conflicting evidence and a cold, written record. Often, it is difficult to judge credibility, and certainly it is easier not to try and do so. Yet tribunals, both courts and Boards of Rights, make such assessments regularly. To aid the Commanding Officer, we recommend that the Internal Affairs officers that conducted the investigation consult routinely with the Commanding Officer, either orally or in writing, to ensure that credibility determinations can be made where possible. Internal Affairs should also have a timely opportunity to comment upon the classification, as was recommended in the Christopher Commission Report. CC, p. 175. To the same effect, an officer's prior complaint history — including allegations classified as Not Resolved — may bear on the credibility determination.

### *The Independent Witness*

Most of the Not Resolved cases lack an "independent" witness. The Christopher Commission faulted the Department for not having a principled basis for deeming a witness "independent."

The Department continues to lack such a basis. Although often the conclusions regarding independent witnesses appeared justified, guidelines for independent witnesses would ensure consistency. Such guidelines should be flexible enough to recognize the varying circumstances involved in the complaints.

Guidelines would also help address the cases we found that involved unusually narrow definitions of "independent." For example, in one case an officer was accused of punching a detainee in the face several times in front of an apartment building. Six residents of the apartment complex who did not know the detainee supported his version of the events. The investigator deemed all of these residents not to be independent witnesses because: One of the complainant's friends was "well known" in the apartment, another "frequented" the apartment, and all of the witnesses had admitted to speaking to the complainant after the incident. The first two factors seem inconsequential, and the third easily could be interpreted innocently as an injured person seeking witnesses to the incident causing the injury.

### *The Administrative Insight*

The Administrative Insights remain biased to an unacceptably large degree. In many Not Resolved cases the Administrative insight defended the conduct and critiqued the complainant. For example, in one case involving three officers, the Administrative Insight lauded the lack of prior complaints against two of the officers, but failed to mention the abysmal complaint history of the third. In another, which was typical of many, the writer cited the complainant's lack of credibility and noted that it was "disturbing" that officers must be subjected to "unnecessary scrutiny" simply because people "fabricate allegations of misconduct." Such statements call into question the objectivity of the writer and, thereby, of the entire process.

Had such comments occurred infrequently or even occasionally, there would be no cause for concern. The regularity of such comments however, merits attention.

### *Boards of Rights*

The Christopher Commission recommended a series of changes to the Board of

Rights procedure. With one notable exception, all have been implemented. Specifically, Boards of Rights may now consider an officer's past complaint record to determine whether a pattern of alleged misconduct exists that might aid in the resolution of the complaint being decided. Further, the Department recently implemented the Charter Amendment placing a civilian on the Board of Rights. Notably, though, the 1992 Charter Amendment did not eliminate the charged officer's ability to select any two from a list of four command officers to serve on the Board. The reasons for that oversight are unclear, and the Department cannot implement that particular reform absent another Charter amendment.

The Board of Rights changes, especially the addition of a civilian member, are too recent to give rise to meaningful statistics as to their effect, if any. We recommend that you, and your Inspector General, track Board of Rights proceedings carefully.

### ***Punishment***

The Christopher Commission considered the punishment of excessive force cases to be "light." Our review of 130 cases suggested that punishments for excessive force remains low. The same patterns that existed at the time of the Christopher Commission were notable in the 130 cases: conduct that embarrasses the Department (such as fraud) is punished severely, and excessive force is punished less severely.

More telling, however, would be the complete statistics on punishment based on all (as opposed to a sample of) appropriate cases. We were informed that such statistics are not tracked by the Department's software system and could only be counted manually. Such an antiquated system is remarkable in light of the importance of this information. The lack of information and tracking virtually ensures that the Department will be unable to implement a consistent and proportionate policy on punishments, and instead will risk imposing arbitrary and disparate punishments.

Despite the informational shortcomings, we were able to track manually certain punishments. Between 1991 and 1995, the punishments for force-related complaints by the public were less severe than those at the time of the Christopher Commission.

TABLE 1

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Punishment For Public Complaints Of Force-Related Misconduct		
	<u>1986-90</u>	<u>1991-95</u>
Suspension	58.5%	50.0%
Removal	7.6%	2.1%

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Table 1 shows that suspension and removal have been imposed less frequently than in the past. This trend may be explained, however, by the reduced use of the baton in recent years. Accordingly, we can not say with certainty that the Department has become more lenient over time. We can say, however, that there has been no increase in punishments over time for excessive force. Thus, the Christopher Commission finding that the Department was "light on punishment" remains true five years later.

The Department has long been discussing discipline guidelines, sometimes referred to as a "bail schedule," reflecting punishment ranges for particular misconduct, including excessive force. After much talk and study, the disciplinary schedule remains unimplemented, and is under consideration by the Commission. Even were it implemented, though, the range of permissible punishment may be so broad in some categories as to be unlikely to affect the actual punishments imposed. We recommend that the schedule be implemented, but that consideration be given to narrowing some categories with a strong presumption of suspension in excessive force cases, and a presumption of removal (or at least a Board of Rights referral) where serious injury is inflicted. We stress that these are presumptions only; each case must be judged on its own facts and adjustments up or down may be appropriate. However, where an

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adjustment is made, a full, written, detailed justification should be set forth. Such a justification will aid in ensuring proportionality, equivalency, and equity of discipline, as well as aiding the Inspector General in the audit of the complaint process.

### *Non-Punitive Actions*

The Christopher Commission recommended the use of non-punitive tools even where a complaint is not resolved or unfounded. CC, p. 177. We reiterate that recommendation. Counselling or training, without the opprobrium of a sanction, will allow the Department to address conduct at a relatively early stage.

Some Divisions already are moving in this direction. In one case, an officer was accused of making a discourteous and profane remark to an arrestee. Since the matter involved the officer's word against that of the arrestee, the complaint was classified Not Resolved. Nevertheless, the Division Commanding Officer was concerned enough about the allegation to counsel the officer. In another Not Resolved unauthorized force case, the Division Commanding Officer recommended that the accused officer be reassigned to a job that would provide constant supervision, in part because of the officer's prior history of similar conduct.

### **There Have Been Too Few Complaints For "Code Of Silence" Related Misconduct**

We found few complaints involving "code of silence" related misconduct. Moreover, in the one case we reviewed where such allegations were sustained, the punishment was not substantial. In that case, which was discussed above, an officer punched a prisoner in view of another officer and the latter officer did not report this conduct or obtain medical help, despite the prisoner's request for both. A complaint alleging neglect of duty against the latter officer was sustained, but resulted only in an admonishment. Other than this

case, we did not see any sustained complaints for code of silence related misconduct.

This was troubling because we encountered cases involving officers who were percipient witnesses to sustained misconduct, but claimed to have not seen or heard the misconduct. At times the officer's testimony was difficult to believe. Even so, the Department took no action against those officers.

The Department vigorously prosecutes and severely punishes false statements and fraud in many contexts, and should do so when such false statements are made to Internal Affairs investigators. Absent a concerted effort to combat the "code of silence," the concerns raised by the Christopher Commission will persist.

### **The Miscellaneous Memo Procedure Is Abused and Should Be Abolished**

Not all allegations of possible misconduct by LAPD officers are treated as personnel complaints. We reviewed approximately 50 investigations that were considered "special investigations" and disposed of by "miscellaneous memo." The disposition of allegations by "miscellaneous memo" means that the Department's statistics with respect to the numbers of citizen complaints or allegations of misconduct appear lower than they actually are. Also, because a personnel complaint form — denominated a form 1.81 — is not generated, it is more difficult to locate, track, and review allegations disposed of by miscellaneous memos. Further, it means that it is very difficult to verify the existence of investigations of alleged misconduct by officers benefitting from the miscellaneous memo procedure, and to test the adequacy of the investigations where this procedure is used. Finally, it means that the results of investigations disposed of by miscellaneous memo are not entered into the Department's formal TEAMS tracking system, discussed in Chapter Four. For all practical purposes, it is as if the allegations were never made and an investigation never occurred.

The LAPD justifies the existence of dispositions by miscellaneous memo on the ground that there should be a category for disposition of allegations that on their face disclose no apparent misconduct. In other words, if conduct is alleged that, even if true, could never be held to violate Department policy or constitute misconduct, the LAPD argues that there is no reason to treat the allegations in the same way as possible misconduct. As set forth, such a procedure is not inconsistent with LAPD policy. Manual of the LAPD 3/810.30. The Department also argues that the miscellaneous memo is appropriate when allegations are made against an unnamed LAPD officer who after investigation still cannot be identified. The LAPD asserts that if actual misconduct is unearthed during the investigation of allegations, the matter will be disposed of by personnel complaint, not by miscellaneous memo.

Our review of substantially all investigations in 1994 and 1995 disposed of by miscellaneous memo convinced us that the foregoing justifications bear little or no relation to the actual use of the miscellaneous memo procedure. Contrary to the LAPD stated policy, the vast majority of cases did allege possible misconduct or a violation of policy and should have been treated as personnel complaints and disposed of as such. We also were concerned over the perfunctory or, at times, slipshod, attempts that were made to identify officers whom the complainant could not name. Moreover, there appears to be no reasoned basis explaining when a miscellaneous memo, as opposed to a personnel complaint, would be used in the case of an unidentified officer.

Of even greater concern, there were examples where the miscellaneous memo was used to dispose of particularly sensitive allegations against high-ranking executives. In still other instances, it appeared that a matter was treated as a miscellaneous memo because the allegations were thought to be so preposterous or so inflammatory that it was deemed unfair to have the matter on the officer's record even if he or she were exonerated or the allegations were held to be unfounded. Several such instances involved sexual allegations — that a female supervisor was involved with a male under her supervision or that a given



officer paid the complainant and her friend for sex.

Although we do not necessarily conclude that any of the allegations disposed of by miscellaneous memo were credible and should have been sustained, it is nonetheless clear that the preferable route would have been to open a personnel complaint and exonerate the officer or determine that the matter was unfounded or not resolved rather than burying the matter as a miscellaneous memo. Whether the LAPD's judgment as to the baseless nature of a complaint is right or wrong, the system lacks integrity when it appears that the matter was prejudged, that the investigators were only "going through the motions," and the disposition is "off the record."

We appreciate that certain allegations may be inflammatory and are preposterous. We understand that an officer would prefer that no record be kept that such allegations ever were made. We acknowledge that there is always the potential for abuse of the complaint process and that it can be used unfairly by persons inside and outside the Department.<sup>6</sup> Nonetheless, we believe that for the system to have integrity and for its investigations to have credibility, it is important that all investigations be subject to scrutiny and review and not be swept under the rug by miscellaneous memos.

We thus strongly urge you to abolish the miscellaneous memo. To the extent that the Department does not follow the recommendation, we suggest that the Inspector General regularly review such dispositions with special care and report to this Commission and to the general public concerning all such investigations.

### **Interaction With The Public**

One criticism we hear levelled at the disciplinary process is that even the most serious citizen allegations are responded to with a terse, uninformative letter to the complainant. While we recognize that much of the information generated in an investigation is non-public — at least absent a Board of Rights procedure — and that a full

explanation of the Department's thought process is neither practical nor in some cases necessarily desirable, a person making an allegation of serious wrongdoing ought to be told more than that the Department sustained or did not sustain the allegation. Such brevity gives the appearance of a less-than-thorough investigation, and can only leave the complaining citizen with the view that the complaint was not taken seriously. That view, in turn, undermines public confidence in the Department and this Commission, and can give rise to litigation.

Accordingly, we recommend that a complainant be informed, to the extent allowed by law, of the scope of the investigation performed and, at least in summary fashion (but not in "boilerplate" fashion), the reasons underlying the Department's resolution. Such communications will not satisfy everyone, of course. They will, however, demonstrate the seriousness with which the Department has considered allegations of misconduct.

### **The Inspector General**

One of the Christopher Commission's principal recommendations was the creation of a civilian Inspector General reporting to you, rather than through the Department's chain of command. Following the passage of a Charter Amendment relating to the Inspector General sponsored by this Commission, you have now hired that individual.

The Inspector General's role is critical, for it is the Inspector General who will assure this Commission and the public of the integrity of the complaint process. This is done in five major ways.

First, the Inspector General will oversee the complaint intake process. Doing so will allow this Commission to state with confidence that all complaints will be treated appropriately, and that no one will be discouraged from making a complaint.

Second, the Inspector General may audit ~~on-going~~ investigations and classifications to make sure that both are properly conducted. The Inspector General cannot demand

that a classification or punishment be changed in a particular case, or that an investigation be re-opened. However, the Inspector General's access to you, coupled with the more general annual reporting authority discussed below, means that those performing inadequate investigations, or making inappropriate classifications, or imposing insubstantial punishments will be held accountable in a very real sense.

Third, the Inspector General can interact directly with the public. Where a complainant has a question about an investigation or activity, the Inspector General can, and should, look into the matter where appropriate. This allows action to be taken without unnecessary bureaucratic delay.

Fourth, the Inspector General will conduct random audits on various subjects. This can include audits comparing interview summaries with interview tapes, audits of the appropriateness of classifying allegations (e.g., unauthorized force versus unauthorized tactics), trend analyses, and audits concerning officers with a disproportionately large number of complaints lodged against them. In this way, the Inspector General and his or her staff can function as your window into the Department on a host of complaint-related issues.

Fifth, the Inspector General will conduct the annual audit of the complaint process. This audit should be a detailed one, and should examine all major aspects of the process. The Chief of Police should be required to respond to the audit, and the audit results should factor directly into the Chief of Police's performance review. This audit, with confidential information omitted as required by law, can be published to the public and to other branches of City government.

The Inspector General's role is broader still. Beyond examining the Department's complaint process, the Inspector General, and the Executive Director, have the greater charter to examine and audit the Department in any respect, including the undertaking of highly sensitive investigations when so directed by this Commission. In this way, their authority is as broad as your own.

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While the Inspector General is not the answer to all of the Department's disciplinary problems, we believe that hiring the Inspector General is a great stride forward. To obtain the full value of this position, however, you will have to support the position actively. This means that you will have to obtain adequate staff and resources (including technological resources and physical resources) for the position, which may require active management of the Department's budget to identify funding sources. You will also have to support the Inspector General should there be any resistance to the unprecedented level of scrutiny that he or she will necessarily undertake. We are confident that you will provide all of the support necessary for this vital position.

### **Conclusion**

Allegations of misconduct have decreased significantly since the Christopher Commission Report, particularly allegations relating to the level of force used by officers. The processing of public complaints against police officers has improved significantly since the Christopher Commission Report. Investigations appear more thorough and classifications more justified. Problems reminiscent of the past remain, however. Bias in favor of the officer continues to affect some investigations. In addition, punishments for excessive force appear light.

We believe that the hiring of an Inspector General, coupled with the provision of an adequate staff and resources, will do much to strengthen the disciplinary system and enhance public confidence in it. The Inspector General can also ensure that this Commission is able to fulfill its Charter responsibility of overseeing the disciplinary process generally and enacting new policies as necessary.

### Endnotes

- 1 Demotion is authorized by the City Charter, but is not recognized in the Department Manual.
- 2 The figures represent allegations that were adjudicated in the year shown.
- 3 The figure for 1995 is slightly underestimated because the LAPD database has not yet been updated completely to include all of the 1995 adjudicated complaints.
- 4 The Christopher Commission found that officers actively discouraged people from filing complaints, either by being uncooperative (e.g., making people wait) or actively discouraging people from filing the complaint. We did not undertake to conduct a thorough audit of the intake procedure, which would entail among other things survey of complainants, interviews with intake personnel, and inspections of police stations. We did, however, visit several police stations to review the accessibility of complaint forms. Complaint forms were available, but not always in well-identified open displays. Complaint forms were available in languages other than English, though often such forms had to be requested at the desk. When we requested forms from officers at the desk, the forms were provided without discouragement or discourtesy. Public interest groups have suggested that a January 1996 statute prohibiting the filing of false complaints is having a chilling effect on complaint filings and have suggested that complaint forms are not adequately distributed in the community. We did not investigate these issues and we suggest that the Inspector General do so.
- 5 We did not compare the witness statement summaries with the actual interview tapes. We recommend that your Inspector General conduct such an audit.
- 6 To the extent that such complaints involve allegations by one officer against another of discrimination, the Discrimination Unit may help mitigate this problem.



## Chapter Four: Monitoring, Supervision and Accountability

As the head of the Department, this Commission ultimately passes upon whether serious uses of force, particularly officer-involved shootings, are within policy. This Commission also must assess whether the LAPD has adequate procedures for identification and management of individuals who pose significant liability risks from possible misuse of force. This Chapter discusses the current state of the Department's efforts to do so.

There has not been a significant decline in total judgments and settlements from LAPD-related litigation since the Christopher Commission Report. In the five years since the Christopher Report, 1991-1995, the taxpayers of the City of Los Angeles have expended **\$67.5 million, including \$13.6 million in 1995 alone**, on police-related litigation. Moreover, the overall caseload of police misconduct litigation has remained constant over the last five years — a result that might have been different if a comprehensive program to identify potential areas of liability and actively manage them had been speedily initiated.

To be sure, there is a lag time between the initiation of a comprehensive program and demonstrable results in reduced litigation costs, and it is not reasonable to expect an immediate, dramatic drop. Nonetheless, because the LAPD lacks a comprehensive system to manage at-risk individuals and situations, the City of Los Angeles has not experienced the shrinkages in its police misconduct caseload and exposure achieved in the County of Los Angeles, and City taxpayers are not yet realizing the substantial cost savings that County taxpayers are beginning to see.

**Although modest piecemeal steps have been taken, the LAPD still lacks a comprehensive system and fully elaborated procedures to identify, control, and manage at-risk situations and at-risk individuals and thus has not yet implemented the Christopher Commission recommendations in this regard.** First, as will be discussed later in this Chapter, the Department does not have the automated tracking system envisioned in the Christopher recommendations. Second, there is no program in place to hold the entire chain of command accountable for managing at-risk employees and at-risk situations. Third, there is no integration under one command of the various entities within the LAPD whose functions touch upon the control of excessive force and other liability risks.

It is no answer to these concerns that uses of force, citizen complaints, and serious injuries are down in recent years. Although commendable, this decline has not translated into savings of taxpayer dollars and cannot be traced to tighter and comprehensive management of risk. **The LAPD must become more efficient in its approach and specifically accountable to the City of Los Angeles and its taxpayers for its successes or failures in managing risk.**

The Christopher Commission found that there were officers in the LAPD who repetitively misused force and persistently ignored the written policies and guidelines of the Department regarding force. The failure of the Department's executives and managers to control at-risk officers and at-risk situations was at the heart of the



problem of excessive force: The Christopher Commission found that command officers had not been held accountable for excessive or unnecessary force by officers whom they supervised, and concluded that this must change. "Accountability must be stressed throughout the system. When an incident of excessive force occurs, supervisors up the chain of command must be accountable, regardless of whether they actually participated in the wrongful conduct." CC, p. 62.

Before turning to a discussion of why these Christopher Commission recommendations have not been adequately implemented, we acknowledge several areas in which the Department has made progress recently. Although the Department suffers from the lack of a comprehensive risk management system, the LAPD's Legal Affairs Division — despite being underfunded, understaffed, and in dire need of computer resources — is a step in the right direction and a marked advance from the pre-Christopher Commission era.

The Division's commanding officer reports directly to the Office of Administration. In addition to investigatory and evidentiary work on pending lawsuits, the Legal Affairs Division performs rudimentary risk management and analysis. The Division is poised to do more, but is handicapped by sparse resources, including a lack of basic equipment, including computers. The Division is doing a good job establishing closer and more productive and efficient relationships with the City Attorney's Office. Investigative work by the Legal Affairs Division appears to be generally of a high calibre. The Division is one of a handful of suitable sites that this Commission may wish to consider for expansion of the risk management function within the LAPD.

As this Commission is aware, there has also been progress by the LAPD's training staff in the reformulation of arrest and control techniques to emphasize less than lethal force options, martial arts concepts, and other ways to gain compliance without unnecessary injury to the suspect or risk to the officer. To date, however, the Department has only been able to train a modest number of officers in the new arrest and control techniques — 815 employees so far. The Police Commission's Use of

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Force Task Force will address how to speed up and expand this training.

There has been a substantial overhaul of the LAPD's canine unit. A combination of internal restructuring of the canine unit and outside litigation caused the Department to abandon the much-criticized "find and bite" method of training police dogs and institute a "find and bark" method that puts a heavier emphasis on strict handler control. In-service training of handlers has undergone significant improvement, including quarterly in-house examinations and testing of handlers. The results have been dramatic: The bite ratio (number of bites to number of apprehensions) has dropped from 43% in 1990 to 11% in 1994.

Some members of the command staff are proactively using newly available data to formulate goals and hold subordinates more accountable. For example, one Deputy Chief sets written goals and priorities annually for his Bureau and then monitors the progress of each area in his jurisdiction, sitting down at frequent intervals with the captains and assessing performance. Another Deputy Chief, in the absence of a sophisticated Department-wide computer tracking system, has established procedures in his Bureau to monitor force-related issues, communicating directly with area captains about management of at-risk employees.

The Use of Force Review Board has also worked well. That Board convenes to review any investigation involving death or serious injury resulting from any police action, as well as almost all instances involving a discharge of a firearm, whether someone is injured or not. An injury is considered serious enough to convene the Board if it is "substantial and requires hospitalization." Manual of the Los Angeles Police Department, 2/092.50.

At the completion of its review, the Use of Force Review Board makes reports and recommendations to the Chief of Police who in turn recommends to this Commission a finding that the conduct by a police officer was in or out of policy. This Commission has the final authority to determine whether each incident falls within Department policy.

For the most part, the multiple layers of review, including the review by this Commission, work well. The discussions of shootings and serious force incidents between this Commission and the Chief of Police, aided and amplified by the chairman of the Use of Force Board, are full, thorough, and robust. Shootings are considered by this Commission from a number of different perspectives — be it policy, strategy, tactics, and discipline. This Commission frequently holds items open until all of its questions and concerns are answered, and the Chief of Police and Use of Force Board Chair are generally responsive and well-informed.

Despite these areas of genuine progress, however, the LAPD still has substantial work to do.

### **The TEAMS Computer System**

The LAPD's computer system to track at-risk employees — currently called TEAMS — is weak and inadequate; it is not much more than an extremely modest system in its fledgling stages. At best, TEAMS will provide only limited data — principally raw numbers — on citizen complaints and Internal Affairs investigations, officer-involved shootings, uses of force, and some court judgments (but not settlements), among other categories of information. The synopsis on TEAMS of the officer's disciplinary history will be barebones, and a supervisor or manager wishing to learn greater details with respect to the subject matter of sustained complaints, for example, will still have to make a trip downtown to review a paper file.

TEAMS will not be able to do automated trend analysis, although it will be able to perform some ad hoc trend analyses upon request. Not all the data have been loaded, nor will they be until early 1997. **TEAMS is a thus far cry from an automated tracking system that permits management to make informed decisions about officers or to identify and manage at-risk employees as envisioned by the Christopher Commission.**

The paucity of detail on TEAMS raises the specter most feared by line officers about an automated system: Supervisors and managers will never get beyond the raw numbers and will apply those numbers in a wooden and unthinking fashion. This, in turn, could encourage officers to avoid interactions with suspects and the attendant risks that they might have to report that they used force or might generate a citizen complaint. It is thus disappointing that the LAPD's TEAMS system is so rudimentary. This Commission's Use of Force and Disciplinary Task Forces should consider how better to implement the Christopher Commission recommendations concerning an automated tracking system.

### **Promulgation of Standards for the Use of Computerized Information**

Officers fear that TEAMS will invariably be used punitively whenever an officer crosses an unspecified threshold number of use of force reports, citizen complaints, or lawsuits. These fears are legitimate. The Department has not issued standards for use of statistical information that adequately address these concerns.

First, the Department has not developed standards and procedures to assure that TEAMS will be a tool for inquiry and investigation. It should not be used for punishment per se. Certainly, credible patterns of abusive conduct should influence selection for coveted assignments, promotion, personnel evaluation, and discipline in appropriate circumstances. Moreover, such a pattern may well lead to non-punitive counselling or training. If an officer seems to be getting more than an average share of citizen complaints or is reporting heavier or more frequent force than similarly situated counterparts, a supervisor should be prompted by this information to ask why this is occurring and what, if anything, can or should be done about it. The supervisor should not, though, conclude from just the raw numbers on a computer screen that an officer should be forever labelled a problem.

As this Commission has consistently emphasized, use of force in and of itself is not the issue; a good police officer will necessarily have to use force, and some assignments may implicate greater use of force than others. This Commission has long recognized that there is nothing inconsistent in being a competent and aggressive police officer and being appropriately moderate in use of force. The Christopher Commission did not recommend that officers stop using force when appropriate or that officers initiate a work slow-down. To be a model officer in the LAPD, one cannot simply "drive and wave." If officers are only responding to radio calls and are not practicing constitutional, legally sound, and proactive law enforcement, then they are shirking their duty. And so are the sergeants, lieutenants, and captains who allow them to do so.

It is for these reasons that the tracking system must be qualitative as well as quantitative. Only by providing the information behind the numbers can the system become a useful and accurate management tool, and one for which supervisors and the command staff can be held accountable.

The cost involved in bringing the LAPD into the 21st Century technologically is substantial — but the cost of **not** doing so is greater. Risk cannot be managed without access to current, accurate, and complete information on a timely basis. The LAPD's current generation of statistics by hand count is slow, wasteful, and leads to inaccurate results and data that cannot be reconciled. These problems will only become more acute as the Department grows in size. The concomitant costs in terms of overhead and litigation will increase geometrically. On the other hand, the timely availability of accurate data can enhance risk management, avoid litigation and overhead costs, and improve the credibility of data released by the Department. The information that the Department chooses to track says much about the Department's priorities. Risk management must become a priority.

### **Risk Management and Accountability**

It is disappointing that the Department's liability management systems are still in their infancy. The LAPD does not yet integrate dispersed information about officer conduct and performance with dispersed data about risk, direct and indirect costs of litigation, and administrative claims as the Christopher Commission recommended. Information about use of force is not integrated with information about citizen complaints. Different categories, different databases, different definitions, and different structures for oversight — although perhaps adequate for the purposes of the Division that uses them — preclude comprehensive analysis and systematic management of all the relevant indicia bearing upon excessive force and litigation risk.

In this connection, the LAPD appears not to take sufficient advantage of its Behavioral Science Service Section. The clinical psychologists in the Department have knowledge and experience directly relevant to stress, risk of problem behavior, and potential for inappropriate conduct. Their expertise is untapped and under-utilized by the rest of the Department. Psychologists can help identify and formulate responses to conditions where officers are under extraordinary personal or professional stresses that may lead to unfortunate conduct at home or on the street. Psychologists can help create programs structured for officers at critical transition points in their career — when they are involved in deep or long-term undercover operations; when they are about to join an undercover narcotics buy team; when they are moving from an undercover assignment to a patrol assignment. The psychologists can help fashion rotation programs for relief of stress or stagnation. In the past, the psychologists used to train every sergeant to recognize potential problems in the officers through Early Prevention of Emotional Emergencies training. This training apparently no longer takes place. The psychologists have data from a longitudinal stress study begun in the early 1980's but unfortunately discontinued for lack of funding. This study could be revived and expanded and the results interwoven with a comprehensive risk management strategy.

The Behavioral Science Services Section should have additional resources and positions for research and to assemble and analyze all the valuable information unique to that Section bearing upon risk management.

In order to manage risk intelligently, the LAPD should formulate specific standards and expectations for supervisors and executives to manage situations and personnel presenting risks of excessive force. There is an absence of standards to measure the performance of personnel at each rank against such expectations. There is a general absence of goals and timetables for reduction of unauthorized force and litigation, and a paucity of internal auditing of the performance of sergeants, lieutenants, captains, commanders, and chiefs in regard to such a reduction. Specific expectations for each rank in the areas of force reduction and risk management have not been thought through with much rigor, if at all.

The Christopher Commission recommendations were for proactivity — requiring supervisors to monitor use of force and assess information from complaint histories and litigation. In today's LAPD, there are insufficient standards mandating and enforcing proactive management of potentially problematical employees or situations. This leaves places for supervisors and managers to hide behind self-imposed ignorance, willful blindness, or plausible deniability. There are too few safeguards in place to prevent a collapse of command accountability with respect to high-risk individuals or situations, and the Christopher Commission recommendations in this regard have not been met.

Nor are there adequate mechanisms in place for dispassionate investigation after an incident causing liability or harm to identify those at all levels of the command structure — not just the involved officer and the occasional sergeant — who knew or should have known of the problems and failed to take adequate measures to prevent the incident or manage the risk. There are too few mechanisms for dispassionate analysis of how to avoid repetition of an incident leading to harm.

As directly stated by the Christopher Commission, accountability must be enforced up and down the command structure regardless of whether an individual was

personally involved in the misconduct. Accordingly, we recommend that this Commission direct that **all personnel within the LAPD should explicitly be held responsible for their personal acts and omissions, and, when reasonable and appropriate, the acts and omissions of their direct and indirect subordinates.** In connection therewith, we recommend that supervisors, managers, and executives should be specifically evaluated on whether they have taken appropriate corrective measures consistent with their rank and authority when they are, or reasonably should be, aware that such measures are required. Department leaders should be required to use the information and management tools available, including manual and automated personnel information, to anticipate and address, through corrective measures consistent with rank and authority, reasonably identifiable Departmental risks or potential employee misconduct. This Commission's Personnel Task Force will consider these issues.

### **Centralizing Risk Management**

As noted above, the LAPD disperses and diffuses responsibility for liability management. The diffusion of responsibility means that no one, short of the Chief of Police, has the over-arching task of unifying and rationalizing the Department's policies and management in the area. The Christopher Commission, noting that inadequate supervisory and management attention had been given to the problem of excessive force, recommended that the leadership of the LAPD make management of excessive force a "priority felt throughout the system" and that the leadership use its "great power to bring about change" to send an "unequivocal message."

Unfortunately, the Department today still speaks with too many voices sending different and sometimes conflicting messages. Internal Affairs deals with complaints and the administrative implications of certain uses of force. Internal Affairs reports through Deputy Chief Bernard Parks to Assistant Chief Banks. The Use of Force Board



reviews shootings and other serious force incidents. It reports through Deputy Chief Gascon to Assistant Chief Piersol. The Legal Affairs Division reports up through a different chain to Assistant Chief Piersol. The Robbery-Homicide Division, which investigates officer-involved shootings, reports through an entirely different chain of command through Deputy Chief White to Assistant Chief Piersol. Risk management is an appendage to Legal Affairs. The Office of Operations is not brought into the loop. Nor is the Behavioral Science Service Section.

There are insufficient or nonexistent links and active coordination between Legal Affairs, Internal Affairs, and the training division, or between the bewildering panoply of groups, divisions, bureaus, and offices within the LAPD that have responsibilities bearing upon excessive force and litigation risk.

**The next step in the implementation of the Christopher recommendations might be a consolidation of these functions under one command, the initiation of a roll-out program, and an expansion of the jurisdiction of the Use of Force Review Board to include a wider scope of incidents subject to review. To that end, we recommend that the LAPD Manual be changed so that the Use of Force Review Board is convened if an injury "is substantial or requires hospitalization" instead of the current "substantial and requires hospitalization."**

The Use of Force Review Board is pivotal to an overall strategy and comprehensive system to manage use of force. It should be assisted by a response team that rolls out to high-risk incidents for a multifaceted analysis of the administrative, disciplinary, tactical, and strategic implications of the incident. The LAPD currently does not have such a response team, and it would quickly advance the implementation of the Christopher Commission recommendations if it did. Unlike the practice at the time of the Christopher Commission Report, the District Attorney has not been afforded adequate County funds automatically to roll to officer-involved shootings, despite this Commission's urgings that the DA's former practice be funded and continued. Accordingly, the need for a response team to roll out is of heightened importance today.

**The Department should require mandatory roll-outs for all substantial injuries, whether or not death or hospitalization results. Additionally, the Department should require mandatory notifications for possible roll-outs in any situation in which serious injuries occur or that present a serious risk of litigation, such as canine bites, force used following a vehicular pursuit, injury or property damage as a result of a vehicular pursuit, skeletal fractures or head injuries following contact with an LAPD officer, and the like.**

This Commission will consider these issues in its task forces on use of force and discipline. These task forces should also consider possible consolidation of the Use of Force Board with other elements within the Department to create a comprehensive risk management function — a Christopher Commission concept that the Department continues to lack.

This Commission, through its Task Forces, will examine the merits of a major internal restructuring within the LAPD. There is much to be said for a consolidation under one roof of Internal Affairs, Legal Affairs, the Use of Force Review Board, the Officer-Involved Shooting teams, the advocacy unit, the training unit, the recruiting unit, and the like. A restructuring would consolidate under one authority all of the currently diffused responsibilities for litigation risk, use of force, training, feedback from litigation, and investigation of wrongdoing.

In sum, although individuals within the Department have made substantial progress in a number of areas, this Commission's Task Forces have a broad agenda of reforms to consider before it can be concluded that the Christopher Commission recommendations have been fully implemented. TEAMS is inadequate for the job. The rigorous analysis of officer-involved shootings is inadequate to cover all the risky situations the Department confronts daily. The LAPD lacks a comprehensive plan to manage risk under centralized and consolidated authority. Accountability throughout the rank structure — a recommendation at the heart of the Christopher reforms — has yet to be achieved.

## Chapter Five: Structural Issues

Observing that "the Police Commission — while given broad authority over the Department and its Chief — has neither the resources nor the real power to perform effective oversight and control," the Christopher Commission recommended City Charter amendments, including an augmentation of this Commission's staff, and more money for the operations of this Commission. Over the last five years, this Commission has exercised its oversight responsibilities and has steadily amplified its control, but in our view you continue to lack adequate resources to fulfill completely the Christopher Commission's vision that this Commission "function much like a corporate board of directors, setting policies for the Department and overseeing its operations in conjunction with the Chief of Police, who acts as a chief executive officer responsive to the direction and control of the Police Commission." CC, p. 183.

In 1991, the Christopher Commission identified several impediments to this Commission's exercise of ultimate control over Police Department policies. The first was the civil service status of the Chief of Police, which protected the incumbent from serious disciplinary action or discharge. That impediment was removed with the

passage by the voters in 1992 of City Charter Amendment F which, among other things, reformed the City's procedures for selection and retention of the Chief of Police.

Charter Amendment F provides that the Chief of Police shall serve at the pleasure of the City for a five-year term and may be appointed by the Commission to a second five-year term pursuant to specified procedures. Importantly, the voters enacted the Christopher Commission recommendation that no person shall serve as Chief of Police for more than 10 years altogether. The passage of Amendment F has fundamentally changed the relationship between this Commission and the Chief of Police, empowering you better to implement the Christopher Commission recommendation that this Commission have greater effective control of the Department.

The Christopher Commission recommendations with respect to the composition of this Commission have in large part been adopted. This Commission remains a five-member, part-time body. As currently constituted, this Commission reflects the City's diversity and comprises persons of stature and experience with the ability to make balanced, fair-minded judgments and to act constructively and decisively. As recommended by the Christopher Commission, the members of this Commission may serve a maximum of two five-year terms, plus two years of an unexpired term. The terms are staggered.

Some of the Christopher Commission recommendations regarding additional staff support for this Commission have not been implemented, and these recommendations are of the highest importance. The Christopher Commission stated that you plainly needed additional resources to carry out your oversight and policy-making functions effectively. For example, the Christopher Commission pointed out that you would benefit from staff and other resources to initiate and evaluate inquiries into patterns of complaints and discipline (imposed or not) and to conduct spot management audits. CC, pp. 212, 213.

The Christopher Report recommended that this Commission should have experienced auditors, accountants, investigators, and one or more attorneys to enable

it to identify problem areas, formulate and verify compliance with Commission policies and directives, and carry out ongoing functions in a timely manner. The precise number of additional staff was left to your informed discretion, but it was anticipated that at least 15 to 20 such positions would be needed, not including persons involved in the receipt and oversight of citizen complaints. In particular, the Christopher Commission recommended that the Police Commission should have a Chief of Staff or Executive Director who is ultimately accountable to it, rather than to the Chief of Police.

This last recommendation has only been partly implemented. This Commission's Executive Director is not a general manager as that position exists within other City Commissions, including the Airport and Harbor Commissions. It was envisioned that the Chief of Staff would be at the general manager level with the equivalent of a sworn commander reporting to him or her. This Commission's Executive Director does not have the full panoply of powers and authority recommended by the Christopher Commission. He is empowered in general consistent with the Christopher Commission's vision that he manage the Police Commission's agenda; help identify and oversee implementation of policies; supervise staff review and analysis of Department data and reports; conduct spot audits; and act as a liaison with other City departments and officials. He is not, however, empowered as a practical matter to serve as an effective counterweight to the LAPD hierarchy.

The Christopher Commission also recommended that the staff include an Inspector General who would be responsible, among other things, for overseeing the receipt of citizen complaints, monitoring the progress of complaints through the Internal Affairs investigation process, and auditing the results of those investigations. This recommendation is being implemented. As with the Executive Director, the Christopher Commission recommended that the Inspector General be exempt from civil service. Because implementation of this recommendation required a change to the City Charter, it took substantial time to accomplish. But in April 1995, the voters finally approved a

ballot measure exempting the position of Inspector General from civil service, thus permitting this Commission to begin a national search for the best-qualified candidate. This Commission further determined that in order to attract and retain a highly capable Inspector General, it was necessary that the pay for the position be commensurate with the responsibilities to be assumed, and you so recommended to the City Council. Recently, the City Council approved a measure implementing your recommendation raising the target top salary for the position to approximately \$90,000. Critically, this Commission has also clarified that the Inspector General will report directly to it.

This Commission has just completed a nationwide search for candidates and has interviewed a large number of individuals. The appointment has just been announced. Special Counsel has presented recommendations to you and your staff about the data to be collected by the Inspector General and has suggested tests and audit procedures that have been effective in the monitoring and oversight of other police organizations. This Report includes other suggestions along the same lines for you to consider. The Christopher Commission recommendations regarding the Inspector General thus should be implemented soon.

Other Christopher Commission recommendations regarding the staff remain partly unfulfilled. To be sure, this Commission's staff is comprised of some bright and able individuals, including some senior staff members who are extraordinary in their dedication and knowledge. Nonetheless, the size of this Commission's staff available for oversight and monitoring of the LAPD (as contrasted to permit-related and other functions) is tiny — only seven senior managers. This number is particularly inadequate in numbers when compared to the approximately 12,000 sworn and civilian members of the LAPD. The breadth and depth of this Commission's staff envisioned by the Christopher Commission is simply not in place.

This Commission's staff operates out of cramped space in Parker Center with inadequate physical resources both in terms of facilities and equipment. Indeed, the staff of 15 to 20 experienced attorneys, auditors, accountants, and investigators

dedicated to performing the oversight and control function that the Christopher Commission recommended still needs to be assembled, and even if it were, it could not physically fit in the space provided at Parker Center. There are no lawyers on the Commission staff and there is a critical shortage of accountants, financial analysts, and other professionals with a thorough understanding of the Police Department's budget and budgetary processes.

In 1991, the Christopher Commission noted that although you are responsible for reviewing and approving the Department's annual budget — which currently is greater than **\$1 billion** — this Commission had insufficient resources to participate meaningfully in the budget process. To the extent that past Police Commissions made significant contribution to the process, they only did so when individual commissioners were willing to devote substantial time to working with Department personnel on budget matters. In 1996, the situation is unchanged, and the Christopher Commission recommendation for greater resources to perform this vital function remains unimplemented.

Plainly, the ability to allocate financial resources is the ability to implement policy. Conversely, the inability to allocate resources poses a serious obstacle to implementation of policy. In a budget as large as that of the LAPD, money can often be found for projects and programs deemed critical. Yet, you are often unaware of where to find that money absent lengthy and sustained ad hoc fact-finding efforts. For example, for years the LAPD said it could not implement a computerized tracking system because the request for additional funds had been denied by the City. But when this Commission deemed the tracking system a priority, the money was ultimately found within the LAPD budget, specifically, within the Commission's own consulting budget. In short, you should be deeply involved with the creation and implementation of the budget. This obviously requires a staff of professionals able to work with the LAPD virtually year-round on this task.

The Christopher Commission noted also that the systems in place in 1991 made

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those Christopher recommendations afresh.

The Christopher Commission noted that although the Los Angeles City Charter does not assign the City Council particular oversight or control of the Police Department, it has a panoply of powers available to it that can and do influence the administration of the Department. These powers include the Council's control of litigation and the power to settle lawsuits against the City, as well as its control of the budget process, wherein City Council can allocate or withhold from the Police Department's general funds and can specify in line item detail the programs being funded, the number of officers assigned to programs, or equipment being purchased for various uses.

The City Council additionally has the power of confirmation of the Mayor's appointments and removals from this Commission. Moreover, the City Council may exercise the traditional legislative power to conduct hearings and studies as a means for review of the Department.

The absence of clear demarcations in the respective powers of this Commission and City Council has at times engendered friction in the years since the Christopher Commission Report. Some inevitably result from a system of shared powers and checks and balances, and these frictions are nothing more than the price paid for dispersed authority in a democracy. Others, however, may result from a need for this Commission and the City Council, as two important bodies, to articulate a protocol concerning your respective spheres of authority.

We believe that it is vitally important that other political bodies with authority over the LAPD grant deference to this Commission and exercise caution about undermining it as you establish your authority and fortify your Charter-mandated position. At a minimum, all policy and personnel issues regarding the Department, as well as any issues within the ambit of the Christopher Commission Report or in the jurisdiction of this Commission's Task Forces to further the implementation of the recommendations in the Christopher Commission Report or herein, should be the province primarily and



initially of this Commission.

It is important to recall that the Christopher Commission was concerned that the Police Commission's civilian authority in the past had proven illusory; that there were constraints on its power to hold the Chief accountable and its ability to perform its management responsibilities, including effective oversight. In the past, unreviewable power and authority effectively resided in the Police Chief. The Christopher Commission recommendations were designed to restore a proper balance of power and authority between this Commission and the Chief of Police and to empower you to function as a buffer against improper political influences or direct political assaults by the Mayor or City Council.

In this connection, the Christopher Commission underscored the importance of civilian control: "Much as the nation's military is under the control of civilians, as are police departments throughout the country, the Los Angeles City Charter contemplates that the quasi-military Police Department should be subject to citizen oversight and control." CC, p. 184. The Christopher Commission reviewed the history of the Los Angeles City Charter, noting that historians found that "the intent of the 1925 Charter was to entrust the administration of the City to full-time, professional managers under the supervision of citizen commissioners. Statements by some of the drafters of the Charter, while they should not be deemed conclusive, indicate that the drafters envisioned a 'citizens' government' as distinct from a 'politicians' government,' with the commissions protecting the public against abuses of power." CC, p. 186.

The Christopher Commission stressed that the City Charter specifies that the Police Department shall be "under the control and management" of this Commission, which is designated the "head" of the Department and given the express authority to "supervise, control, regulate and manage" the Department. CC, p. 184; City Charter, sections 70(b), 77, 78. The Christopher Commission Report took an historical overview of the Police Commission, criticizing its passivity at times: "During most of its existence, however, the Police Commission has taken a far more passive role,

essentially acting as a 'booster' or 'rubber stamp' for the Department. Thus, although the Charter gives the Police Commission broad authority over the Department, it provides no guarantee that there will be strong citizen oversight." CC, p. 187.

In order to implement the Christopher Commission recommendations that there be strong civilian oversight, particularly as regards your power and authority over the Chief of Police, it is necessary for all political bodies with authority over the Department fully to allow you to fulfill the Charter's mandate. The Mayor can do this best by allocating those resources, and by advocating adequate resources for this Commission. The City Council and its Committees can do this best by approving those resources, and by properly exercising restraint and granting due deference to this Commission within appropriate limits.

In sum, many of the principal Christopher recommendations on structural reform of this Commission and its relationship to the Chief and the Department have been adopted. The recommendations for restructuring the Police Commission and its staff have partly been implemented. The recommendations for ample resources to allow this Commission and its staff to do their jobs effectively have not yet been adequately implemented. Similarly, this Commission and the City Council have not developed a workable protocol allowing each to operate within its own sphere of authority without undue interference from the other.

In order to establish firmly the meaningful oversight role for this Commission envisioned by the Christopher Commission and the Charter — a role you have begun in earnest to play — these concerns should be promptly addressed.

## Afterword

Five years later, the LAPD has taken strides forward due to the efforts of the past and present members of this Commission and to those within the LAPD who have taken the Christopher Commission recommendations to heart. Yet change within the LAPD has only begun. The progress made to date remains fragile in that it principally represents the goodwill and good efforts of certain individuals in the LAPD who have moved forward, mostly on their own, to bring reform to their various commands. It is not the result of an overall plan to institutionalize change. Individuals come and go, and the changes will not become self-perpetuating until they are fully integrated into the Department's everyday operations — so much so that the reforms themselves become and remain custom and practice. Only in this way will they transcend the effects of inevitable change in politics, priorities, and personalities that all organizations experience over time.

The LAPD does not currently have an overarching vision and plan that is adequate to perpetuate the LAPD's reputation as the nation's finest: A Department that is technologically advanced, receptive to innovation and new ideas in law enforcement, and steadfastly intolerant of excessive force, bias, and corruption; a Department that

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has the confidence of all sectors of the public it serves, adequate resources to serve that public, and the will to ensure that the public trust is never abused; and a Department that broadly reflects the diversity of this City, and where opportunities are unlimited for all of the LAPD's diverse personnel. We hope that this Report will aid this Commission and the Department to make the Christopher Commission reforms the custom and practice of the LAPD.

The recommendations contained in this Report are not exhaustive. Nor does this Report exhaustively catalog all the progress made within the Department to date. Your Task Forces will undoubtedly recommend innovations beyond anything here or in the Christopher Commission Report — and that will be a good thing.

This Commission is the head of the Department and charged with the Department's overall management and direction. The challenge for the Mayor, the City Council, this Commission, and the Department today is to begin moving beyond the Christopher Commission Report — first, to make sure its reforms are woven inextricably into the fabric of the Department, becoming everyday custom and practice, and then beyond those reforms, to establish securely the LAPD as the nation's finest, best-managed, most professional, and innovative Police Department.

Five years ago, with the image of the Rodney King beating still fresh, the Christopher Commission urged the City's leaders within the LAPD and outside of it "to give priority to stopping the use of excessive force and curbing racism and bias and thereby to bring the LAPD a new level of excellence and esteem throughout Los Angeles." The essential message today is no different. Like a ship in mid-passage, capable but not certain to reach port, the LAPD has accomplished much, but much more remains to be done. Five years from now, we hope that the Christopher reforms and more will have been implemented fully, and will be well entrenched throughout a Department that is leading the nation into the next century.