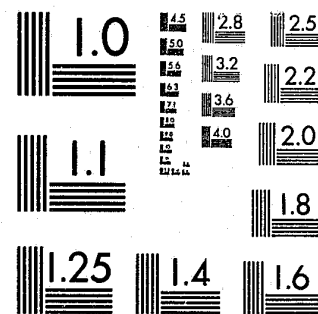


National Criminal Justice Reference Service

**ncjrs**

This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



MICROCOPY RESOLUTION TEST CHART  
NATIONAL BUREAU OF STANDARDS-1963-A

Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504.

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U. S. Department of Justice.

National Institute of Justice  
United States Department of Justice  
Washington, D. C. 20531

Date Filmed

2/16/81

# Police-Community Relations in San Jose

A Staff Report of the Western Regional Office  
of the United States Commission on Civil Rights

April 1980



X

# Police-Community Relations in San Jose

A Staff Report of the  
Western Regional Office  
of the United States  
Commission on Civil Rights

April 1980

## U.S. COMMISSION ON CIVIL RIGHTS

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 and directed to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, handicap, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to discrimination or the denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin;
- Submit reports, findings, and recommendations to the President and the Congress.

## MEMBERS OF THE COMMISSION

Arthur S. Flemming, *Chairman*

Stephen Horn, *Vice Chairman*

Frankie M. Freeman

Manuel Ruiz, Jr.

Murray Saltzman

Louis Nuñez, *Staff Director*

**MEMORANDUM OF TRANSMITTAL**

April 1980

**MEMBERS OF THE COMMISSION**

Arthur S. Fleming, *Chairman*  
Stephen Horn, *Vice Chairman*  
Frankie M. Freeman  
Manuel Ruiz, Jr.  
Murray Saltzman

Following a request from San Jose city officials, staff of the Western Regional Office monitored police-community relations in that city beginning in 1976. Staff interviewed over 120 persons, including city and law enforcement officials, clergy, representatives of public and private agencies, police officers, attorneys, and minority community representatives. This report summarizes the 3-year monitoring effort and chronicles one community's attempt to improve police-community relations.

In 1976 San Jose minority community representatives alleged that law officers used abusive and threatening language, threats of arrest if individuals complained, and deadly force. All too often, they alleged, the victims were the city's minorities.

Due to the actions of concerned city officials and community representatives, a change in police department management was effected. Positive administrative initiative on the part of the police department's new management accelerated constructive change.

In 1979 the effects of change were evident. The level of fear, mistrust, and hostility toward the police of San Jose was much lower than that in 1976. A recognizable and definable police-community relations program now exists, and complaints of abuse have decreased. Although incidents of abuse are still reported, overall minority community relations with police are improved.

This report may serve as a limited model to other California communities facing similar concerns in the area of police-community relations.

Louis Nuñez, *Staff Director*

**ACKNOWLEDGMENTS**

This report was written by Thomas V. Pilla, research-writer, with research assistance provided by Felicia M. Smith, summer intern. Editing was done by Sally E. James, deputy director, and legal review was provided by Laurie Campbell, attorney-advisor. Support was supplied by Grace Diaz and Irene B. Garcia. All regional office staff worked under the supervision of Philip Montez, regional director.

Contents

1. Introduction ..... 1

2. Background ..... 3  
 The City  
 The Department  
 The Problem

3. Community Perceptions and Police Department Response ..... 7  
 Alienation Between Police and Minority Communities  
 Verbal and Physical Abuse  
 Complaint Process  
 Police Department Leadership  
 Police Department Response

4. Period of Change ..... 11  
 Alienation Between Police and Minority Communities  
 Verbal and Physical Abuse  
 Complaint Process  
 Police Department Leadership

5. Findings ..... 19

Tables

1. San Jose Police Department Current Sworn Personnel by Rank and Ethnicity, 1979 ..... 4

2. San Jose Police Department Disciplinary Actions, 1969-79 ..... 15

Appendices

A. Letter from Glen A. Castlio, Vice President, San Jose Peace Officers' Association, Dec. 18, 1979 ..... 21

B. Letter from Glen A. Castlio, Jan. 28, 1980 ..... 22

NCJRS  
 NOV 11 1980  
 ACQUISITIONS

1. Introduction

Since its creation by Congress in 1957, the United States Commission on Civil Rights has studied administration of justice issues throughout the Nation.<sup>1</sup> A Commission report, *The State of Civil Rights: 1977*, noted, "In a number of communities, police abuse of minority citizens intensified as a critical issue, poisoning police-community relations and contributing to disorders in several cities."<sup>2</sup>

In many communities, daily confrontations between civilians and police officers suggest the existence of questionable law enforcement practices. Community members complain that local municipalities do not redress grievances against law enforcement officers. Often these complaints are sent to Federal agencies such as the Commission on Civil Rights.

The Commission's Office of General Counsel in April 1978, noting an increase in the volume of complaints about law enforcement, proposed a study of policies that govern local law enforcement.<sup>3</sup> The study, begun in summer 1978, includes such issues as police department administration, standards of police performance and behavior, training, citizen complaint mechanisms, and community relations.<sup>4</sup>

Since 1970 the California Advisory Committee to the Commission has received complaints from minority communities about the administration of justice.<sup>5</sup> For example, according to the Mexican American Legal Defense and Educational Fund (MALDEF), in a 2-year period ending in February 1978, California law enforcement officers "killed five Chicanos,<sup>6</sup> and shot and beat many more."<sup>7</sup>

1. Reports of the Commission dealing with the administration of justice include: 1961 *Statutory Report*, vol. 5, *Justice*; *Civil Rights: Interim Report of the U.S. Commission on Civil Rights (1963)*; *Law Enforcement: A Report on Equal Protection in the South (1970)*; *Who Will Wear the Badge? A Study of Minority Recruitment Efforts in the Protective Services (1971)*; *The Southwest Indian Report (1973)*; *Cairo, Illinois: A Symbol of Racial Polarization (1973)*; and *The State of Civil Rights: 1977 (1978)*. The legislative history demonstrates that Congress intended a separate and distinct grant of administration of justice jurisdiction for the Commission. In other words, Congress did not intend that the administration of justice jurisdiction be limited by the categories of race, color, religion, national origin, or sex. Lawrence B. Glick, Acting General Counsel, memorandum to Staff Director and Commissioners, "Congressional Intent Behind the Term 'Administration of Justice'." 1976.

2. U.S., Commission on Civil Rights, *The State of Civil Rights: 1977 (February 1978)*, p. iii.

3. U.S., Commission on Civil Rights, Office of General Counsel, "Administration of Justice Proposal," Apr. 5, 1978, draft.

4. The study has included a consultation, held Dec. 12-13, 1978, in Washington, D.C., where views of 35 law enforcement experts—including academicians, police administrators, and representatives of civil rights organizations—were presented to the Commission. In addition, public hearings have been held in Philadelphia, Pa., on Feb. 6, 1979, and Apr. 16-17, 1979, and in Houston, Tex., on June 12, 1979, and Sept. 11-12, 1979.

5. Prior to 1970 the Advisory Committee conducted informal open meetings on law enforcement issues in Los Angeles, September 1962; in San Francisco-Oakland, January 1963; in Oakland, May 1966; and in Los Angeles, June 1967 and August 1968. The Committee's reports and memoranda dealing with this subject include: *Report on California: Police-Minority Group Relations (1963)*; "Analysis of the McCone Commission Report by a Subcommittee of the California State Advisory Committee" (mimeographed, 1966); "Civil Rights in Oakland, California" (mimeographed, 1967); and *Police-Community Relations in East Los Angeles, California (1970)*.

6. Chicano is a regional term for Mexican American; regionalisms such as Chicano are used in this report where appropriate. The executive branch of the Federal Government requires all Federal agencies to use the standard classification "Hispanic," which includes "a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race" (Executive Office of the President, Office of Management and Budget, memorandum to heads of executive departments, "Revision of Circular No. A-46, Exhibit F, 'Race and Ethnic Standards for Federal Statistics and Administrative Reporting,'" May 12, 1977).

7. Vilma Martinez, general counsel, Mexican American Legal Defense and Educational Fund, letter to Griffin B. Bell, Attorney General of the United States, Feb. 9, 1978.

Preceding page blank

In correspondence to the Commission, Virna Canson, regional director for the Western States, region I, National Association for the Advancement of Colored People, wrote:

The issues I raise regarding the numerous instances of violence against blacks in the states in region I [including California] are very real, and I am fearful they will increase unless we are able to achieve greater accountability from persons in positions of authority in law enforcement.<sup>8</sup>

Ms. Canson provided documentation on questionable law enforcement behavior in the California cities of Taft, Keyes, Los Angeles, Richmond, Long Beach, Sacramento, Pasadena, and San Jose.<sup>9</sup>

The Commission's Western Regional Office has received complaints about law enforcement from minority community groups and individuals in Covina, East Los Angeles, East Palo Alto, Huntington Beach, Los Angeles, Oakland, Ontario, Oxnard, Riverside, Sacramento, Victorville, and San Jose.<sup>10</sup>

Following a request from San Jose city officials, the Commission's Western Regional Office monitored police-community relations in that city beginning in 1976. Staff interviewed over 120 persons, including city and law enforcement officials, clergy, representatives of public and private agencies,

8. Virna Canson, regional director, region I, National Association for the Advancement of Colored People (NAACP), letter to John Buggs, Staff Director, U.S. Commission on Civil Rights, Feb. 2, 1976.

9. Virna Canson, NAACP, letters to Philip Montez, Regional Director, Western Regional Office, U.S. Commission on Civil Rights, May 28, July 19, and Aug. 24, 1976.

10. Complaints are on file in the Commission's Western Regional Office,

police officers, attorneys, and minority community representatives.

In 1976 community representatives in San Jose alleged that the police were committing many abuses, such as beatings of civilians, using tight handcuffs on suspects, unwarranted entry of homes, and unnecessary stops and searches. There were allegations that law officers used abusive and threatening language, threats of arrest if individuals complained, and deadly force.

In a June 23, 1976, interview, Mayor Janet Gray Hayes said "that while complaints of abuses were numerous, it was difficult to get a handle [on the issue] because insufficient documentation was offered to support harassment concerns." The mayor and other members of the city council agreed that the number of complaints was significant enough to warrant a change in police practices.<sup>11</sup>

The Western Regional Office of the U.S. Commission on Civil Rights began its monitoring of police-community relations in San Jose in June 1976 and continued through June 1979. This report summarizes the results of that monitoring. It is a story of one community's attempt to improve police-community relations and may serve as a model for other California communities facing similar situations.

Administration of Justice complaint file. See also, Apr. 7, 1978, memorandum, "Administration of Justice in California," from Philip Montez to Louis Nuñez, Acting Staff Director, U.S. Commission on Civil Rights.

11. Janet Gray Hayes, mayor, San Jose, interview, June 23, 1976. In addition, June-July 1976 interviews with members of the city council and staff of city government espousing this view are on file in the Western Regional Office, San Jose Police-Community Relations Monitoring Project file.

## 2. Background

### The City

A 50-minute drive south of San Francisco, San Jose is the State's oldest city and was the first Spanish civilian settlement in California. The county seat of Santa Clara County, San Jose celebrated its 200th birthday in 1977 with a population of nearly 600,000.<sup>1</sup> Since 1950 it has grown from the world's largest canning and fruit packing center with a county population of 290,547 to an international center for the development of computers and microelectric and semiconductor technology with a county population of 1,222,800 in 1978. The county population includes 20,900 blacks (2 percent), 49,100 other non-white (4 percent), and 214,800 Hispanics (18 percent).<sup>2</sup>

Several San Jose residents suggested that the city's explosive growth had contributed to poor police-community relations. One police officer told Commission staff in June 1976:

The city has a number of problems: the crime rate is going up pretty bad, high unemployment, little recreational activities, low employment of minorities and women in the police department, and tensions in the minority communities.<sup>3</sup>

Peter Stone, former city attorney, told Commission staff in a June 25, 1976, interview:

The explosive growth of the city has been a ma-

1. "San Jose, Downtown Renaissance," *Sunset*, November 1977, pp. 98-105.

2. The black, other nonwhite, and Hispanic figures are July 1978 estimates prepared by the Employment Data and Research Division, California Department of Finance, and are based on projections from the 1970 census.

3. Unless otherwise noted, all statements in this chapter are from interviews

conducted in June-August 1976. On file, Western Regional Office, San Jose Police-Community Relations Monitoring Project file.

Terry Johnston, a psychologist, in an August 5, 1976, interview added:

San Jose grew in such a topsy-turvy manner that the local citizenry didn't realize the police had become a military force to fear. The freeway cut up the community and created enclaves that cause police problems. There really is no police-community relationship in San Jose.

### The Department

The police department had experienced the same growing pains as the city. It had grown from 122 sworn officers in 1950 and a budget of \$2,389,315 in 1961 to 868 sworn officers and a budget of \$18,955,000 in 1976.<sup>4</sup> Daniel Campos, city affirmative action officer, informed Commission staff on July 1, 1976, that "the police department's ethnic breakdown for uniform personnel is: 18 black (2.2 percent); 6 Asian (.7 percent); 73 Spanish surname (9.1 percent); 2 American Indian (.3 percent); 4 Filipino (.5 percent); 7 other non-white (.9 percent); and 692 white (86.3 percent) for a current total of 802 uniform employees; the number of female uniform personnel [stood] at 13."<sup>5</sup>

4. San Jose Police Department, "Annual Report, 1976."

5. Daniel Campos, city affirmative action officer, San Jose, letter to Thomas V. Pilla, Western Regional Office, U.S. Commission on Civil Rights, July 1, 1976.



**TABLE 1**  
**San Jose Police Department**  
**Current Sworn Personnel**  
**By Rank and Ethnicity, 1979**

Rank	Asian		Black		Hispanic		Other minority		White	
	M	F	M	F	M	F	M	F	M	F
Chief									1	0
Assistant chief									1	0
Deputy chief					1	0			2	0
Captains					0	0			7	0
Lieutenants	2	0			3	0			23	0
Sergeants	1	0	0	1	3	0	1	0	161	0
Officers	7	0	21	0	83	2	8	0	426	25
	10	0	21	1	90	2	9	0	621	25

Source: San Jose Police Department, Personnel Division, Minority and Female Recruitment Questionnaire, mimeograph, Apr. 23, 1979.

According to officer Roger Finton, police personnel division, as of April 23, 1979, the San Jose police force had 779 sworn officers; 11.8 percent were Hispanic, 2.8 percent were black, and 2.6 percent were other minority. Table 1 provides an ethnic breakdown of the department's sworn personnel.

In San Jose the police chief is hired by the city manager, who in turn serves at the pleasure of an elected city council. During this monitoring project two police chiefs headed the department: Chief Robert Murphy, from 1971 to 1976, and Chief Joseph McNamara, from 1976 to the present.<sup>6</sup>

#### The Problem

In January 1976 members of San Jose's minority communities requested that the Western Regional Office of the Commission on Civil Rights review allegations about the deterioration of police-community relations in that city.<sup>7</sup> On February 20, 1976, Commission staff met with 50 minority-group

representatives who expressed anger, frustration, helplessness, mistrust, and fear of the San Jose police, Santa Clara County sheriffs, and California highway patrol officers.

Apparently these concerns had festered for some time. Inez Jackson of the Garden City Women's Club told Commission staff in a June 21, 1976, interview: "The [San Jose] Police Department is insensitive to the black and Chicano communities and this has been a long-time practice." Lil Silberstein, National Conference of Christians and Jews, in a June 23, 1976, interview reinforced this view, "There is a climate of fear in San Jose between the police and the minority communities."

Concern about relations between the San Jose Police Department and minority communities was not limited to private citizens. In February and March 1976 the San Jose City Council and the mayor formally requested that the Commission investigate police-community relations.<sup>8</sup>

questing that the U.S. Commission on Civil Rights investigate the minority communities' relationship with the city administration. This request read in part: "[this is] a formal request to conduct a full investigation of the problems of the minority residents of the city. . . . [T]his matter is of overriding importance, as it is affecting our total community." Janet Gray Hayes, mayor, San Jose, letter to Philip Montez, Regional Director, Western Regional Office, U.S. Commission on Civil Rights, Mar. 1, 1976.

A series of tragic incidents beginning in 1969 contributed to the growing concern in the city. Between 1969 and 1976 San Jose police and Santa Clara sheriffs killed 15 civilians in San Jose; 8 of these were Mexican American, 6 were black, and 1 was white.<sup>9</sup> In this same 7-year period, one San Jose police officer was killed, while no county sheriffs were killed in the line of duty;<sup>10</sup> three Santa Clara County sheriffs were indicted for involvement in a single shooting incident.<sup>11</sup>

According to Blair Egli, vice president and manager, San Jose Bank of America, the 1972 police killing of John Henry Smith, a black, sparked minority community protests and foreshadowed larger, angrier protests in 1976.<sup>12</sup> Following the death of John Henry Smith, the city council created an ad hoc committee to study police policies and procedures and make recommendations. The committee's 43 recommendations included suggestions for resolving citizen complaints, recruitment and training, weapons policies, services, and police administration reorganization. A priority recommendation was for an enforced policy that would limit the conditions under which deadly force could be used by police officers.<sup>13</sup>

By July 1975 the police department had implemented 21 of the 43 recommendations, partially implemented 14, and failed to deal with 8.<sup>14</sup> Of the 43, 5 recommendations dealt with a weapons policy, but only 1 of the 5 was fully implemented: "the possession and use of firearms off-duty must be controlled by the Department."<sup>15</sup>

The catalyst for renewed community concern and anger was the police killing of Dan Trevino on

January 22, 1976.<sup>16</sup> The San Jose Mercury News reported:

The killing set off unprecedented Chicano protests in the city. Two thousand people marched in the streets. Hundreds descended on city hall. For five months, representatives of the Committee for Public Safety (COPS) formed after the shooting, attended city council meetings demanding an independent investigation.<sup>17</sup>

Following the Trevino incident, the minority community demanded an end to alleged verbal and physical abuse on the part of the police which, they claimed, occurred daily. Demands were presented to the city council on January 27, 1976, by the Committee on Public Safety (COPS), a community organization formed in 1972 to deal with law enforcement issues. The demands included: (1) jailing of the two officers involved in the Trevino incident; (2) prosecution by the district attorney of the officers for murder; (3) independent investigation of the killing with access to evidence; (4) payment of damages to the victim's family; (5) an independent autopsy; (6) a review of police training; (7) a grand jury hearing open to the public; (8) removal of former law enforcement personnel as members of the grand jury panel for this hearing.<sup>18</sup>

Theodore G. Smith, counsel for COPS, wrote on February 3, 1976, to Judge Longinotti, presiding judge of the superior court, and Anton F. Peterson, foreman of the grand jury:

The experience of the past several years with respect to homicides committed by police officers, particularly where the victims have been

9. Jose Villa, cochairman, Committee for Public Safety, letter to John Buggs, Staff Director, U.S. Commission on Civil Rights, Apr. 9, 1976 (hereafter referred to as Villa letter).

10. Joseph McNamara, chief, San Jose Police Department, and others, telephone interview, July 24, 1979. "Officer Richard Eugene Huerta was murdered by the son of an Oakland police officer on the morning of August 6, 1970." Glen Castlio, vice president, San Jose Police Officers Association, letter to Philip Montez, regional director, Western Regional Office, U.S. Commission on Civil Rights, Dec. 18, 1979. See appendix A. Sergeant Castlio had been offered an opportunity to comment upon the Dec. 10, 1979, draft of this report. His comments, made in a Dec. 18, 1979, letter have been incorporated in the final draft where appropriate. (Hereafter referred to as Castlio Letter.) Sergeant Castlio asked that a second letter dated Jan. 28, 1980, be included as part of the final report. See appendix B.

11. Norman Lariviere, attorney, interview, San Jose, June 29, 1976. Two of the officers involved in the shooting incident were fired; the third was suspended from duty.

12. Interview, June 30, 1976.

13. "Final report of the Ad Hoc Committee on the Policies and Procedures of the Police Department of the City of San Jose," May 18, 1972. In addition, the Eastside Ad Hoc Committee on Public Safety in spring 1973 submitted 11 recommendations to Ted Tedesco, city manager, and Robert Murphy, police chief. None of the 11 recommendations was implemented according to community members interviewed by Commission staff in June 1976. Also, Chicanos En Accion, Inc., wrote to the police-community rela-

tions committee of the San Jose City Human Relations Commission on Aug. 14, 1975, with a proposal for a citizen complaint mechanism, which, according to Accion, was not fully acted upon by the committee.

14. City of San Jose, "Response to the Ad Hoc Committee Report, Summary Status of Implementation, July 1975," Feb. 17, 1976.

15. These five recommendations were: (1) The use of deadly force is justifiable only as a means of preserving life. The discharge of firearms is never justifiable solely for the purpose of apprehension. (2) All weapons must be standardized and closely controlled by the department. (3) A comprehensive system of accountability must be developed based upon the reporting, recording, and review of incidents involving the use of weapons. (4) The off-duty possession and use of firearms should be closely controlled by the department. (5) A comprehensive training program should be undertaken to ensure the implementation of departmental policies regulating the use of weapons. Robert B. Murphy, chief of police, "Ad Hoc Police Report, July 1975," to Ted Tedesco, city manager, Feb. 17, 1976.

16. While the city council specifically requested the Commission on Civil Rights to investigate the Trevino death, the Commission has no power to apply specific remedies in individual cases.

17. "Trevino Slaying, A Probe—And 2 Years of Silence," San Jose Mercury News, Jan. 22, 1978, p. 17.

18. Ted Tedesco, city manager, memorandum to the mayor and city council, "Report on Committee on Public Safety Demands Relating to Trevino Case," Feb. 11, 1976.

members of the minority community, has left deep wounds and smoldering resentments.

In a February 11, 1976, memorandum from Ted Tedesco, city manager, to the mayor and city council, five of COP's demands presented to the city council on January 27 were adopted for study.<sup>19</sup> Following the city council action, Jose Villa of COPS wrote the Commission in April 1976: "The City of San Jose has not been adequately responsive to our grievances. Action to correct these conditions is slow and on an extremely reluctant basis."<sup>20</sup> Community members believed that an outside agency could move the city to action, and written and oral complaints

19. Ibid.

alleging discrimination by law enforcement agencies in San Jose and Santa Clara County were addressed to the Commission's Western Regional Office.

While study of the problems by city officials continued, the staff of the Western Regional Office in June 1976 began to monitor developments. Subsequent events included the hiring of a new police chief and his administrative actions to alleviate police-community tensions. The remainder of the report focuses upon community concerns expressed during the monitoring process (chapter 3) and changes that occurred as a result of several initiatives (chapter 4). The concluding section outlines major findings.

20. Villa letter.

### 3. Community Perceptions and Police Department Response

Citizens seldom quarrel with the functions and responsibilities of police officers; police work is a necessary community service. Citizens do question law enforcement practices and procedures they perceive to be arbitrary, unjust, or selectively applied.

Community perceptions of San Jose's police practices in 1976 were not positive. A San Jose resident quoted in the *Mercury News* said: "They [the police] discriminate a lot. Not only against the Mexicans, but any poor people. Our children have no respect for them, only fear."<sup>1</sup> Reynaldo Flores, branch manager of the Center for Employment and Training, and resident of San Jose since 1961, told Commission staff in an August 5, 1976, interview:

The relationship between the minority communities and the San Jose Police Department has never been good, with many incidents of police brutality. An adequate response has never been given by the police. There is no confidence in the police.<sup>2</sup>

An editorial in the *Alma/South San Jose Sun* of April 14, 1976, stated:

The shooting [of Danny Trevino] by San Jose Police is only the latest in a series of similar incidents during the past few years. Each one erodes a little further our sense of confidence in the police department.<sup>3</sup>

From 1970 to 1976 citizens in increasing numbers

1. Inquiring Reporter, "Do Police Treat the Mexican American Community Fairly?" Feb. 9, 1976.

2. Unless otherwise noted, all interviews were conducted during the period June-August 1976. On file, Western Regional Office, San Jose Police Com-

munity Relations Monitoring Project.

complained of incidents of police abuse. The number of complaints filed with the police department rose from 369 in 1970 to 805 in 1976.<sup>4</sup> Summarized below are examples of community complaints that came primarily from minority communities.

#### **Alienation Between Police and Minority Communities**

Commission staff heard many minority community representatives express fear and mistrust of law enforcement stemming from alleged police harassment and brutality. Jose Villareal, a county human relations specialist, in a July 1, 1976, interview with Commission staff, said: "If you look like a Chicano, they [the police] will stop you and ask 'What are you doing here?' etc., usually without any basis." Robin Yeamans, private attorney, told Commission staff on August 5, 1976, that, "The San Jose police department has a history of police brutality against blacks and browns." Mike Johnson, San Jose resident, in an August 6, 1976, interview noted:

The department has a very negative image; it is too centralized and has few substations in minority communities. The department overreacts in the minority community but does not do so in white neighborhoods.

Lil Silberstein of the National Conference of Christians and Jews told Commission staff on June 23, 1976:

munity Relations Monitoring Project.

3. Apr. 14, 1976.

4. Joseph McNamara, chief, San Jose Police Department, telephone interview, July 24, 1979.

Trouble has been the result of unfortunate isolation. There is a void of information about minority cultures, a lack of familiarity, and this is the big problem. There have been some minor attempts at human relations training.

Father Richard Garcia, St. Catherine's Church, Morgan Hill, told Commission staff in an August 6, 1976, interview that, "San Jose police are alienated from the community. Leadership in the San Jose Police Department has been lacking." Father Garcia added that youngsters had related to him many occasions of unnecessary and unwarranted brutalization by police officers.

Ernestine Garcia of the Confederación de la Raza told Commission staff on June 24, 1976, that:

It is not easy to get the police department to understand the importance of making the community know they are there to help. People say, "Look, I'm afraid to ask the police for help; they might crack my head or they don't come anyway when you call."

Ms. Garcia added that her office received two to three complaints a week alleging police misconduct.

James Ono, an attorney in San Jose, in a June 22, 1976, interview noted:

The manner in which the police handle situations is highly suspect. They are very brusque even with law-abiding citizens. Their attitude is that everybody is a troublemaker in the minority community.

The San Jose situation is not unique. The big question is what role the police should play. The clash comes because of a difference in view of what this role should be between the community and the police.

Some officers agreed with the minority communities about the alienation. In a June 24, 1976, interview with Commission staff, Sgt. Robert Lira, a San Jose police officer since 1952, said:

There are areas of antagonism and programs to alleviate them. There are bones of contention. Certain groups contend discrimination; others contend response time is atrocious citywide. The department is doing some things. Recently, a community issues forum was held and the police athletic league program [for youth] is going very well.

#### Verbal and Physical Abuse

In addition to alienation, allegations of police ver-

bal and physical abuse contributed to the deteriorating relations between civilians and officers. Allen L. Seid, former chairman of the Santa Clara County Human Relations Commission, told Commission staff on July 1, 1976, that: "almost every 2 years there is a killing of a minority by either the San Jose police or the county sheriffs."

Community members expressed fear that any contact with a law enforcement officer would end in a beating or death. Ernestine Garcia, in a June 24, 1976, interview, related this incident:

There was one case where two kids were riding together and the car stopped to let one off. The police stopped and asked for their identification, which they were not able to produce. The kids were arrested and charged with not having proper identification. The parents called [the Confederación] to say the kid had not been home. Then they got a call from him and he said he was in jail and needed his I.D. [located] in the car's glove compartment. The kid had stitches from being beaten with a flashlight by the police.

"This is not an isolated incident," she added. "We have files filled with similar complaints."

Sofia Mendoza, an outreach worker with the Family Service Association in San Jose, in an August 6, 1976, interview stated: "Police show their guns even on a [stop for a] minor traffic violation. They approach cars with their guns drawn and shoot and kill people on the slightest provocation." Adam Escoto, counselor, Center for Employment and Training, told Commission staff in a July 1, 1976, interview:

Police homicides are commonplace and the officers involved are acquitted. The San Jose Police Department is insensitive to the black and Chicano communities and this has been a long-time practice.

#### Complaint Process

One method for alleviating friction between civilians and police is an impartial system for reviewing complaints about alleged police abuses. In San Jose civilians stated that police were not responsive to community complaints. The fact that the internal investigations unit was housed in the police department was thought by many to discourage complaint filing.<sup>5</sup> Civilians expressed the belief that officers were seldom disciplined because the police in-

every 2 years. The present unit director began his rotation July 8, 1979.

vestigated themselves. In an August 6, 1976, interview with Commission staff, John M. Gee, project manager, Santa Clara County Needs Assessment Project, said: "Another problem is the way complaints are handled. There is no procedure for questioning police behavior. In San Jose, the police violate the civil rights of others." On June 19, 1976, Henry Gage, president, San Jose branch, National Association for the Advancement of Colored People, told Commission staff that, "there is no recourse for citizen complaints because the police investigate themselves."

Jose Villa, director, Mexican American Community Service Agency, Inc., in a June 30, 1976, interview with Commission staff said: "Not enough information is provided the community on the various procedures and processes available for redress of grievances. When people do complain, nothing happens." Peter Stone, former city attorney, told Commission staff in a June 25, 1976, interview, "The mechanisms for grievance don't work. The community feels it cannot trust the city to investigate itself anymore."

Community members alleged that the internal investigations unit protected police officers. If there were any sanctions imposed upon police officers for brutality and use of deadly force, civilians were not aware of them. Community representatives perceived that shootings by officers were always found justifiable by the police department.

#### Police Department Leadership

Community representatives complained that San Jose's Chief of Police, Robert B. Murphy, failed to exert the leadership necessary to minimize police abuses. In a June 22, 1976, interview, Morton Levine, executive editor, Suburban Newspaper Group, told Commission staff: "The chief doesn't control the department. The Police Officers Association and strongminded deputies, captains, and lieutenants do." Daniel Campos, former affirmative action officer for the city, told Commission staff in a June 23, 1976, interview that: "There is a strong peace officer association that is influential in department policymaking. The association appears to fight any change." James Ono, attorney, in a June 22, 1976, interview added: "The administration in the San Jose Police Department has problems. The chief

6. City of San Jose, San Jose Police Department, "Use of Force" (mimeographed).

7. The Police Officers Association (POA) was chartered in 1963 as a social

is a nice guy, but the job requires more. He is not forceful enough and the system works against him."

San Jose representatives complained that in addition to his lack of forceful leadership, the chief also failed to maintain liaison with community groups. Mary Raw, a resource staff person with the Mexican American Community Service Agency, said in a July 1, 1976, interview, "the San Jose Police Department is very centralized and this makes it very rigid." Morton Levine added: "The unwillingness or inability of the police department to decentralize and create a neighborhood presence has been a major disappointment."

#### Police Department Response

Department response to community frustration and alienation was halting and sporadic on issues of weapons policy, training, complaint processing, and leadership. Robert B. Murphy, chief of San Jose's Police Department from 1971 to 1976, defended his officers in a June 23, 1976, interview, saying, "Most citizens don't understand the physical jeopardy officers are placed in at times." However, to "reflect the values of the communities served," he revised the policy on use of force. In a memorandum to all divisions dated January 23, 1975, Chief Murphy wrote:

The discharge of firearms is never justifiable solely for the purpose of apprehension. It should be emphasized that there is nothing in this policy that prohibits police officers from protecting themselves or another person from a danger of death or of great bodily injury.<sup>6</sup>

According to several police officers, the revised policy "strapped" their ability to perform their function. The Police Officers Association (POA), representing "approximately 80 percent of the police officers in the department," formally challenged the implementation of this policy.<sup>7</sup>

As a result, in an April 2, 1975, memorandum to all divisions, Chief Murphy rescinded the policy, stating:

Since the introduction of the department's "Use of Force" policy, [effective] January 26, 1975, it has become apparent to me that certain portions of the policy may be unnecessarily complicated and/or vague, and that the mandatory language of the policy does not reflect my intention that it serve as a guideline to assist

and economic group and has provided legal representation for members involved in disciplinary incidents. Its 15-member board of directors consists entirely of white males. San Jose police officer, interview, March 1978.



officers in arriving at decisions respecting when the use of deadly force might be employed.

In view of the problems of interpretation that have arisen, and in the light of the deficiencies noted above, said policy is hereby rescinded and of no further force or effect, and the policy previously in effect, that dated May 1, 1972, is continued in full force and effect.<sup>8</sup>

The May 1, 1972, use of firearms policy read:

Firearms may be discharged in the performance of a police duty only under the circumstances listed below: (1) At an approved range. (2) When killing seriously wounded or dangerous animals when other disposition is impractical. (3) When necessary to effect the capture of, or prevent the escape or rescue of a person when the member has reasonable cause to believe he has committed a felony involving the use or a threat to use deadly force, when all other reasonable means have failed.<sup>9</sup>

In a June 23, 1976, telephone interview with Commission staff, Ed Peoples, administration of justice department, California State University, San Jose, noted the department's efforts to improve officer training:

The [police] department is doing some things to train officers to deal with violent situations. They are attempting to lower the level of violence and to provide alternatives for the officers. In training there is an emphasis on what you say and how [you say it].

Despite the training effort, community representatives continued to complain that the police were insensitive.

Regarding community frustration with complaint processing, Peter Stone, former city attorney, said in a June 25, 1976, interview:

Staff of the [police department] internal investigations unit are dedicated, hardworking, not necessarily protective of fellow officers.

8. City of San Jose, San Jose Police Department, "Use of Force Policy" (mimeographed).

There may be an unconscious defensive attitude. The rotation of officers affects the system. After a certain time, the officers return to other duties.

With regard to department leadership, in a June 23, 1976, interview Chief Murphy responded:

The chief's position is a frustrating one. I philosophically understand the minority community's point of view. The political situation and power structure in the city of San Jose are under change. The frustrating elements include the selection, training, and supervision of police officers; the number of police needed versus the number the city can afford; and the fact that the dissident community members, city council, and police officers cannot all be placated.

In a June 23, 1976, interview then city manager Ted Tedesco expressed dissatisfaction with Chief Murphy's efforts to control the police department, and he took steps to remove the chief from office, stating: "I had a lack of satisfaction with the chief's ability to eradicate problems and establish a working philosophy in the police department." Conceding that many of the chief's problems were inherited from an earlier administration, Mr. Tedesco added that the city council also had responsibility for assuring an effective police force. Mayor Janet Gray Hayes, interviewed on June 23, 1976, agreed that the council had responsibility: "Police-community relations are always something of a concern to a mayor when the minority community is 20 percent of the population. [I] want police investigated when there are problems."

It was clear that significant change was needed in San Jose. Community and official comments expressed the view that a crisis in credibility and operations had developed by June 1976 and that police-community relations were at a fragile impasse.

9. City of San Jose, San Jose Police Department, San Jose Police Manual, vol. I, art. III, part XI, §3111.1a.

## 4. Period of Change

In his June 23, 1976, interview with Commission staff, Ted Tedesco, former city manager, had stated that: "[The city should be] concerned about a number of issues related to the police department, such as management-level supervision, seniority issue, allocation of manpower, and planning-research." The lack of focus on these issues, he believed, reflected a need for administrative change. By summer 1976 there was a serious credibility gap between the minority community and city government. In the view of the community, police-community relations were negative and fragile.

To fill what he believed to be a vacuum in leadership, Mr. Tedesco appointed Joseph D. McNamara as chief of the San Jose Police Department effective October 17, 1976.<sup>1</sup> On October 30, 1976, an article in *The Peninsula Bulletin*, entitled, "New Police Chief Comes to San Jose with Impressive Record," quoted Rev. Emanuel Cleaver of Kansas City, national board member of the Southern Christian Leadership Conference:

Dr. McNamara is genuinely sympathetic to the problems and plight of the police, as shown by his efforts to professionalize the Kansas City Department—increasing their salaries, providing better training, demanding higher standards of conduct and according them greater status and respect in the community.

During his [Kansas City] administration, blacks for the first time began to see police as public

1. Joseph McNamara had served as a sergeant in the New York City Police Department and had earned a doctorate in public administration at Harvard before becoming chief of the Kansas City, Missouri, Police Department in 1973.

servants. When problems did arise between blacks and police. . . there was confidence that fair and impartial investigations would be conducted.<sup>2</sup>

In December 1976 Commission staff canvassed community representatives and city officials in San Jose to ascertain the initial effect of the new chief on police-community relations. The community had developed a "wait and see" attitude. Ernestine Garcia, Confederación de la Raza, in a December 1976 telephone conversation with Commission staff said, "He's [McNamara] met with the community and handled some tough questions. We'll see if what he has said will change does [change]." Jack Brito of the Mexican American Community Service Agency in a December 1976 telephone interview added: "[The chief] is tough, but seems fair. The community should give him a chance to develop his programs." Susan Wilson, a council member in December 1976, said: "The chief has only been here a short time. He must have an opportunity to exert leadership. Only then can we assess the impact of change."

Throughout 1977 and 1978 staff of the Commission's Western Regional Office continued to monitor the police-community relations situation in San Jose. In a December 19, 1977, interview with Commission staff, James McEntee, director, Santa Clara County Human Relations Commission, said: "McNamara [the police chief] is doing a decent job, but is battling the POA [Police Officers Association] over a number

2. "New Police Chief Comes to San Jose with Impressive Record," *The Peninsula Bulletin*, Oct. 30, 1976.

of issues, including improved community relations." Each area that had concerned minority communities in 1976 was reviewed. Overall, those interviewed in 1978 and 1979 believed police-community relations had improved.

#### Alienation Between Police and Minority Communities

In a December 13, 1978, presentation before the Commission on Civil Rights in Washington, D.C., Chief McNamara said, "The chief's job is to control standards of policing, and a good chief who is attempting to do that needs widespread community support."<sup>3</sup> A major element in effecting good community relations is to establish credibility and rapport with the community. According to minority spokespersons, the chief's attempt to generate community support was obvious. In a March 7, 1978, interview Jack Brito, staff, Mexican American Community Service Agency, said:

[McNamara's] is the best program approach in a long while. He has an identified, police-community relations program [that has] every officer striving to be a community oriented person. He moved the internal investigation unit out of the centralized police building and into a rented office building. A civilian was hired on the internal investigations staff. These were positive steps.

Jose Villa, Mexican American Community Services Agency, noted:

The police chief is sensitive to problems between the department and the community. He has taken action recommended by [the community's] Committee on Police. He has instituted some changes to dispel the [negative] image and has exerted leadership on the department.<sup>4</sup>

Julio Galindez, Concilio de Boricua, stated: "The police situation has improved since the chief has been on board. He is involved with the community more and has tried to reach people."<sup>5</sup>

Although community representatives gave Chief McNamara high marks, they questioned the improvement of relations between civilians and subordinate officers. In a March 15, 1978, telephone inter-

3. U.S., Commission on Civil Rights, *Police Practices and the Preservation of Civil Rights* (September 1979), p. 118 (proceedings of a consultation sponsored by the U.S. Commission on Civil Rights, Washington, D.C., Dec. 12-13, 1978) (hereafter cited as Proceedings).

4. Jose Villa, Mexican American Community Services Agency (MACSA), interview, San Jose, Mar. 7, 1978.

view with Commission staff, Bea Robinson of the Women's Alliance noted:

He [McNamara] makes a real effort to keep in contact with the community to learn of their problems and needs. His efforts are hampered by the POA [Police Officers Association]. It will probably take longer to change officers' attitudes toward the community, since officers have reacted negatively to [his efforts].

Betsy Bryant of the National Conference of Christians and Jews added, "the police-community relations program of the chief is working, [but] his line staff is the problem."<sup>6</sup>

Macario Ortiz, Confederación de la Raza, in a March 8, 1978, interview agreed: "Complaints about police abuse are about the same. McNamara doesn't have much support from the officers for his involvement with the community."

Sofia Mendoza, outreach worker, Family Services Association, told Commission staff on March 8, 1978, that "whereas [she] sees McNamara as a strong person, she doesn't see police officers acting any differently than before." She added, "improvements are needed in the attitudes of police toward the community."

Fred Hirsch, a resident of San Jose, pointed out that: "the continuation of fear toward police by the community still exists. McNamara's presence has improved officers' behavior, but old attitudes remain."<sup>7</sup>

This community view was shared by some city officials. For example, Ted Laskin, deputy city attorney, told Commission staff in a July 12, 1979, interview: "The chief has better relations with minorities and youth. The majority of the rank and file police officers share a different position."

Executive officers of the Police Officers Association (POA) addressed the issue of community relations. Sgt. Glen Castlio, an 18-year veteran of the San Jose Police Department and vice president of the POA, told Commission staff:

There is a difference in what constitutes good law enforcement. The chief has his ideas and we [the POA] have ours. [In a known east San Jose] area where kids congregate, the chief feels we should have or show a low profile. To the

5. Julio Galindez, Concilio de Boricua, interview, San Jose, Mar. 8, 1978.

6. Betsy Bryant, National Conference of Christians and Jews, interview, San Jose, Mar. 7, 1978.

7. Fred Hirsch, interview, San Jose, Mar. 7, 1978.

officers this means no profile. The chief is more interested in appeasing the so-called minority representatives rather than having strong law enforcement.<sup>8</sup>

Chief McNamara was more optimistic about attitudinal changes of the officers:

We have been somewhat successful in convincing police officers in our training program that, without the public support which comes with good credibility, we are not an effective police agency.<sup>9</sup>

Responses from others in San Jose suggest that some of the chief's optimism was justified. In September and October 1977, approximately one year after McNamara began his tenure as police chief, the patrol emphasis program<sup>10</sup> of the San Jose Police Department conducted a survey of 793 randomly selected citizens to determine public attitudes about police services. The results were released on March 24, 1978.<sup>11</sup> Findings of the study included:

90 percent of the citizens who called for police assistance felt positive about the service they received.

93 percent of those who called for service said they would call the San Jose police again for similar problems.

70 percent of those surveyed felt positive toward San Jose police officers and 16 percent reported some negative feelings.

71 percent of those surveyed felt that San Jose police officers sincerely tried to help them and 6 percent felt officers had not tried.

89 percent of those who had contact with police felt the officers had made sufficient explanations and answered their questions.

Robert Stroughter, director, Mayfair Community Center, in a March 7, 1978, interview said: "[There is] a real attempt on the part of individual officers to maintain good contacts with the community and to understand its problems."

Lt. William Mallet, internal investigations unit,

8. Sgt. Glen Castlio, San Jose Police Department, interview, San Jose, Nov. 3, 1979. Sergeant Castlio wrote: "You will recall I emphasized very much that 'no profile' was due to the lack of manpower, coupled with the extremely heavy calls for service. Whereas, if a strong high profile position had been maintained the socio-cultural thing would have run along without the high incidence of violent criminal activities." Castlio Letter.

9. Proceedings, p. 117.

10. The patrol emphasis program (PEP) is a 3-year, million-dollar project funded by the Law Enforcement Assistance Administration, U.S. Department of Justice. PEP projects are intended to improve the delivery of police services.

told Commission staff that: "The chief is highly respected in the minority communities and has established much credibility with them. Initially, officers did not seem to like the new chief, but he has proven to be pretty valuable."<sup>12</sup>

In a November 14, 1979, letter<sup>13</sup> to the Western Regional Office, Chief McNamara wrote:

We have been continuously emphasizing the need for courtesy and professional police conduct in our training and supervisory and disciplinary actions. . . .our efforts are achieving some success.

Whether or not civilians believed attitudes of officers had changed, by 1979 many in the minority community believed they could bring problems to the police chief and that discussion toward resolving concerns would take place.<sup>14</sup>

#### Verbal and Physical Abuse

In December 1978 Chief McNamara told the U.S. Commission on Civil Rights:

It is the role of police management to establish the climate by which officers adopt voluntarily a professional code of conduct which is accepted by the department rather than rejected.<sup>15</sup>

Jack Brito, Mexican American Community Service Agency, told Commission staff: "Incidents of police abuse, overreaction, and brutality have diminished about 80 percent. He [McNamara] has the department operating in a professional way."<sup>16</sup> Jose Villa, Mexican American Community Service Agency, told Commission staff in a July 12, 1979, interview that, "there has not been a minority killed by San Jose police officers since January 1976."

In February 1977 a weapons policy for the San Jose Police Department was adopted which stated that "the police are to be quite restrained in the use of weapons." The number of shootings by officers decreased from 14 in 1975 to 8 in 1978. Seven shootings by officers occurred from January 1 to July 20, 1979. Since January 1977 there have been two

11. San Jose Police Department, Patrol Emphasis Department, *Attitudes About Police Service in the City of San Jose* (March 1978).

12. Lt. William Mallett, Internal Investigations Unit, San Jose Police Department, interview, San Jose, July 11, 1979.

13. Chief McNamara was provided an opportunity to review and comment upon the September 17, 1979, draft of this report. His comments were incorporated into this final report where appropriate. Joseph McNamara, chief of police, San Jose Police Department, "Comments on the Report" (Sept. 17, 1979, draft), Nov. 14, 1979 (hereafter cited as Comments).

14. Western Regional Office, San Jose Police Community Relations Monitoring Project file.

15. Proceedings, p. 116.

16. Jack Brito, MACSA, interview, San Jose, Mar. 7, 1978.

fatalities, neither of which was a minority person. One officer has been killed in the line of duty during the last 10 years.<sup>17</sup>

Despite the improvements shown by the statistics on weapons abuses, Kevin M. Aslanian of the Welfare Recipients League, Inc., noted in a March 8, 1978, interview that there had been no change in the level of police abuse complaints. This view is shared by other community members who are attempting to document the level of police abuse complaints. For example, Teresa Contreras, Legal Coalition Against Police Misconduct, noted in July 1979 that the coalition was recently reactivated and that her office is receiving about two complaints a day alleging police misconduct. The coalition planned to conduct a survey regarding the question of police abuse. Ms. Contreras alleged that among young minorities, Hispanics in particular, harassment and physical abuse by police has not abated.<sup>18</sup>

Sgt. Glen Castil , San Jose police officer, in a November 3, 1979, interview said:

[The chief] handles the community differently and they seem to like his way, but it is not good law enforcement. Police would initiate activity before; now they fear being aggressive because they know the chief won't back them up.

In July 1979 allegations were made to Commission staff that police officers still harass, intimidate, and abuse young minorities. Community organizations such as the Confederaci n de la Raza, Mexican American Community Services Agency, and Legal Coalition Against Police Misconduct allege continual harassment by police despite the chief's efforts.

#### Complaint Process

Police department figures show a decrease in number of complaints filed.<sup>19</sup> In 1976, 805 complaints of police misconduct were filed with the department. The number of such complaints decreased

to 306 in 1978 and to 173 for the period January 1 through July 20, 1979.<sup>20</sup>

In 1976 Chief McNamara moved the internal investigations unit out of the police building and added a civilian professional to the existing professional staff of one lieutenant and two officers. He told the Commission on Civil Rights in December 1978:

[The civilian's] presence there was a clear demonstration on the part of the police agency that we had nothing to hide, that we viewed the process as fair and one that would withstand public scrutiny.<sup>21</sup>

A police officer told Commission staff in 1977 that the Police Officers Association (POA) formally denounced the chief for these two actions. Chief McNamara acknowledged that the POA action made it difficult for the complaint process to be totally effective: "No system of police discipline is effective unless it has the commitment of the rank and file police officers."<sup>22</sup>

In addition to processing civilian complaints, the police department increased the number of department-initiated internal investigations. There were 36 department-initiated internal investigations in 1975, 39 in 1976, 58 in 1977, 77 in 1978, and for the period January 1 through July 20, 1979, there were 33.<sup>23</sup>

Lt. William Mallett, director, internal investigations unit, told Commission staff in a July 11, 1979, interview that officers have been disciplined for having an excessive number of civilian and internal complaints filed against them. In 1977 there were 7 formal letters of reprimand, 554 hours of suspension (11 officers), and 4 terminations; in 1978, 26 formal letters of reprimand, 1,464 hours of suspension (10 officers), and no terminations; and in 1979, 25 formal letters of reprimand, 226 hours of suspension (6 officers), and 5 terminations to date.<sup>24</sup> Table 2 provides disciplinary action information for the period 1969

17. Chief Joseph McNamara, telephone interview, July 24, 1979. (See also Castil  Letter.)

18. Teresa Contreras, Legal Coalition Against Police Misconduct, interview, San Jose, July 12, 1979.

19. In 1976 there were two mechanisms for filing complaints against a police officer: the city ombudsman's office and the police department's internal investigations unit. On April 21, 1971, in response to community pressure, the city council established the position of ombudsman "to serve as an advocate/investigator for citizens who have grievances against any city agency." On June 11, 1973, the ad hoc committee on policies and procedures of the police department recommended "that the role of the ombudsman be strengthened. . . to ensure the capability to verify that thorough and complete investigations have been conducted in response to all citizen complaints [against the police department]." During the period July 1976 to June 1978, the office of the ombudsman received 785 complaints with 57.7 percent pertaining to the police. The 1978 ombudsman's report made two points regarding police complaints: (1) complaints had decreased

dramatically, over 57 percent, in the 2-year period, and (2) the highest number of complaints were in the area of procedural questions and complaints of illegal or improper procedure. The number of complaints in the areas of force, rudeness, or unofficerlike conduct was small. In a July 11, 1979, interview with Commission staff, Rafael Jimenez, director, Citizens Assistance, City of San Jose, said: "During the last month, half of the complaints received concerned police matters. These were not very many. The complaints are usually referred to the internal investigations unit of the police department."

20. Chief Joseph McNamara, telephone interview, July 24, 1979.

21. Proceedings, p. 116.

22. Ibid.

23. Chief Joseph McNamara, telephone interview, July 24, 1979.

24. Lt. William Mallett, telephone interview, Nov. 16, 1979. In 1978 the 1,464 hours of suspension include 1,200 hours for 1 officer; "to date in 1979" means as of Nov. 15, 1979.

**TABLE 2**  
**San Jose Police Department**  
**Disciplinary Actions, 1969-79**

Disciplinary action	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979
Written reprimand	4	6	13	4	9	12	6	6	7	26	25
Suspension (hours/no. of officers)	320/4	216/4	880/8	940/9	200/4 + (60 days)	340/11	206/6	518/10	554/11	1,464/10	226/6
Dismissal	2	0	4	3	0	5	3	2	4	0	5

Source: San Jose Police Department, Internal Investigations Unit, *Annual Report, 1974* (January 1975). Data for the period 1975 through 1979 were provided by Lt. D. William Mallett, Internal Investigations Unit, San Jose Police Department, Dec. 21, 1979. In addition, the department has statistics for the number of officers requiring counseling, training, oral reprimand, and/or demotion for the period 1969 through 1976.



through 1979. The letters of reprimand for the years 1978 and 1979 represent the first and second highest number issued in the 10-year period. In addition, the 1,464 hours of suspension for 10 officers in 1978 are the most given in any one year during this 10-year period.

#### Police Department Leadership

Officers must be accountable to their chief and to the public for their actions. Chief McNamara told Commission staff in an April 3, 1978, interview that: "You have to be fair with staff. Previous police management [here] had not sent out its philosophy to all officers. I want an attitude of service and public protection."

In October 1977, Chief McNamara initiated a newsletter for officers, *The San Jose Police Profile*, "to keep all members of the department fully informed" of department philosophy and policy.

In addition he began a participatory management program that allows the rank and file to offer suggestions for improving policy and practices.<sup>25</sup> An officer told Commission staff in 1978 that the department's administration now listens to officer comments and suggestions before changes are implemented. However, another officer wrote in the July 1979 *San Jose Peace Officers Vanguard*, a newsletter published by the Police Officers Association (POA), that "[the chief's] lack of communication with the members of the department has caused a certain amount of frustration, resulting in a lack of motivation on the part of some employees. . . ."

Without evaluating the success or failure of the chief's efforts to inform his officers and listen to their suggestions, officers agree that conflict exists between the POA and the department's administration. In addition to denouncing the chief for moving the internal investigations unit and hiring a civilian for that staff, the POA challenged the firearms policy initiated in February 1977, polled its membership on stalled contract negotiations, and announced a vote of no confidence in the chief.<sup>26</sup>

Sergeant Castlio, vice president of the POA, said:

There is low morale among the law enforcement officers and many good officers are leaving the department and will continue to do so. The attrition rate in the department is the highest it has ever been. People are leaving and

going to other police departments. The working conditions have gotten very bad since Chief McNamara came to this department. He has no feelings for the officers; he is cold and unresponsive.<sup>27</sup>

Jose Villa, Mexican American Community Service Agency, commented in a July 12, 1979, interview:

The chief has never had much cooperation from the police in the department. His efforts to transfer women and minorities to certain police units were challenged [by the POA] and reversed [by a State negotiator].

POA President Hal Ratliff, quoted in the *Vanguard*, said, "The [employee] assignments just never should have taken place." An editorial in the same issue states:

The decision rendered [by the State arbitrator] says we [POA] were correct in grieving these particular assignments.

We do not contend that the chief should not be allowed to make assignments. We do, however, hold it is our absolute right to be able to grieve the chief—or anyone else for that matter—if we believe he has acted arbitrarily or capriciously.<sup>28</sup>

Relative to the role of police labor associations, Chief McNamara told the Commission:

I think the police labor movement is a beneficial fact and, I think, one which we need to adjust to and work with, but the fact is that all unions. . . will resist change and do have a competitive posture in regards to management.<sup>29</sup>

Differences between the chief and the POA have not been resolved. A *Vanguard* editorial in June 1979 stated, "The chief should resign or be fired." In response to this editorial an officer wrote in the July 1979 issue:

You cannot ask for a man's termination just because "you don't like him." It has to be shown that he has been derelict in his responsibilities, incapable of performing his duties or guilty of a criminal act. None of these elements has been proven against the current administrator.

Sergeant Castlio told Commission staff in a November 3, 1979, interview:

The chief should resign or be fired because he has shown no leadership to his troops. Something could happen that would make me change my feelings, but as of now he should resign or be fired.

Chief McNamara told Commission staff in a November 2, 1979, interview that:

Each police officer has to be responsible for what he does while on duty. I have let everyone on the department know that because of individual responsibility there will be no blanket endorsement of the officers' behavior until all the facts are in.

Despite this conflict with some officers, the chief's acceptance in minority communities has for the most part improved. City officials are aware of the

change. Mayor Janet Gray Hayes told Commission staff in a July 13, 1979, interview:

Police-community relations are greatly improved. Complaints are down dramatically. The department is more neighborhood oriented, and there are good relations in minority neighborhoods.

The community believes this to be important. Jack Brito of the Mexican American Community Services Agency told Commission staff on November 2, 1979:

It is very important that the city fathers support the work of Chief McNamara. If the political system does not support our chief, we will have the same problems we had before he came. We need good strong law enforcement that all people feel is here to serve them. Under Chief McNamara the community has this feeling.

25. Chief Joseph McNamara, telephone interview, July 24, 1979.

26. *Vanguard*, vol. XIII, no. 3 (June 1979).

27. Sgt. Glen Castlio, San Jose Police Department, interview, San Jose, Nov. 3, 1979.

28. *Vanguard*, vol. XIII, no. 3 (June 1979).

29. Proceedings, p. 117.

## 5. Findings

In 1976 police-community relations in San Jose were poor. Spokespersons from the community alleged widespread mistrust and fear of San Jose police and Santa Clara County sheriffs. There were many allegations of abuse of authority and excessive force. The situation was heated and tense. The response of city officials to community grievances and recommendations was alleged to be inadequate. A pattern of civilian fatalities by police over a 7-year period coupled with daily confrontations with law enforcement officers led citizens to demand change. The community believed that police officers were seldom disciplined and that the department's internal investigations unit was a closed shop which protected officers. The department's administrator was viewed as ineffective.

In 1979 the level of fear, mistrust, and hostility toward the police in San Jose did not appear to approximate that of 1976. There is a recognizable and definable police-community relations program. There is a police department administrative emphasis on courtesy and professional service. There has been a decrease in the number of officer-involved shootings.

Although minority community relations with police have improved, incidents of abuse are still reported. However, there has been an increase in the number of department-initiated internal investigations.

The minority community believes there are some police officers who refuse to adhere to the chief's espoused focus on service and protection. Interviews indicated that within the police department a conflict exists over whether the emphasis should be on enforcement or service. This conflict has not been resolved. The community believes that the emphasis on professional service has provided the foundation for an effective police-community relations program in San Jose.

The record of remarkable improvement in police-community relations in San Jose from 1976 to 1979 serves to demonstrate to other communities the value of developing effective leadership and maintaining open lines of communication. The intriguing question, left unanswered, is whether or not improved external relationships between a police chief and minority leadership must be gained at the expense of deteriorating internal relationships between the chief and the rank and file. In conclusion, perhaps Chief McNamara can shed some light on the issue:

[An issue that concerns] me was the implication that the POA criticism of my community relations efforts and tightened disciplinary procedures represented condemnation by the rank and file police officers. In fact, during the past three years, I have had occasion to publicly criticize certain statements by various individuals in the POA leadership as being unprofessional and damaging to efforts to improve police-minority relations. On all occasions when I felt compelled to take issue, I urged caution in assuming that these individuals representing the POA spoke universally for the police officers themselves. In fact, some of these self-proclaimed spokespersons have been criticized by other officers for letting their personal career frustrations lead them to lose objectivity. The strident tone of some of their comments has been damaging to our efforts to project a professional image of police officers.

Unfortunately, the discordant statements of spokespersons on both sides can polarize the issue of police-community relations with resultant damage to the ability to live and function together harmoniously in our densely populated urban center. . . . The challenge to the community and the Police Department is to rise above negative extremists on both sides and to continue the improvement of police-community relations.<sup>1</sup>

1. Comments, Nov. 14, 1979.

Preceding page blank

## Appendix A



880-B NORTH 1ST STREET  
SAN JOSE, CALIFORNIA 95112  
(408) 287-8507

December 18, 1979

Mr. Philip Montez, Regional Officer Director  
Western Regional Office  
312 North Spring Street, Room 1015  
Los Angeles, Ca 90012

Dear Mr. Montez:

I've read the draft you sent and found it very interesting. I appreciate receiving it in a timely manner. I don't necessarily agree with all of it but understand how it all came together. "Documentation" from personal interviews with no appreciable "proof" - as we in the police service have come to know "proof" - leaves something to be desired insofar as coming to conclusions is concerned.

I noted what I believe to be a couple of glaring errors. On pages 10 and 35 you refer to having no San Jose Officers die in the line of duty: Page 10 "In this same seven years period, no San Jose Police Officer nor County Sheriff were killed in the line of duty"; and on page 35, "No Officers have been killed in the line of duty during the last ten years". This is absolutely wrong. Officer Richard Eugene Huerta was murdered by Emile Thompson, a black man, son of an Oakland Police Officer, on the morning of August 6, 1970.

On page 32 you refer to a conversation you and I had about law enforcement in the King and Story area. I stated, ". . . The Chief feels we should have or show a low profile to the Officers. This means NO profile". You will recall I emphasized very much that "no profile" was due to the lack of man power, coupled with the extremely heavy calls for service. Whereas, if a strong high profile position had been maintained the socio-cultural thing would have run along without the high incidence of violent criminal activities.

Inasmuch as there are no conclusions drawn with this report I must be curious enough to inquire - are there to be any conclusions? If so, will conclusions be drawn based on the basically heresy statements listed as "documentation"? I would appreciate your attention to these matters. If I, or my Association, can be of any assistance please do not hesitate to call.

Very truly yours,

*Glen A. Castlio*

Glen A. Castlio, Vice President  
San Jose Peace Officers' Association

GAC:ms

Preceding page blank

Appendix B



880-B NORTH 1ST STREET  
SAN JOSE, CALIFORNIA 95112  
(408) 287-8507

January 28, 1980

Mr. Philip Montez, Regional Office Director  
Western Regional Office  
312 North Spring St., Room 1015  
Los Angeles, Ca 90023

Dear Mr. Montez: Re: PEACE OFFICERS ASSN. vs CHIEF OF POLICE  
CITY OF SAN JOSE

Several interesting things have happened regarding our dispute between the San Jose Police Officers and their Chief. As of the 20th of December the election by the San Jose Peace Officers of myself, as President, and a new Board of Directors has brought about certain interesting changes within the Department.

We have had some ongoing meetings with the Chief's office, specifically to set up a better system of communications between the rank and file and the Chief of Police. These are meetings on a monthly basis. Further, the Chief has been invited to attend Association general meetings, which are also on a monthly basis. The Chief did, in fact, attend the January meeting at which time he spoke with the troops and answered questions for one solid hour. Both meetings with the Chief has been extremely positive and very rewarding on both sides.

I believe if things continue in their present vein the morale of the Department insofar as the Chief is concerned will be somewhat better. The Chief plans to publically support the Association's position on wages and we intend to fully support his position on manpower and other items of mutual benefit.

If this is something which can be included in your conclusions on the San Jose Police Department, feel free to include it - either direct or by a copy of this letter.

If I can be of any further service to you please do not hesitate to call.

Very truly yours,

Glen A. Castlio, President  
San Jose Peace Officers' Association

GAC:ms

**END**