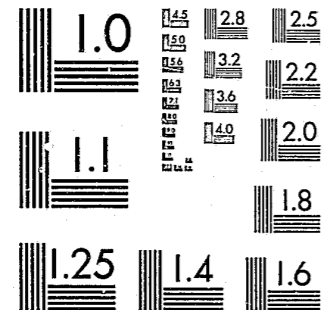


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THE REPORT OF THE BOARD OF POLICE COMMISSIONERS
CONCERNING THE SHOOTING OF EULIA LOVE
AND THE USE OF DEADLY FORCE

PART I - THE SHOOTING OF EULIA LOVE

NCJRS

JUL 98 1979

I.
INTRODUCTION

ACQUISITIONS

This section of the Commission's Report presents the results of an examination and evaluation conducted by the Board of Police Commissioners of the events leading to the death of Mrs. Eulia Love on January 3, 1979.

On April 17, 1979, the District Attorney notified the public of his decision that no criminal charges would be filed against the two police officers involved in the shooting. The sole issue resolved in the District Attorney's report was whether the officers committed the crimes of murder or manslaughter; this necessarily included the issues of self-defense and justifiable homicide.

Similarly, the United States Attorney for the Central District of California considered the matter from the standpoint of possible violations by the officers of federal law. On

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August 9, 1979, that Office announced its conclusion that there was no basis for prosecution of the officers under the Civil Rights statutes.

The Department's investigation and evaluation of officer-involved shooting incidents, unlike those of the District Attorney and the United States Attorney, is not undertaken for the purpose of resolving issues relating to criminal prosecution of the officers. Rather the Department's task is to analyze the existing Department policies and apply them to the facts of each case so that it may properly evaluate the conduct of its officers and determine what administrative action, if any, is required.

In the case of Eulia Love, the majority report of the Department's Shooting Review Board concluded that the actions taken by the involved officers complied in all respects with Department policies concerning the use of firearms and deadly force. A minority report of the Review Board concluded that the officers' actions were "in policy but failed to meet Department standards."

The Police Commission has completed an independent examination of the circumstances and reevaluated the Department's previous determination in light of additional factual information. The Commission concludes, in direct contrast to the majority findings of the Shooting Review Board, that the actions taken by the

officers violated the policies of the Los Angeles Police Department governing the use of firearms and deadly force, and that the officers made serious errors in judgement, and in their choice of tactics, which contributed to the fatal shooting of Eulia Love.

II.

STATEMENT OF FACTS

The facts presented in this report combine the results of investigations performed by the Los Angeles Police Department's Robbery-Homicide Division (R.H.D.) and the Los Angeles District Attorney's Office (D.A.). At the request of the Commission, the Department reopened its investigation and the results of that supplemental investigation are included herein.

On January 3, 1979, at approximately 11:15 a.m., Mr. John Ramirez, an employee of the gas company, arrived at the Love residence. He identified himself and spoke to Mrs. Love at the door. He then went to shut off the gas at the side of the house. Mrs. Love approached Ramirez, advised him that she would not allow him to disconnect her gas, and hit him with a shovel, inflicting a contusion to his arm. He noted that she was "frothing at the mouth" and, as she prepared to hit him again, left the area. He went back to his office, at which time the Police Department was called. (D.A. 9-10; R.H.D. 1-2)

Sometime between eleven and noon, Mrs. Love went to the Boys Market to attempt to pay her gas bill. When she was informed that she could not pay her gas bill there, she purchased a money order in the amount of the minimum payment required to continue her gas service (\$22.09). (R.H.D. 12)

At 1:15 p.m., Mr. William L. Jones, an employee of the gas company, told his supervisor what had happened to Ramirez, and told him that he would be going to the Love house. The supervisor said that Jones should have the police accompany him. (R.H.D. 2-3) At 2:30 p.m., Ramirez was interviewed by the Los Angeles Police Department and signed an assault with a deadly weapon report (ADW). He was given a Victim's Report Memo. (R.H.D. 2)

Jones and Mr. Robert Aubry, gas company employees, went to the vicinity of the Love residence. At 3:59 p.m.,¹ Jones called the police dispatcher and asked for a patrol car to join them at the residence. They stopped down the street from the Love house in their separate vehicles. (D.A. 11; R.H.D. 3) Mrs. Love came out of her house and spoke to Aubry, who told her that he was not there to turn off her gas. She indicated that she would pay \$20.00, but that she would not pay the \$80.00. (D.A. 12; R.H.D. 3-4) She

¹The times in this Statement of Facts differ from those reported in both the Department's investigative report and the District Attorney's report. The times used in this Report were taken directly from communication cards prepared at the time of the incident. These cards are on file at the Department.

went back in her house, and two or three minutes later came out with a knife, at which time she began hacking the branches of a tree on her front lawn. (D.A. 12; R.H.D. 4).

At 4:15 p.m., the police dispatcher put out a call for a car to join the gas company employees ("415 business dispute. Meet the gas man at 11926 South Orchard. Code 2.") Shortly thereafter, at 4:15:52 p.m., Officers Hopson and O'Callaghan acknowledged the call.

When the police officers arrived at the scene, they stopped their patrol car near the gas company vehicles and spoke to Jones. Jones advised the officers that Mrs. Love had hit one of their men with a shovel earlier that day when he tried to shut off the gas, showed them the Victim's Report Memo, and asked them to stand by while he and Aubry either collected the money or turned off the gas. (D.A. 12) The officers observed Mrs. Love as she walked back and forth on the sidewalk in front of her house with a knife in her hand and yelled at the gas men. The officers drove to the front of Mrs. Love's house and got out of the car, immediately drawing their guns. (D.A. 13) Mrs. Love appeared to be agitated and told the officers they were not going to shut off her gas. She uttered a number of obscene remarks. (D.A. 13; R.H.D. 5) The officers demanded that Mrs. Love drop the knife. (D.A. 13; R.H.D. 5) During this time, one of Mrs. Love's daughters, Sheila (age 15), came out

of the house briefly, but went back in at the command of Officer Hopson. (D.A. 14)

When Mrs. Love began to back up towards her house, Officer O'Callaghan followed her. As she retreated, she was making thrusts towards him with her knife. O'Callaghan was approximately six feet away, and had his gun and baton out. At this point Mrs. Love's younger daughter, Tammy (age 12), came out onto the porch and then went back into the house. The policemen heard children's voices² inside the house at this time. (R.H.D. 6) Three witnesses, including Aubry, also indicated that Hopson signalled the gas company employees, as if to say, "come on" during the time Mrs. Love was retreating. (D.A. 14-15)

Mrs. Love stopped at the intersection of the walkway leading from the public sidewalk and the walk to her house, and faced the policemen with the knife in her right hand. O'Callaghan was, at this point, five feet west of her, and Hopson was ten feet southwest

²Neither the District Attorney's Report nor the Department's investigation indicates that anyone other than Mrs. Love's two daughters was in the house at any time during the incident.

of her. (D.A. 16; R.H.D. 6) Hopson had his gun outstretched in both hands and was in a semi-crouched position. O'Callaghan had his gun in his right hand, pointed at Mrs. Love, and his baton in his left. Mrs. Love started to lower her right hand with the knife in it. O'Callaghan hit her hand with his baton and knocked the knife to the ground, backing away as he did so. She picked up the knife and drew her arm back as if she were going to throw it. At this time Hopson warned her not to throw the knife. O'Callaghan was twelve feet away and Hopson was eight feet away. O'Callaghan dropped the baton and moved into a two-handed, semi-crouched position. Hopson was still in a two-handed, semi-crouched position. Each officer fired six rounds in a rapid-fire sequence, while the knife was thrown by Mrs. Love, wounding her eight times. (D.A. 16-25; R.H.D. 6-7) The order of these events is uncertain, as the events were almost simultaneous and witness reports are in conflict. The knife was recovered 68 feet away.³

³It should be noted that there were no prints on the knife when it was recovered. There are inconsistent statements as to whether the knife landed 68 feet away or somewhat closer to the body, including those of two witnesses who stated that the knife bounced off O'Callaghan and landed at his feet. (D.A. 16-25)

After the firing ceased each officer ejected the spent casings and reloaded his gun. O'Callaghan then returned to the police car and at 4:21:45 p.m. placed an "officer needs help" call and a request for a rescue ambulance. Hopson walked to Mrs. Love's body, rolled it to the left and placed handcuffs on her wrists. (R.H.D. 8)

The ambulance arrived at 4:25 p.m. (R.H.D. 8), and at 4:26 p.m. Mrs. Love was pronounced dead. (D.A. 25; R.H.D. 8)

Although there are no records of the officers' time of arrival at the scene, there are records that show that the officers were at or near Avalon and 120th Street when they accepted the call at 4:15:52 p.m. Empirical tests demonstrate that the average Code 2 (urgent but without red light or siren) driving time to the Love residence is two minutes and 11 seconds. Allowing approximately 30 seconds for the conversation with Jones, this would place the officers at the Love house at approximately 4:18:33 p.m. The time of death may be estimated at 4:21 p.m., allowing 45 seconds after the shooting for the officers to reload and place the call for the ambulance. Thus, the maximum period of time which could have

elapsed between the officers' arrival and the shooting of Mrs. Love was two to three minutes.⁴

The majority report of the Shooting Review Board (S.R.B.) relied upon the following in reaching its conclusions:

1. The officers left their vehicle with the intent to disarm Mrs. Love and arrest her for assault with a deadly weapon (S.R.B. 2)..
2. The officers did not rush the situation but spent a minimum of seven minutes talking to Mrs. Love (S.R.B. 2).

⁴The time estimates were developed by Robbery-Homicide Division in its supplemental investigation, at the request of the Commission. Accepting these time estimates, the following time line can be established:

4:15 p.m.	Dispatcher puts out call
4:15:52 p.m.	Call acknowledged by Hopson and O'Callaghan
4:18:03 p.m.	Officers arrive at gas company truck
4:18:33 p.m.	Officers arrive at Love residence
4:21 p.m.	Time of death

Elapsed time (arrival to time of death): 2 minutes, 27 seconds

3. The officers advanced toward Mrs. Love, instead of retreating, because they feared for the physical safety of the children inside the house. (S.R.B. 3)
4. Six shots were fired without pause and in rapid succession by each of the officers. (S.R.B. 3)

The following facts (which are discussed more fully later in this report) should be noted with respect to the conclusions contained in the majority report of the Shooting Review Board. First of all, there are no substantial objective facts to support the conclusion that the officers' intent at the time they left the car was to arrest Mrs. Love for an assault with a deadly weapon. Second, the seven-minute time period described by the Majority was based on erroneously reported facts. Third, there are no facts which support a reasonable basis for the officers' fear for the safety of the children, nor is there any substantial evidence that the officers advanced while Mrs. Love retreated because of fear for the children's safety. (D.A. 28) Finally, as discussed below, rapid-fire discharge of twelve shots was improper in the circumstances, and in conflict with departmental policy.

One additional factor was raised by the minority report of the Shooting Review Board. This factor involved some uncertainty as to the position of Mrs. Love when the shots were fired. Contrary to

the opinion of Dr. Jennifer Rice, the pathologist who conducted the autopsy of Mrs. Love under the auspices of the County Coroner's Office, the report of Dr. Richard Myers, a highly respected independent forensic pathologist consulted by the Department,⁵ concludes that at least one of the gunshot wounds⁶ was inflicted when Mrs. Love was on the ground. Although stating that it is not possible to determine the sequence of the shots, Dr. Myers' report concludes that the pattern of shots fired is consistent with the officers following a moving target down. The majority report did not comment on this issue.

⁵Dr. Myers' has been an attending Pathologist at Los Angeles County-University of Southern California Medical Center since 1950. He is also Director of Laboratories and Pathologist at Valley Presbyterian Hospital.

⁶The shot in question was labelled in the coroner's report as Gunshot Wound No. 6. The bullet recovered near the exit wound was completely flattened on one side, indicating contact with a hard surface at the exit point. Although no concrete markings were discovered on the bullet, the only surface at the scene which could have caused this result was the sidewalk where Mrs. Love fell during the shooting.

III.

COMMISSION ANALYSIS

A. Justifications for Shooting in Majority Report of the Shooting Review Board

1. Officers' Intent to Arrest for ADW

The first factor cited in the majority report of the Shooting Review Board in support of the actions of the officers was their intent to arrest Mrs. Love for assault with a deadly weapon. However, there is no substantial evidence in the record to support this intent; in fact, the record reflects the contrary.

First, the record indicates that the officers' purpose in being on the scene was to assist the gas company. The initial call placed by the gas company to the dispatcher asked for back-up assistance. (R.H.D. 3) The dispatcher's call received by Hopson and O'Callaghan instructed them to meet the gas man to handle a business dispute. (R.H.D. 4) When the officers arrived at the scene, Officer Hopson inquired of one of the gas company employees, "What will you need from us?" (R.H.D. 5)

Second, there are no facts indicating that the officers at any time told Mrs. Love that she was to be arrested for assault on Ramirez earlier in the day.⁷

⁷Penal Code Section 841 requires an arresting officer to inform the person to be arrested of the intention to arrest him unless there is reasonable cause to believe that the person is actually committing or attempting to commit an offense, or is being pursued immediately after the commission of an offense or after an escape.

Finally, Hopson's signal to Jones and Aubry during Mrs. Love's retreat indicates the officers' belief that it had become possible at that time for the gas company employees to proceed with their task.

2. The Seven-Minute Discussion

Although the Shooting Review Board stated that there was a seven-minute period during which the officers attempted, verbally and by the use of a baton, to disarm Mrs. Love, the reported facts contradict this conclusion. At most, a period of two to three minutes transpired between the time the officers got out of their car and drew their weapons, and the time of Mrs. Love's death.

The Department's emphasis in training is on the use of minimal force and the attempt to deescalate and defuse a situation wherever possible. Great importance is attached, in both ordinary patrol training and SWAT training, to attempt to calm a potentially violent individual. In Eulia Love's case the officers were faced with a clearly distraught and agitated individual. The officers' decision to draw their guns and approach Mrs. Love with weapons pointed served to escalate the situation drastically.

3. Danger to Children

There are no reported facts to indicate that Mrs. Love's daughters were in any danger from her at the time the officers acted, or at any time. In addition, witness reports

state that each of the daughters was outside of the house at least once during the incident, but returned almost immediately. No attempt was made to have either daughter leave the "zone of danger". Similarly, no attempt was made by the officers to get between Mrs. Love and the front entrance of her home, as the minority report of the Shooting Review Board points out.⁸

4. Rapid Firing of Shots

The statements of witnesses with respect to the brevity of the period in which the shots were fired, and the conclusions of and Dr. Myers are, in general, consistent with the Shooting Review Board's conclusion that the entire series of twelve shots was in rapid-fire sequence. In this respect, we agree with the Shooting Review Board's factual findings.

⁸The minority report concluded, we believe correctly, that "(b)oth officers reiterated that they were afraid that Love would enter the dwelling and injure the children inside. I believe this statement, while not fallacious, was an afterthought added to justify their actions. To me, this statement emphasizes poor tactics by both officers. If the officers believed this, then either could have stepped over the hedge and onto the porch preventing Love from entering the house. Neither chose to do so, but rather continued advancing on the retreating Mrs. Love."

B. Application of Department Policies to the Love Case

Two central questions with respect to Department policy and procedure are raised by this case:

Were the decisions to draw weapons and to advance as Mrs. Love retreated consistent with Department policy?

Were the use of deadly force and the extent of deadly force used consistent with Department policy?

1. The Drawing of Firearms and Subsequent Tactics

In analyzing the first of these questions, it is necessary to evaluate the knowledge of the officers at the time they made the decision to draw their guns, that is, at the time they arrived at the Love house.

At that time the officers knew the following:

(a) Earlier that day when a gas man attempted to turn off the gas at her house, Mrs. Love hit him with a shovel;

(b) Mrs. Love was agitated, as indicated by her pacing and her continual yelling at the gas company employees;

(c) She had a knife in her hand; and

(d) The gas company employees had requested stand-by assistance.

The factors that should be considered in assessing the action taken by the officers are the following:

(a) Department escalation--de-escalation policy on using the least amount of force necessary;

(b) The degree of danger presented to the officers and others;

(c) Available techniques for disarming a person with a knife; and

(d) Tactical effects of drawing and pointing guns.

a. Department Policy

The training policy of the Los Angeles Police Department stresses the importance of gradual escalation in the use of force. The objective is to escalate or de-escalate to the minimum force necessary for control of the suspect. In employing such a procedure, officers should try to talk to an individual first, and then use gradually increasing levels of force in response

to further actions taken by the individual. The display of a weapon, considered a high level use of force, is one of the last alternatives to be used. Only deadly force itself is considered to be a higher level of force.

The Department policy regarding the use of firearms authorizes the use of deadly force only in the following three situations:

(1) To protect (the officer) or others from an immediate threat of death or serious bodily injury;

(2) to prevent a crime where the suspect's actions place other persons in jeopardy of death or serious bodily injury; or

(3) to apprehend a fleeing felon for a crime involving serious bodily injury or the risk of deadly force when there is a substantial risk that the person whose arrest is sought will cause death or serious bodily injury to others if apprehension is delayed. (Department Manual Section 1/556.40)

The policy on the use of firearms provides clearly that deadly force shall be exercised only when all reasonable alternatives have been exhausted or appear impracticable. With respect to the drawing of firearms, the policy states that there are limited circumstances in which a firearm should be drawn and emphasizes that officers must not draw their weapons without a

reasonable belief, at the time of drawing the weapons, that it is necessary. In no case does a mere feeling of apprehension justify drawing of the weapon. The Department policy governing the use of firearms specifically states:

"Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling the situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use a firearm in conformance with this policy on the use of firearms." (Department Manual Section 1/556.80.)

The Police Commission's interpretation of that section of the firearms policy adopted in September, 1977, includes the following language:

"An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified."

b. Danger to Officers and Others

In this situation, the officers were presented with a clearly distraught individual who had committed an assault with a shovel earlier in the day. However, no one was within any reasonable "zone of danger" or was being threatened by Mrs. Love at the time of the officers' arrival at the scene.

After getting out of the car the officers approached Mrs. Love but did not come within striking distance. They maintained a narrow separation from her, even when she retreated toward her house. However, during the retreat, they did motion for the gas company employees to approach. Had the officers believed that there was serious danger to themselves, they had reasonable alternatives available to minimize that danger; had they believed that there was serious danger to others, they would not reasonably have motioned others forward.⁹

⁹As was pointed out in the Shooting Review Board's minority report, "(t)hat their fears were minimal is indicated by the fact that both officers fully exposed themselves and neither attempted to take defensive action".

c. Techniques for Disarming an Individual with a Knife

The usual techniques used in disarming an individual with a knife are baton strikes and kicks. Other techniques, such as the use of martial arts, are generally not used because of the likelihood of injury if distance is not maintained. In choosing a technique, officers are to consider the relative size of the individual, his or her mental state, and other similar factors. In any event, these techniques are to be employed before resorting to deadly force.

d. Tactical Effects

By displaying their guns immediately, the officers severely limited their alternatives. It would not be reasonable to believe that Mrs. Love could be calmed by the approach of two police officers with drawn guns. Thus, the first result of the officer's actions was, predictably, an immediate escalation of the situation.

The effective use of baton strikes, the preferred technique, was eliminated as the events proved. The officer who used the baton to knock the knife out of Mrs. Love's hand was unable to retrieve it because he had a gun in one hand and a baton in the other. Thus, the decision to draw guns immediately meant that if the display of force was not sufficient the use of deadly force would be required.

Once the stage for the use of force was set, the officers continued to escalate the situation by their actions. By advancing on Mrs. Love as she attempted to retreat, they put themselves in a situation of increased danger.¹⁰ The justification given for the continued pursuit (concern for the safety of children) was, as has been shown above, without basis in any of the reported facts.

The decision to draw and point their weapons immediately, and to advance as Mrs. Love retreated, locked the officers, before all reasonable alternatives had been exhausted, into a situation which precipitated the use of deadly force. Given the circumstances of the case, and the availability of tactical alternatives, the officers' actions demonstrated poor judgement, and poor choice of tactics, and violated the departmental policy which prohibits the premature drawing of weapons. The result of their actions clearly demonstrates the necessity for that policy.

¹⁰Department records show that, at least since 1907, no Los Angeles Police officers have been killed by suspects using a sharp object.

2. Deadly Force - Its Use and Extent

We will next consider the situations in which the use of deadly force is authorized. The first situation is the apprehension of a fleeing felon. This justification is limited, but the limits are of no concern here, as Mrs. Love was not a fleeing felon.

The second situation, the prevention of a crime where the suspect's actions place persons in jeopardy of death or serious bodily injury, is also not applicable. At the time the officers left the car, Mrs. Love had not threatened anyone with her knife. The only threat at that point had been five hours earlier.

The final situation in which deadly force may be used, the protection of self or others from an immediate threat of death or serious bodily injury, is the only conceivable basis for its use in this case. However, at the time the officers left the car, Mrs. Love did not appear to be an immediate threat to anyone. There could have been no question of any need to protect her daughters at this time. Further, there is nothing in the record which indicates that she was advancing toward the officers or any other person at the time they left the car. The only use of the knife up until that time had been to hack the branches off a tree.

Approximately two and a half minutes later, when O'Callaghan knocked the knife out of Mrs. Love's hand with his baton and she picked the knife up and drew her arm back, the situation had escalated considerably. The shooting of Mrs. Love and the throwing of the knife followed immediately after Mrs. Love retrieved her knife. Although the inconsistencies in the witness statements about this series of events cannot be satisfactorily resolved, it would appear that the shots and the throwing of the knife occurred almost simultaneously. If at that time the officers were justified in using deadly force in self-defense--and the facts before the Commission do not enable us to make a final determination as to that question--it was in substantial part because they had themselves prematurely escalated the confrontation and placed themselves in a situation where the use of deadly force became necessary. Moreover, since we conclude below that the officers violated departmental policies by using rapid fire under the circumstances of this case, it is not necessary that we determine which specific shots violated those policies.

We next consider the officers' use of rapid-fire, which resulted in the firing of twelve bullets by the two officers.

Department policy and training with respect to shooting stress two basic concepts:

- (a) shoot to stop, not to kill; and
- (b) first-shot accuracy.

It is often difficult to shoot with great accuracy in an emergency situation; the training program therefore emphasizes shooting at the central body area, although such shots are more likely to be fatal. However, there is a concomitant emphasis on limiting the number of shots and attempting to stop the individual with the first shot. In any event, stress is placed on observing the effect, if any, of the first shot before refiring.

Department policy requires in those rare cases where the use of firearms is necessary that the risk of death must nonetheless be minimized. To that end, the Department policy governing the use of firearms states:

"Minimizing the Risk of Death. An officer does not shoot with the intent to kill; he shoots when it is necessary to prevent the individual from completing what he is attempting. In the extreme stress of a shooting situation, an officer may not have the opportunity or ability to direct his shot to a non-fatal area. To require him to do so, in every instance, could increase the risk of harm to himself or others. However, in keeping with the philosophy that the minimum force that is necessary should be

IV. DISCIPLINE

We believe that the final departmental record and public record must reflect the conclusion that the officers involved in the shooting of Eulia Love violated applicable Los Angeles Police Department policies and standards. The question of whether these officers should now be ordered by the Chief of Police to stand trial before a Board of Rights, which has the sole authority under our City Charter to impose significant punishment, is a separate matter which has troubled the Commission greatly.

Prior to the Commission's study of the Love shooting, the Department conducted an investigation under the then existing rules and procedures. A Department Shooting Review Board reviewed the matter and the majority, again under the existing rules and procedures, found no violation of Department policies. Finally, the Chief of Police, who, under the Charter, has the legal responsibility for discipline, considered the matter thoroughly and decided that no discipline should be imposed. Under the then existing rules and procedures, the Chief's decision constituted a final determination regarding the issue of discipline. His final decision was communicated to the individual officers and to the public. The officers were entitled, under the then existing procedures, to rely on the Chief's final decision and to conclude that, since their case had been finally adjudicated by the Chief of Police, they could not again be placed in jeopardy.

used, officers should be aware that, even in the rare cases where the use of firearms reasonably appears necessary, the risk of death to any person should be minimized." (Department Manual Section 1/556.35)

The opinion of Dr. Myers suggests that the officers, in "following a moving target" continued to shoot after the threat of the thrown knife had ended. The disregard of single-shot accuracy and the use of rapid fire may have meant the difference between injury and death for Mrs. Love. This cannot be determined conclusively, however, in the absence of certainty concerning the order in which the shots were fired. In any event, and in light of Department policy regarding minimizing the risk of death, the firing of twelve shots in rapid-fire sequence was excessive and cannot be justified. Under these circumstances, the use of rapid fire was contrary to departmental policy.

Based on our examination and review of the Love shooting, we are in disagreement with the decision reached by the majority of the Shooting Review Board. Certain of the facts which affect our conclusion were not before the Chief of Police when he adjudicated the disciplinary issue. However, while the Commission might well have reached a contrary conclusion to that reached by the Chief even under the facts presented to him, we believe that any attempt to impose discipline at this time would violate the rights to due process of law to which the two officers, like all other persons, are entitled.¹¹

For the reasons set forth above, we are not directing that the Chief institute disciplinary proceedings. We are, however, directing that a copy of our findings be placed in the officers' personnel files. We would also note, although it is not a basis for our decision, that referral of this the matter, by the Chief, to a Board of Rights at this time would in our opinion be futile and would serve no useful purpose, since we are persuaded that the Board would not impose discipline upon the officers in view of the judgements regarding this case previously expressed by the Chief of Police and the Shooting Review Board.

¹¹In addition, application of the equitable principles of laches and estoppel might well bar the Department from proceeding with disciplinary action at this time.

V.

COMMISSION FINDINGS

1. The officers' premature drawing of their weapons, and their use of rapid fire under the circumstances of the Love case, were both in violation of Department policies. In addition, the officers made serious errors in judgement, and in their choice of tactics, which contributed to the fatal shooting of Eulia Love.

2. The Commission has reviewed the Department's policy on the use of firearms and finds that there are no inadequacies in that policy which contributed to the shooting of Eulia Love. On the contrary, if properly implemented, the policy provides sufficient safeguards against such a shooting. The Commission has concluded that further revision of the policy is not necessary at this time. The present Department policy is appropriately more restrictive than the requirements imposed by state law.

3. The Commission's review of the Department's investigation and evaluation of the shooting of Eulia Love reveals that many of the factors on which the majority of the Shooting Review Board relied in reaching its conclusions were based on erroneous or misconstrued facts. The Board's failure properly to exercise its fact-finding function, and to obtain and assess all available evidence, prevented it from giving due consideration to all elements of Department policies and standards.

We must add, in fairness, that the fault for the disastrous shooting of Eulia Love does not lie solely with the individual officers involved. A serious question exists in our minds as to how well the Department trained and prepared the officers to deal with the situation they encountered. We question also whether the Department should have sent its officers on the assignment which resulted in the fatal shooting, just because the gas company wanted to collect an overdue bill. These and other matters will be considered fully in later sections of this Report.

4. In view of the Department's previous final determination, in accordance with existing rules and procedures, that no discipline would be imposed upon the officers, the Commission has concluded that an attempt to impose discipline at this time would violate the officers' due process rights. We are, however, directing that a copy of our findings be placed in the officers' personnel files.

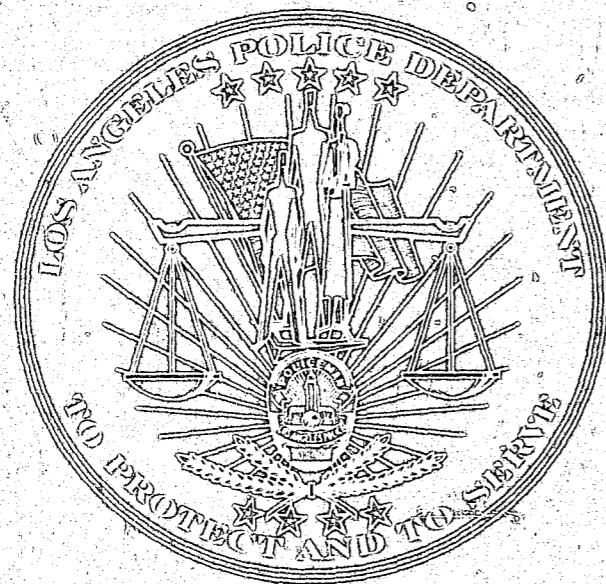
5. Substantial changes are required in the system of investigating and adjudicating officer-involved shootings and other use of force incidents. This subject will be considered fully in a subsequent section of our Report.

6. Training standards and methods require reevaluation. This subject will also be considered fully in a subsequent section of our Report.

7. The Department's written civil disputes policy does not clearly prohibit officers from assisting in bill collection efforts or giving the appearance of providing such assistance. The Commission is adopting a revised policy in order to prevent a recurrence of the events which led to the officers' intervention in a dispute between the gas company and a customer delinquent in the payment of her bill. The revised policy will be included in a subsequent section of our Report.

8. The Commission has determined as a result of its review of the Love shooting that there are a number of other areas in which reevaluation or changes in Department policies, standards, or procedures are necessary. These additional matters will be considered fully in a subsequent section of our Report.

THE REPORT OF THE BOARD OF POLICE COMMISSIONERS
CONCERNING THE SHOOTING OF EULIA LOVE
AND THE USE OF DEADLY FORCE



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PART II - INVESTIGATION AND ADJUDICATION
OF USE OF FORCE INCIDENTS

THE REPORT OF THE BOARD OF POLICE COMMISSIONERS
CONCERNING THE SHOOTING OF EULIA LOVE
AND THE USE OF DEADLY FORCE

NCJRS
MAR 19 1982
ACQUISITIONS

PART II - INVESTIGATION AND ADJUDICATION OF
USE OF FORCE INCIDENTS

BOARD OF POLICE COMMISSIONERS

Stephen Reinhardt, President
James G. Fisk, Vice-President
Salvador Montenegro, Member
Reva B. Tooley, Member
Samuel L. Williams, Member

October, 1979

PART TWO:

INVESTIGATION AND ADJUDICATION OF
USE OF FORCE INCIDENTS

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INTRODUCTION AND SUMMARY

The Police Commission has recently conducted a series of public hearings for the purpose of examining various issues relating to officer-involved shootings and other serious physical confrontations between officers and civilians. Perhaps the most controversial of these issues is how officer-involved shootings and other cases involving death or serious injury to civilians should be investigated and adjudicated. While the recent tragic shooting of Eulia Love has received an unprecedented amount of public attention, it is important to bear in mind that the Police Department is regularly faced with the necessity of determining the facts and assessing responsibility in officer-involved shootings. For many years each officer-involved shooting incident has been the subject of review and analysis by the Department's Shooting Review Board for the purpose of determining compliance with or violation of Department policies. It is a concern with the procedure followed in these cases generally, rather than an examination of a single incident, which leads us to the conclusions set forth in this Section of the Report.

The Police Commission has, for a long time, been considering informally what improvements might be made in the present system or whether, as some persons have suggested, a totally different system should be adopted. Several months ago, the City Council asked the Commission to report publicly on certain aspects of this subject.

In the meantime, many individual citizens and citizen groups have renewed their demands that an independent police review board be established, and a drive to place an initiative measure on the ballot which would amend the City Charter and establish such an independent agency has been announced.

We do not believe that the present procedures ensure a thorough, impartial review of officer-involved shootings and death or serious injury cases in the manner contemplated by the City Charter; nor do we believe that there can or will be full public confidence in the results unless those procedures are changed. On the other hand, we do not believe that an independent police review board offers a practical or effective solution to the problem.

In this Section of our Report we set forth a procedure for investigating and adjudicating officer-involved shootings and death or serious injury cases which we believe ensures fair and just decisions and which, if implemented properly, will, over a period of time, earn the confidence of both the officers of this Department and the members of the public. That procedure will, as the City Charter contemplates, ensure civilian supervision and control over the operations of the Los Angeles Police Department in a critical area of public concern and at the same time preserve those basic elements of the present system which place in the Department the necessary authority to implement its policies and administer discipline in an orderly and effective manner.

While there has been a variety of proposals relating to independent police review boards, none adequately resolves the complex problems inherent in devising a system which ensures a complete, thorough, and impartial examination of facts, law, and Department policies by a governmental body which (1) is fully familiar with the policies, procedures and operations of a police department, (2) has the capacity to investigate and adjudicate the issues properly, (3) has the authority to implement its decisions effectively by causing necessary changes in Department policy and by overseeing the administration of appropriate discipline, (4) is a non-political entity and functions in a non-political and objective manner, and (5) can gain the necessary confidence and cooperation of the members of the Department and the public.

On the other hand, the Commission form of government, mandated by our City Charter, offers a reasonable and practical solution to these problems. That solution is for the Police Commission to assume responsibility for the final determination of officer-involved shooting incidents and death or serious injury cases. We do so willingly and with a recognition of our obligations, as head of the Department, to both the officers and the citizens involved.

We are persuaded by our own experience as citizens and Commissioners and by The Reports of the President's Commission on Law Enforcement and the Administration of Justice and the National Advisory Commission on Civil Disorders and the Causes and Prevention

of Violence that a system of Police Commission Review, if properly designed and implemented, will provide an effective and impartial method of investigating and adjudicating officer-involved shootings and death or serious injury cases, and that the adoption by the Commission of such a system makes an independent police review board neither necessary nor desirable. At the least we believe that a fair test should be afforded the new procedures described in this Report before serious consideration is given to the use of any alternative system.

We should add that while we believe the changes we are instituting are necessary, we also believe that the system utilized in the past has produced fair and proper results in the vast majority of cases. The Los Angeles Police Department has led the nation in its efforts to develop procedures for thorough and objective internal review of officer-involved shooting incidents. Its voluntary actions have served as a model for other law enforcement agencies. The new system we are adopting has been developed with the full cooperation of the Chief of Police and his staff. Many of the concepts contained in this report originated directly from the Chief.

Nevertheless, the checks and balances inherent in Commission review are essential. While we are confident that in most instances it will be unnecessary for the Commission to exercise the full range of authority provided it under the new procedure, the mechanism we are establishing will ensure that in those cases where further

action is required such action will be taken in a manner which will best protect the public interest.

The principal new procedures we are adopting in this Section of our Report are as follows:

(1) The Police Commission will assume direct responsibility for the adjudication of all officer-involved shooting incidents and will make the final determination in all such cases. However it will do so only after receiving and considering a report from the Chief of Police which will provide a full review of the incident and will contain the Chief's proposed findings and recommendations. (The Chief of Police's authority to impose discipline will remain unchanged.)

(2) In cases where the Police Commission, after evaluating the report submitted by the Chief of Police, feels that an independent review is required, the Commission will conduct that review and issue the final report.

(3) When the Commission decides that an independent review is necessary, it may (a) employ Special Counsel to assist it in conducting that review or (b) use the services of a

former Superior Court judge (to be selected from a panel of such former judges) as a Special Hearing Officer to conduct any further investigation which may be necessary and to submit proposed findings and recommendations to the Commission.

(4) The Commission will, when necessary, exercise its subpoena powers in officer-involved shooting cases so that testimony may be adduced from non-officer witnesses.

(5) The final report in officer-involved shooting cases will set forth and analyze fully all facts, policies and procedures as well as all findings and recommendations, and will be made available to the public.

(6) All interviews with officers will be taped in the same manner as interviews with civilian witnesses. The Department is directed to interview officer and civilian witnesses in a manner that is consistent with proper and accepted methods of investigation.

(7) The composition and function of the Shooting Review Board will be expanded for the purpose of ensuring proper fact-finding and the preparation of full and complete reports that will include all relevant investigative data.

The report will serve as a basis for policy changes and improved training methods. The Board will be renamed the Use of Force Review Board.

(8) All cases involving death or serious injury to a person in custody of the Department, or resulting from contact with police officers, will be adjudicated in the same manner as officer-involved shooting incidents.

(9) The Commission will employ permanent independent staff as well as such additional professional personnel as may, from time to time, be required. This independent staff will assist the Commission in the performance of its responsibility to assure that a full, fair, and impartial investigation has been conducted in every case.

II.

INVESTIGATION OF OFFICER-INVOLVED SHOOTINGS

A. Present Procedure

Investigation of an officer-involved shooting commences immediately after the incident occurs. Officers at the scene of the incident request a supervisor to respond to the location and Detective Headquarters Division at Parker Center is immediately notified. When no gunshot wound has been inflicted, investigative responsibility is assumed by the supervisor responding to the location. When a gunshot wound has been inflicted, Detective Headquarters Division immediately dispatches the Officer-Involved Shooting Team ("OIS") and thereafter notifies designated officials of the Department, Police Commission, and District Attorney's Office.

OIS, consisting of eight investigators and one supervisor, is a specialized unit in the Department's Robbery-Homicide Division. In addition to its responsibilities in the area of officer-involved shootings, OIS presently conducts investigations in cases involving the death of persons while in the custody of Department personnel. In all cases investigated by OIS, the unit's concern is with the circumstances leading to death or injury rather than with the investigation of criminal activity or the apprehension of suspects.

As a formal organizational matter OIS reports through Operations-Headquarters Bureau. In practice, however, OIS consults regularly and directly both with the Chief of Police and with the (Assistant Chief) Director, Office of Operations, in connection with officer-involved shooting incidents resulting in gunshot wounds. With respect to incidents encompassed by its jurisdiction OIS is principally responsible for the preparation of news releases relating to incidents it investigates.

The OIS supervisor and a team of two assigned investigators respond to each officer-involved shooting incident resulting in injury or death to either an officer or a citizen. Also responding to the location of a shooting incident are the involved employee's division (Captain) and bureau (Deputy Chief or Commander) commanding officers. Prior to the arrival of OIS investigators divisional supervisors have primary responsibility for providing proper care and assistance to the injured, and for securing the scene of the shooting which duties include preserving all potential evidence and attempting to locate all potential witnesses. After their arrival OIS personnel assume complete responsibility for securing the situation and for directing subsequent investigation and interrogation. OIS oversees interviews with percipient citizen witnesses. As a routine matter citizens are interviewed separately and their statements are tape-recorded.

Police officers who are witnesses to or participate in shooting incidents are escorted from the scene to the division station to await questioning by an OIS investigator.¹ For the most part, officer interviews have not been conducted separately in the past nor have tape recordings been made of these interviews. Detailed written notes are made and retained by the investigating OIS officer.²

Upon completion of its investigation of incidents involving the infliction of gunshot wounds, the OIS team forwards a confidential report, in narrative form, to the Shooting Review Board. Where a weapon has been discharged but no gunshot wound has resulted, the supervisor of the involved employee responsible for the investigation submits a report through organizational channels to the Shooting Review Board.

¹Department Manual Section 3/796.25 ("Assignment of Officer Inflicting Gunshot Wound") provides:

"The concerned commanding officer shall remove from field duty an officer who inflicts a gunshot wound on any person. An officer shall not be returned to field duty except by his commanding officer, with the concurrence of the concerned group or bureau commanding officer."

²Retention of investigative notes made by OIS investigators represent a policy change effected by the Department after recent Police Commission hearings pertaining to the matter.

B. Future Procedure

It is the responsibility of those charged with investigating officer-involved shootings to explore and record the facts in a manner that results in a complete and reliable presentation of all relevant circumstances to the reviewing authorities. At present the Shooting Review Board undertakes an independent examination of evidence only in those infrequent cases where clarification of the investigative report is necessary. On those occasions the Board examines physical evidence and listens to the tapes of witness interviews. Since interviews with officer participants have not been tape-recorded the Board has not normally had access to their verbatim statements.

In the future, the statements of involved officers will be tape-recorded routinely by the OIS team. Further, the Commission has instructed the Department to interview officer and citizen witnesses in a manner that is consistent with proper and accepted methods of investigation.

The revised procedure will permit reviewing authorities to more closely assess the credibility of various witnesses to an incident and will furnish it with an increased capacity for verification.

III.

ADJUDICATION BY REVIEW BOARD

A. Present Procedure

The jurisdiction of the Shooting Review Board presently extends to incidents in which an officer discharges a firearm. This includes all situations where the officer fires a weapon--deliberately or accidentally--whether or not a gunshot wound is inflicted.

The Shooting Review Board has a dual purpose. Its primary mandate concerns evaluation of officer-involved shooting incidents from the standpoint of Department policies. Secondly, the Board identifies alternative tactical approaches to various police problems and, when warranted, recommends review of tactics with the officers involved.

The timing of submission of investigative reports is controlled by the OIS team, Robbery-Homicide Division, in cases where gunshot wounds are inflicted. In incidents involving "misses", the division supervisor assigned to investigate is required to submit a report within one working day from the time of the shooting. Once the investigative report concerning a shooting incident is forwarded to the Board Coordinator, the Shooting Review Board is convened as early as possible consistent with the schedules of its members.

Board review of a shooting incident is conducted informally in round table fashion. The involved officer's commanding officer (Captain) presents the factual circumstances of the incident in summary form based upon the investigative report submitted to the Board. Questions are raised and disposed of in the course of the presentation and subsequent deliberations. The incident is discussed by the Board in its entirety and alternative tactics are examined. Various "resource" officers present are consulted to clarify tactics or other details of the incident under review. Further investigation may be conducted to ascertain factual circumstances not covered by the initial report.

In all cases, the Board may request the data (tapes and notes of witness interviews and so forth) underlying the investigative report but has not done so as a matter of common practice. It requests additional evidence and investigative data when there is a demonstrated need not satisfied by the investigative report. The Chief of Police has vested authority in the Board to summon the involved officer to testify as well as any other Department personnel in the possession of information material for proper evaluation of the matter. The involved officer, at his request, may voluntarily appear before the Board to testify on his own behalf. In practice, it has been uncommon for an officer involved in a shooting incident to either choose to or be compelled to appear before the Board.

After general Board discussion, an informal poll of voting members is taken and the particular incident is classified pursuant to the categories set forth in the Shooting Review Board Report (LAPD Form 01.67.0) Following the meeting, the Coordinator drafts the Board's majority report for review by the Board Chairman and, if necessary, the draft is circulated for review by concurring members. Minority reports may be prepared by the single dissenting voting member.

The present Shooting Review Board Report provides for a recommended classification of the incident by the Board as (1) in policy; or (2) in policy but fails to meet Department standards; (3) accidental; or (4) out of policy. These categories were established January 15, 1969 by the then Chief of Police Thomas Reddin. The Board's recommendation regarding the official departmental response to the incident can involve no action or referral to the division commanding officer for (a) training, (b) review of negligence in handling firearm, (c) appropriate administrative disapproval, and (d) review of (inappropriate) tactics.

Administrative responsibility for the review of matters within the jurisdiction of the Shooting Review Board rests with the Director (Assistant Chief), Office of Special Services. The Shooting Review Board Report is transmitted to that Office where a "final classification of shooting" is made. The matter is then referred to the division commanding officer (captain) of the

involved employee to recommend an appropriate administrative response consistent with the classification of the shooting by the Director, Office of Special Services. These possible responses, include (1) none; (2) training - firearms, tactics, attitudinal; (3) divisional admonishment; (4) warning; (5) official reprimand; (6) voluntary relinquishment of days off; (7) suspension; and (8) Board of Rights.

The recommendation of the involved officer's commanding officer is returned to the Director, Office of Special Services, concerning appropriate action to be taken in response to the classification of the incident.

Any penalty involving suspension or discharge requires the direct participation of the Chief of Police who may initiate Board of Rights procedures to that end.³

³The Board of Rights is the fact-finding and adjudicatory body mandated by the City Charter (Section 202) in cases in which the Department seeks to either suspend or remove an officer. By Charter, the Chief of Police may assess a penalty of up to 30 days suspension without referring the matter to a Board of Rights, but,

Continuation Footnote 3

in all such cases the officer has the right to demand a hearing before the Board. The Chief of Police may under no circumstances impose a penalty of discharge or suspension in excess of 30 days, but must refer all cases where such discipline may be appropriate to a Board of Rights.

B. Future Procedure

1. Jurisdiction and Function of the Shooting Review Board

With regard to incidents involving the discharge of a firearm, the Commission has concluded that jurisdiction of the Shooting Review Board is plenary and need not be redefined.

However, the jurisdiction of the Shooting Review Board (to be redesignated the Use of Force Review Board) will be expanded to include a review of incidents resulting in death or serious physical injury to persons in the custody of, or as a result of, contact with Department personnel. Such situations require review for the same reasons as an officer-involved shooting. In-custody deaths are presently investigated by the unit (OIS Team, Robbery-Homicide Division) which has investigative responsibility for officer-involved shootings. In the future, investigative reports concerning all death and serious injury cases will be forwarded to the Use of Force Review Board. Board inquiry and the subsequent report will follow procedures parallel to those used in shooting incidents.

The Use of Force Review Board will be responsible for making factual determinations concerning the circumstances of an incident within its jurisdiction. To perform this fact-finding function, the Board will examine all relevant investigative data and when necessary examine involved officers and other available witnesses.

In addition, the Use of Force Review Board will monitor the quality of supervision reflected in cases before it. The Board will

continue its current practice of evaluating elements of supervisory conduct in light of specific cases. Additionally, it will direct its attention to broader patterns of supervisory conduct, thus assuring that the responsibilities incumbent on supervisors in the Department are fulfilled. For this reason each Review Board report will identify all supervisors (sergeant through captain) of the involved employee.

2. Composition of the Shooting Review Board

At present the Board is chaired by the Commanding Officer (Deputy Chief), Personnel and Training Bureau, Office of Administrative Services, or his representative. The second member is the Assistant to the Director (Commander), Office of Operations, or his representative. The third member is the involved employee's bureau commanding officer (Deputy Chief), or his representative.⁴ Also present at the Board are an Academy training officer and the

⁴Special Order No. 43 (December 1, 1978) provides that "(w)hen the involved employee is assigned to Personnel and Training Bureau, the Director, Office of Operations, shall appoint an ad hoc member to the Board of the rank of Deputy Chief, to fill the otherwise vacant position of the 'involved employee's bureau commanding officer.'" That Special Order also provides that in the event the Assistant to the Director, Office of Operations, is unable to participate as a member of the Shooting Review Board, the Director, Office of Operations, may appoint a substitute member from among Operations Deputy Chiefs.

involved employee's division commander. While these officers do not vote, they assist the Board in measuring a particular incident against Department standards.

The composition of the Use of Force Review Board will be expanded to include five, rather than the present three, voting members. The Commanding Officer (Deputy Chief), Bureau of Special Investigation, Office of Special Services, will, in the future, serve as the fourth member. A line officer, drawn on a rotating basis from a designated panel, will serve as the Board's fifth member.

Expansion of the composition of the Review Board in this manner is deemed advisable on the following grounds. First, the increased formality of review proceedings and emphasis on the Board's fact-finding function suggest broader membership on the Board to ensure coverage of all pertinent points at the staff level. Second, the voting presence of a peer officer will provide additional perspective prior to consideration of the matter by executive authorities.

In addition, the Police Commission will periodically designate one or more of its members, or a member of its staff, to observe and report upon the proceedings of the Review Board. Such monitoring will enable the Commission to assure the public that the Review Board is functioning openly, fairly and in a manner best calculated to determine the facts.

3. Nature of Recommended Findings Made by Use of Force Review Board

As was apparent at the Commission hearing on this matter, the categories or "findings" providing for the assessment of officer-involved shootings by the Review Board are unclear and incomplete. In part, this is traceable to continued reliance upon classifications established in 1969, despite subsequent changes in the formulation of the Department's Use of Firearms Policy.

The principal difficulties with the present classifications are:

--The classifications fails to provide for separate assessments regarding the drawing and exhibiting of a firearm and the actual discharge of the weapon.

--The classification "in policy but fails to meet Department standards" is unclear. The definition⁵ of this

⁵"In policy but fails to meet Department standards" is defined by Administrative Order No. 1 as follows: "Use of deadly force was lawful but fell short of Department standards and judgment, indicating a need for expression of administrative disapproval and may include some form of disciplinary action."

classification purports to pertain to the use of deadly force itself, i.e., the firing of the weapon. However, since the Department standards governing the use of deadly force are themselves defined by the shooting policy, a conclusion that a particular incident is "in policy but not up to standard" is, at best, analytically confusing and, at worst, productive of inconsistent results.

As applied by the Shooting Review Board, the classification is sometimes used to assess tactical decisions made by officers in incidents that culminate in the firing of a weapon. Even here, however, there is a difference of opinion regarding the class of tactics which is properly within the jurisdiction of the shooting review process. Some limit the evaluation to tactics employed in the course of the actual shooting, such as whether the officer has fired from a satisfactory position in such a way as to minimize the possibility of harm to innocent bystanders. Others extend the assessment to all tactical decisions made by the officer leading up to, as well as in the course of, the shooting incident.

--A third related problem with the current categories is that they do not permit or require formal evaluation of the entire pattern of officer conduct in incidents of officer-involved shootings. Specifically, the present

categories do not provide for those cases where the officer has placed himself in a position of an "in policy" use of deadly force by reason of a deficient tactical approach to a police problem.

In the future, the Use of Force Review Board will evaluate, in explicit and fact-finding fashion, each aspect of an officer-involved shooting. This will, at a minimum, include separate evaluations of the drawing and exhibiting of a firearm, the firing of the weapon, tactics employed prior to drawing and discharge of the weapon, and tactics employed during and following the discharge of the weapon.

The classification "in policy but fails to meet Department standards" will no longer be used to assess officer performance. In each review of an officer-involved shooting incident and in every case of in-custody death or serious injury, the Board will evaluate the incident in terms of four separate categories and make recommended findings as follows:

Tactics

A review of tactics utilized by the officer(s) before, during and following the use of force will be conducted to assess each officer's judgment, training and compliance with

Department policies and standards. Recommendations may include no action or referral to the division commanding officer for training and/or appropriate discipline.

Drawing/Reholstering of Weapon

In incidents involving the use of a weapon, a recommended finding of in policy or out of policy will be made with respect to the initial decision to draw the weapon. Based upon its findings, the Board will then either recommend no action or referral to the division commanding officer for training and/or appropriate discipline.

Use of Force

A recommended finding of in policy, out of policy or accidental will be made with respect to decisions to use force. The Board will then recommend either no action or referral to the division commanding officer for training and/or appropriate discipline.

Additional Considerations

Events and actions involved in any particular incident which are viewed by the Board as suggesting the need for changes in Department policy or otherwise appear to require training and/or discipline will be commented upon and referred to the concerned departmental entity for appropriate action.

4. Nature and Purposes of Report by Review Board

The Report prepared by the Use of Force Review Board will be submitted to the Chief of Police, with a copy to the Commission, and will be drafted to fulfill three distinct purposes.

First, the Report will summarize the investigation, including a list of the names of all witnesses interviewed and a description of all physical evidence. It will also summarize any actions taken by the Board in the course of its examination in addition to the review of the initial investigative report, including the calling of citizen and/or officer witnesses, the review of taped witness and officer statements and any additional investigation regarding specific factual issues.

Second, the Report will discuss in complete detail the reasons for and the analysis underlying the Board's various findings and recommendations regarding the incident under review.

Third, when appropriate, the Report will identify changes in Department policies, tactical approaches, training procedures suggested by the review of particular incidents. The discussion will be in a form which lends itself to incorporation into Academy as well as officer roll-call training materials.

In the past, the Shooting Review Board Report has sometimes not been formal or detailed enough to fulfill each of the foregoing purposes. Requiring the Board to discuss and explain its findings will remedy the situation to an important extent. Equally important is the examination by the Board of tactical decisions made in the circumstances leading up to an officer-involved shooting. By measuring these decisions against Department policy, the Report prepared by the Use of Force Review Board will serve as the source of clearly articulated Department "standards". This will assist both the Department and the Police Commission in ensuring review of officer-involved shooting incidents in a manner which is uniform and consistent, which has direct application to departmental practice and which can earn widespread community acceptance.

5. Use of Force Review Coordinator

The Shooting Review Board Coordinator is currently a staff person in Personnel and Training Bureau. It is the responsibility of the Board Coordinator to monitor the progress of all officer-involved shooting investigations and Board meetings, to consolidate information involving officer-involved shootings for entry into the computerized officer-involved shooting system (under development by the Department) and to prepare drafts of the majority Shooting Review Board report for approval by the Chairman of the Board.

In view of the increased formalization of the process, the Use of Force Review Coordinator will be a highly specialized position. The Coordinator will assist the Review Board Chairman in preparing all relevant material. Factual circumstances and issues will be identified in a summary statement prepared by the Coordinator prior to the Board hearing. It will be the responsibility of the Coordinator to assist the Board in ensuring that all factual questions, as well as matters regarding departmental standards, have been adequately examined during Board review and all issues resolved clearly in the Board's report of its findings and conclusions.

IV.

FINAL EVALUATION OF USE OF FORCE INCIDENTS

The purpose of the final evaluation of use of force incidents has been and will continue to be:

To define policy--and to redefine it in view of experience presented by individual incidents--so that members of the Department as well as the community understand what is expected in compliance with departmental standards;

To ensure thorough investigations of officer-involved shootings, in-custody deaths and substantial injury situations, so that all material evidence is gathered and presented in a fully reliable manner;

To assure a fair and comprehensive evaluation of each officer-involved incident resulting in death or substantial injury based upon review of all relevant factual circumstances, as well as pertinent Department policies and procedures; and

To assume complete responsibility for the results of the use of force review process and for the communication of these results to the community in a manner which merits public credibility and confidence.

Under the City Charter, executive responsibility in officer-involved shooting matters, as in other matters, is shared by the Chief of Police and the Board of Police Commissioners, with ultimate legal responsibility vested in the Commission which is the head of the Department.⁶

⁶The administration of internal discipline in the Department pursuant to Los Angeles City Charter Article XII Section 202 requires separate analysis. The official description of "The Functions and Responsibilities of the Police Commission" describes the disciplinary system as follows:

"The Board of Police Commissioners does NOT have the authority to remove a police officer. Article XIX, Section 202(1) of the Los Angeles City Charter provides that an officer may only be removed by a Board of Rights. However, Section 202 is NOT a limitation upon the power of the Board of Police Commissioners, Perez v. Board of Police Commissioners 78 C.A.2d 638, 646 (1947). In addition, the Board has the right to review the action taken by the Chief of Police pursuant to Section 202. (Article XIX, Section 202 of the Los Angeles City Charter)."

A. Present Procedure

In the present operation of the shooting review process, the Shooting Review Board Report, containing the Board's recommendations, is transmitted to the Director (Assistant Chief), Office of Special Services, who makes the final administrative determination with respect to an incident. Generally, the Chief of Police participates formally in the process only in those cases which involve imposition of a disciplinary penalty. The Police Commission's present exercise of its responsibilities in this area is even more limited. The Commission becomes involved formally only in isolated cases and then usually under circumstances of widespread public discussion. Even in those cases, the Commission's participation has been unstructured and unsatisfactory when measured against its Charter responsibilities.

There are several consequences of the shooting review process that are traceable to the present lack of a defined and continuous participation in it by the Department's executive authorities.

First, the Police Commission has not, on a systematic basis, examined Department standards and practices in what must be viewed as the most critical of Department activities. This has resulted in an important omission in the Department's policy formulation and review process.

A second consequence has been unchanneled participation of the Commission in the review process. Under the present system, neither the Chief of Police nor the Police Commission renders formal findings concerning an officer-involved shooting. The lack of any defined framework for executive consideration of a shooting must and does result on some occasions in unproductive analysis and dialogue in the aftermath of a shooting incident. The chief consequence is that the results of the shooting review process in difficult cases may not be communicated by the Chief of Police or the Police Commission in a manner which engenders confidence in either members of the public or the Department.

B. Future Procedure

The system we are adopting provides for a more responsible role for the Commission in the use of force review process. It provides for direct participation in the decision-making process by the Commission as well as the regular monitoring of that process. The result is consistent with the responsibility and authority vested in the Commission by the City Charter.

In the future, in all shooting incidents and other cases resulting in death or serious injury the procedure will be as follows:

1. The Chairman of the Use of Force Review Board shall forward a report, containing proposed findings and recommendations, to the Office of the Chief of Police, with a copy to the Commission.

2. When the Chief of Police receives the Report from the Use of Force Review Board, he shall:

(1) Adopt, reject or modify the proposed findings and recommendations contained in the report; and within a specified period,

(2) Submit his proposed Use of Force Review Report to the Commission. The report will set forth his proposed findings and recommendations in a form suitable for distribution to the public, subject to the deletion of any

confidential material. (The recommendations will cover the individual incident under review as well as proposed changes in Department standards and practices.)

3. When the Commission receives a proposed Use of Force Review Report from the Chief of Police, it shall either:

(1) Adopt, with or without modification, the findings and recommendations contained in the proposed Use of Force Review Report in which case such report will become final and will be released to the public, less any confidential material;⁷ or

(2) Conduct an independent Commission review of the incident following which the Commission will adopt a Report of Use of Force Incident containing the findings and recommendations of the Commission, which Report will be final and will be released to the public, less any confidential material; and then

⁷The Commission may also refer the matter back to the Chief of Police for further investigation and further report and following receipt of such further report may take appropriate action under paragraphs (1) and (2).

(3) Transmit the matter to the Chief of Police for appropriate action, consistent with the Board's findings and recommendations, which action shall be reviewable by the Commission.

4. In the event that the Commission conducts an independent review of the incident it may:

- (1) Conduct an investigation of the matter by the full Commission in executive session; or
- (2) Authorize one or more Commissioners to conduct the investigation in executive session; or
- (3) Refer the matter to a Special Hearing Officer designated by the Commission⁸

In the above proceedings the Commission may require testimony under oath and may direct preparation of a transcript.

⁸The Commission would in this case designate an individual as Special Hearing Officer from a panel consisting of former superior court judges.

5. In the event that the full Commission conducts an independent review of an incident or authorizes one or more Commissioners to do so, it may:

- (1) Employ Special Commission Counsel (through the Office of the City Attorney) and such investigative staff as is necessary;
- (2) Examine in executive session the officer(s) as well as any witnesses to the incident, and any Department personnel possessing information which may aid in the evaluation of the incident.⁹
- (3) Conduct any further investigation or take such other action as may be required; and

The Commission will then prepare and submit to the public its Report of Use of Force Incident.

⁹The language of this provision is drawn from Special Order No. 43 assigning a similar authority to the Shooting Review Board. With respect to securing the testimony of persons outside the Department, the Commission, when necessary, will exercise subpoena powers vested in it by City Charter Article VI, Section 89.

6. In the event that the Commission designates a Special Hearing Officer that Officer will:

(1) Supervise such investigative staff as has been retained or assigned by the Commission for the purpose of its review;

(2) Examine in executive session the officer(s) as well as any witnesses to the incident and any Department personnel possessing information which may aid in the evaluation of the incident;

(3) Conduct any further investigation or take such other action as may be required; and

(4) The Hearing Officer will then prepare and submit to the Commission, a proposed Report of Use of Force Incident containing proposed findings and recommendations.

The Commission will then adopt or reject or modify the proposed Report of Use of Force Incident and submit its Report to the public.

Proper administration of the disciplinary system is key to any department's successful implementation of its policies. The procedure established in our City Charter for the Police Department, described earlier in our Report, provides a complex system of checks and balances involving the Board of Rights, the Chief of Police, and the Police Commission. There have been suggestions for changes in the Charter which would substantially increase the Commission's authority in general, and would significantly increase its ability

to affect disciplinary decisions. For example a blue ribbon Charter Revision Commission appointed by Mayor Sam Yorty and funded by the City Council proposed in 1969 that the Chief of Police be removed from Civil Service protection and serve at the pleasure of the Commission. The Charter Revision Commission further suggested that the Police Commission become directly involved in the disciplinary process by serving as the final appeals body in disciplinary cases. We do not find it necessary at this time to consider any such changes either in the basic Charter relationship between the Commission and the Chief of Police or in the disciplinary process. We believe, rather, that there is room within the existing system, through the institution of improved procedures such as those set forth in this Report, for the correction of any imbalances which may exist.

With respect to the disciplinary system, the new procedures we are adopting for review of officer-involved shootings and other death and serious injury cases, necessarily require that no final decisions be made regarding the imposition of discipline until the Commission has had an opportunity to adopt a Use of Force Review Report or issue its Report of Use of Force Incident. In all cases in which the conclusions contained in a report might justify the imposition of discipline, the Chief of Police will report his intended action to the Commission prior to implementing his decision. We believe this procedure will result in a more efficient

and consistent disciplinary process and will at the same time permit fuller consideration of essential issues prior to the time initial disciplinary decisions are made in cases where the basic public interest is involved.

V.

STAFFING REQUIREMENTS

The Commission recognizes that if it is to assume the responsibility for the final evaluation of officer-involved shootings and other incidents, it will require additional staff both on a permanent and a temporary basis. The Commission in some cases may need to retain either Special Counsel or a Special Hearing Officer, as well as highly qualified independent professional personnel. These positions would be filled on as needed basis only. Aside from these temporary appointments, the Commission will require two additional full-time permanent staff members, accountable solely to the Commission.

The first of these two positions will be filled by a qualified civilian whose responsibility will include the screening of all shootings and cases resulting in death or serious injury, as well as all serious allegations of police misconduct. This staff member will also be responsible for reviewing all reports to ensure that proper investigative and adjudicative procedures are followed.

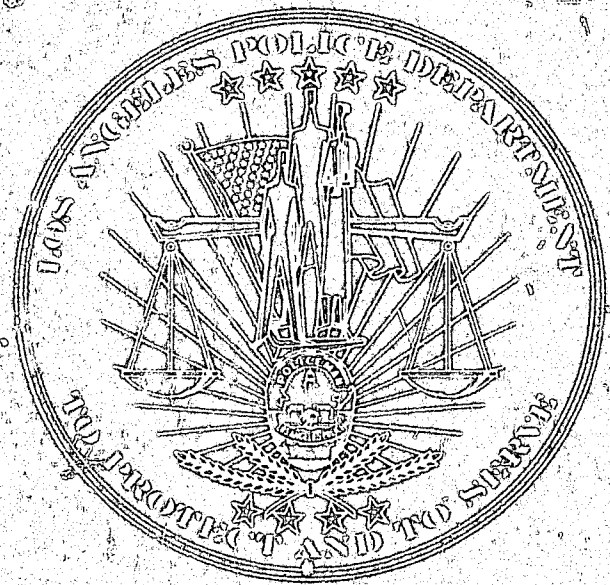
The second position will be filled by an analyst who will be responsible for assisting the Board in modifying and developing policy for the Department.

In the opinion of the Commission, the expertise and autonomy required in these two positions mandate that they be independent of the Department and Civil Service and hired directly by the Commission on personal services contracts.

Pursuant to the report and resolution adopted by the City Council on July 6, 1979, the Commission staff shall have full and complete access to all Department resources and will be responsible to the Commission in a manner which is fully consistent with confidentiality.

The Board is requesting the City Attorney, the City Administrative Officer and the Personnel Department to advise it in this regard. When the additional staff is hired the Commission will reorganize its staff, civilian and sworn, so that the additional staff may be secured at little or no increased cost to the City.

THE REPORT OF THE BOARD OF POLICE COMMISSIONERS
CONCERNING THE SHOOTING OF EULIA LOVE
AND THE USE OF DEADLY FORCE



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T III - TRAINING AND COMMUNITY RELATIONS

BOARD OF POLICE COMMISSIONERS

- Stephen Reinhardt, President
- James G. Fisk, Vice-President
- Salvador Montenegro, Member
- Reva B. Tooley, Member
- Samuel L. Williams, Member

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ACQUISITION

January, 1980

THE REPORT OF THE BOARD OF POLICE COMMISSIONERS
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PART III - TRAINING AND COMMUNITY RELATIONS

PART THREE

TRAINING AND COMMUNITY RELATIONS

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I.
INTRODUCTION

With the shooting of Eulia Love, the Los Angeles City Council and members of minority communities raised critical questions about police preparedness. After public hearings and further inquiry the Board of Police Commissioners determined that training standards and methods required reevaluation. To that end the Board, working with independent consultants and in cooperation with the Department, reviewed the propriety and effectiveness of Academy and in-service training, police-community relations and pertinent policies, standards and procedures.

II.

TRAINING

The Los Angeles Police Department has long led the way in professional police training. One measure of the Department's leadership is its ability to learn from weaknesses and strengths of actual field performance and translate that knowledge into improved practices. Another is its commitment to continuous scrutiny of general training techniques, identifying those methods that need to be strengthened or changed.

The Commission, in cooperation with the Chief of Police and his staff, has examined recruit and in-service training and has identified seven areas that require attention. Revisions of these general and specific practices are designed both to increase officer safety and to better serve the public interest.

1. The Use of Deadly Force

A. Present Procedure

"The Los Angeles Police Department has one of the most complete, if not the most complete, training facilities and curricula...in addition this Department has the most demanding of shooting qualification requirements," assessed Patrick Gallagher, Executive Director of the Police Executive Institute of the Police Foundation, on the completion of a recent informal survey of 29 police agencies.

Current in-service monthly firearms qualifications are based on major training revisions that occurred in 1974 and again in 1976 as a result of an extensive study by Training Division. Both qualification and bonus courses were revised with the intention among other things, to (1) avoid conditioning an officer to fire six rounds in sequence, (2) avert a conditioned response of firing all rounds at one target, (3) make target range practice conform more closely to actual shooting situations. To this end officers are no longer required to fire more than one shot at any given target on any range, bursts of fire are interrupted, and shooting is alternated between targets. Nonetheless, in the qualification and bonus courses, shots are fired in fixed sequence--officers do not have discretion over when to stop firing.

Recruit training currently emphasizes speed and accuracy. Aside from classroom instruction in firearms safety and maintenance, and shooting policy, approximately 63 hours of performance training in the use of firearms are included in the Academy's 960-hour recruit training syllabus. A total of 50 hours is spent on the target, combat and shotgun ranges, where shots are fired under time pressure. Some seven hours of performance training are spent on the practical combat course where, unlike the target, combat and shotgun courses, officers must decide when to shoot at various pop-up targets, and how many shots to fire. Beginning with the March, 1979 recruit class, five hours on the shotgun SAFE range, which requires handling of weapons under stress and choice of correct targets, were

added to the curriculum. Recruits are also training in the DEFT simulator where wax bullets are fired during enactments of crime scenes that are projected life-size on a screen.

Beginning in May, 1978 seminars in the new shooting policy were required of all sworn personnel. Courses in shooting policy and in supervisory responsibility at the scene of officer-involved shootings are offered as part of advanced officer training, supervisory development school, vice school, detective school, and field training officer school. Mandatory roll-call training incorporates periodic, regular reviews of policies covering the use of force.

Although in past practice a representative of Training Division has been present at shooting reviews, and necessary modifications have been made in recruit training, the impact of shooting reviews on in-service training could be improved. Information concerning shooting reviews has not been disseminated widely; informal roll-call discussions have taken place the day after a shooting incident without the benefit of a thorough analysis by the Shooting Review Board (renamed Use of Force Review Board). Formal in-service training in shooting, other than roll-call training and monthly qualification, has been given approximately once every four years.

B. Future Procedure

It has been determined that shooting training should be modified to further reinforce that part of the 1977 Policy on the Use of Deadly Force which states: "An officer does not shoot with the intent to kill; he shoots when it is necessary to prevent the individual from completing what he is attempting." In order to reduce the possibility of excessive shots--that is, for officers to withhold fire when shooting is unwarranted--the following training areas are to be explored fully and recommendations are to be made. Within 30 days a progress report should be submitted to the Commission.

1. An increased emphasis on when and where to shoot, i.e., target discrimination in addition to how to shoot, in revolver and shotgun ranges.
2. A modification of the ranges to provide officers with an assessment of the effect of each one or two shots, i.e., "Did I reach my objective?" so that training is consistent with the stated policy of using minimum necessary force.
3. An evaluation as to whether veteran officers who had received most of their shooting training before the 1976 modifications require remedial training in target discrimination.

4. The cost effectiveness of expanding the DEFT Simulator program so it will remain open for extended training with an adequate library of enactments emphasizing shooting policy, with special emphasis on "minimizing the risk of death."
5. Establishment of monthly qualification procedures in defense and disarming tactics other than the use of deadly force.
6. Establishment of a procedure to implement the Use of Force Review Board's detailed analysis of specific incidents in all training programs to ensure expeditious and consistent departmental review of shooting policy and improved training methods.
7. Continued research into the use of intermediate (non-lethal) weapons and/or control devices which have the potential to significantly reduce reliance upon deadly force.
8. Development of a system of recognition for officers who resolve conflict through means other than the use of deadly force, when such alternatives are available and will not unnecessarily jeopardize officers' safety.

2. Crisis Intervention

Distraught people whose underlying problems stem from emotional crisis rather than criminal intent frequently pose a threat to themselves or others. The Department is called upon around-the-clock to intervene in potentially explosive psychiatric, drug and alcohol-related emergencies. One Department estimate indicates that 80% to 90% of contacts made in the field are non-criminal. To help officers cope with the vast number of social problems they face in a heterogeneous metropolitan city of more than 2.8 million people, the Commission is directing the immediate implementation of Crisis Intervention training.

A. Present Procedure

Specific crisis management skills are not being taught in depth during recruit or in-service training. While there are simulation exercises in handling mentally disturbed and suicidal persons, Academy courses on patrol tactics, the mentally ill and crisis negotiation do not focus on intervention techniques. Courses on tactics deal mainly with officer deployment and safety; videotapes concerning mentally ill persons address legal and detention procedures; the course on crisis negotiation deals primarily with officers' responsibilities in situations where hostages are held.

B. Future Procedure

The Commission has determined that for the increased protection of persons in the community officers must be equipped with psychological skills to defuse crisis situations and reduce the necessity of force. For their own protection officers must not be exposed needlessly to personal danger because of a lack of specialized techniques.

The Department is instructed to complete the formulation of a long-range Crisis Intervention program that will provide routine training to all field personnel in psychological techniques applicable to the resolution of family disputes, as well as other conflicts that are primarily of a non-criminal nature. The first phase of the Crisis Intervention program--the training of training officers--is to begin May 1st. Thereafter, quarterly progress reports should be submitted to the Commission for transmittal to the Council covering the precise methods and training requirements at the recruit and in-service levels. In the final development of all aspects of the Crisis Intervention program, which should be fully integrated into the Los Angeles Police Department's total training system within nine months, the Department should consult with local institutions of recognized expertise in the mental health field.

3. Stress Management

Stress, when untreated, can result in major financial, emotional and physical cost to officers and the citizens they serve. The benefits of a comprehensive stress management program include improved police work resulting from better selection, improved morale among officers, reduction in costs and liabilities resulting from a decrease in potentially adverse police actions, significant reduction in costs associated with worker's compensation and disability pensions and sounder judgments by officers on when and how to apply force.

A. Present Procedure

In 1977, the Commission convened an inter-departmental task force on police officer selection and stress management, with the following main components:

1. A pre-selection interview panel which will make final hire/no-hire recommendations based upon a background investigation and psychological evaluation.
2. A psychological services clinic within the Police Department which will provide: counseling; treatment; probationary evaluation; early identification of officers with stress problems; stress management training; and special medical intervention.

3. A continuing psychological evaluation program during the probationary period.

4. Ongoing research related to stress, with specific focus on anxieties connected with the escalation of force, and psychological assessment of police officers and candidates.

These recommendations were not funded at that time and no significant police stress management program is currently available.

B. Future Procedure

The Commission is committed to a major emphasis in the area of stress management and has determined that the comprehensive program developed conceptually in 1977 should serve as the core program for the Department. The Department is therefore instructed to update and re-submit the Interdepartmental Task Force On Police Officer Stress Proposal and report to the Commission within 30 days for immediate funding consideration.

These further programs are being undertaken by the Behavioral Science Section:

1. Study of Officer Attitudes and Effects of Attitudes in Police Shooting Situations. This project, initiated by the Department, is directed to an understanding of the role of attitudes in shootings and ways in which negative attitudes that affect those shootings can be modified. The Department should report the results of this study and implications for training modifications, on or before March 30, 1980.

2. Evaluation of Psychological Training at the Academy. At the request of the Commission the Behavioral Science Section is undertaking an examination of the psychological and behavioral

concepts being taught at the Academy. A progress report with specific recommendations for curriculum changes, including course content, teaching aids and outside experts, is to be made to the Commission within 30 days.

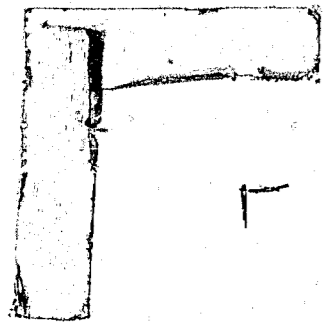
3. Early Prevention of Emotional Emergencies. A staff of five part-time psychologists, each responsible for three divisions, is being hired by the Department to train supervisors to detect early warning signs of emotional distress. Supervisors will be prepared to offer brief counseling and make appropriate referrals.

4. Minority Relations

The demography of Los Angeles has changed dramatically over the past decade. Population percentages, based on a 1977 survey by the Community Development Department, show that whites account for 52 per cent of the population, Hispanics 24 per cent, blacks 18 per cent, and other non-whites 6 per cent. Departmental estimates of the undocumented population would alter these percentages to whites 42 per cent, Hispanics 38 per cent, blacks 15 per cent, and other non-whites 5 per cent. Los Angeles, with burgeoning minority communities, provides a special challenge to law enforcement in dealing with crisis situations of an inter-personal nature. That challenge must be met, in part, with greater understanding of the attitudes and family relationships of the people who make up the minority segments of our population, as well as the assumptions and preconceptions of the officers who serve them.

A. Present Procedure

Approximately six hours of a 960-hour curriculum are devoted to awareness of specific cultures, as follows: Black culture, 2 hours; Mexican culture, 1.5 hours; American Indian culture, 1.5 hours; Oriental cultures, 1 hour; Jewish culture, 23 minutes. For the most part these segments are taught by lecturers who are police officers from minority communities. Jewish culture is taught by videotape. Small-group discussions are based on materials contained in the Department's Human Relations Handbook.



CONTINUED

1 OF 2

B. Future Procedure

The Police Commission is directing the Department to provide additional recruit and in-service training in ethnic considerations, shifting the emphasis away from lectures and videotapes toward an instructional format that will bring officers into personal contact with a cross-section of minority persons. The Department is instructed to prepare such a program. A progress report should be submitted to the Commission within 30 days. It should include the use of panels made up of minority persons and police officers to discuss economic and social community problems as well as such topics as "What it means to be black, Hispanic, Asian", "What it means to be a police officer", and how those feelings affect their interaction. Additionally, the curriculum should provide for officers' visits to minority communities and subsequent "rap" sessions at the Academy with representatives of minority communities, e.g., clergymen, businessmen, school officials, administrators of social service organizations.

To the extent that misunderstanding and misapprehension stem from racial prejudice, the Commission is committed to a renewed emphasis in the area of officer conduct. Research in community relations suggests that negative racial attitudes need not be translated into improper and unprofessional conduct. To ensure this, supervisors are requested to make officers aware of the

elements of their attitudes that may result in unacceptable behavior or may trigger hostile responses from persons in the environment. Bureau commanding officers are to be held responsible for the continuous monitoring of each of their Area's efforts to achieve positive personnel attitudes and professional conduct, and the success of these efforts.

5. Response to Business Disputes

The Police Commission has revised the Department's civil dispute intervention policy to specify more clearly under what circumstances and in what manner police officers will respond to the scene of business disputes, as follows:

1. The presence of police officers at the scene of a civil dispute can have an intimidating effect upon unsophisticated persons and is a tactic often employed by individuals and establishments seeking to avoid the more cumbersome civil process. Normally, officers shall not respond to the scene of business disputes where no crime has been reported. In those exceptional cases, where criminal activity appears imminent, a response may be made for the purpose of preserving the peace. Involvement by members of this Department shall be limited to preventing criminal activity and encouraging all parties to pursue appropriate civil remedies. Officers shall scrupulously avoid taking sides in any business dispute or giving the appearance that this may be the case.

2. Officers shall not respond to calls for the purpose of:

Assisting with the collection of any bill.

Assisting with any repossession.

Assisting with the discontinuance of any service.

Assisting in any eviction.

Exceptions may be made in the event of a request for assistance by a governmental agency whose responsibilities include executing civil processes.

Appropriate modification of the Manual of the Los Angeles Police Department and recruit and in-service training procedures should be made immediately.

6. Handcuffing Procedure

The Commission has noted that in some instances persons have been handcuffed under circumstances which seemed most inappropriate. Our policy presently provides the following:

*Handcuffing of misdemeanor prisoners is discretionary; however, in situations where an arrestee gives any indication that he might become belligerent, the arrestee shall be handcuffed with his hands behind him.

*Normally, felony arrestees shall be handcuffed; there are, however, situations with extenuating circumstances which would make the handcuffing of an arrestee inappropriate, e.g., the arrest of an elderly person or severely disabled person. Such circumstances can best be judged by the involved officer who should evaluate all available facts concerning each arrestee and situation prior to handcuffing an arrestee. Factors involved in making this decision include, but are not limited to:

- the possibility of the arrestee's escaping;
- the possibility of escalating the incident;
- potential threat to officers and other persons;
- knowledge of the arrestee's previous encounters with law enforcement.

We see no need to change present policy but we recognize the necessity for officers to receive further training in the use of discretion, with special emphasis on those situations where the suspect no longer presents a threat to officers or others.

7. Evaluation of Officers for Remedial Training

Area and division commanding officers shall continue to monitor all altercation reports involving officers under their supervision and evaluate the need for training and/or other administrative action. Additionally, these commanding officers shall formalize their review systems so that any officer experiencing three or more altercations within a twelve month period shall be made the subject of an in-depth review and evaluation. This evaluation will be made by the employee's immediate and second-level supervisors as well as the area/division commanding officers. Each of the incidents will be reviewed in depth by these supervisors, and remedial training will be recommended, when warranted.

III.

COMMUNITY RELATIONS

1. Statement of Problem

The shooting of Eulia Love has served as a lightning rod for the expression of deeply felt hostility concerning various police practices in the minority communities of this City. In the months that followed the tragedy, public hearings conducted by both the City Council and the Board of Police Commissioners provided a forum for an outpouring of criticism, anger, fear and distrust, particularly by representatives of the black community.

Citizens testified about alleged excessive force and improper tactics and their conclusion that the Department does not hold officers accountable for wrongdoing. They described a police service that was not sufficiently responsive to minority needs. Above all they expressed dissatisfaction with the official evaluation of incidents conducted internally by the Department and questioned the ability of the police to police themselves. Renewed calls continue to be made for a Civilian Review Board as a remedy.

Although the Department made few public statements concerning the erosion of confidence between police and minorities before the death of Eulia Love, both individual officers and Department management were aware of a growing problem. In 1976 when the Department attempted to evaluate its effectiveness in reducing

neighborhood crime, residents of South-Central Los Angeles proved more likely than others to rate the Department as "not very effective". Shortly after becoming Chief of Police, Chief Gates directed the Community Relations Section to assess police-community relations in the Hispanic and black communities to ascertain the extent of community tension and its causes. In its report one year ago the Department's Community Relations Section described the erosion of a vital base of community support:

"...a general feeling of dissatisfaction and frustration among a growing number of blacks and Latinos with the quality of police service in their communities. Their dissatisfaction stems from what they perceive as officers' demeaning, self-righteous, insensitive, and racist attitudes. These attitudes are communicated through verbal expressions of hostility, sarcasm, and aggression. The frustration comes from a general belief that the Department not only turns a deaf ear to complaints of police wrongdoing, but that it encourages or at least tacitly approves such wrongdoing. They believe the Department's routine manner of handling complaints of this type is biased and untrustworthy. They accuse the Department of using rationalizations tending to justify the involved officer's actions and disciplining a guilty officer much less severely than would be done if he had violated only a minor Department regulation. As a result, many complaints alleging improper and unprofessional attitudes and misconduct are reported to community

service organizations rather than to the police. In the eyes of a growing number of people in these communities, the Department is indifferent and not responsive to the needs of minority groups. This is the major source of their anger and frustration."

In the past, residents of South-Central Los Angeles have been among the strongest supporters of the Los Angeles Police Department. They have consistently voted in favor of measures designed to increase officers' benefits and departmental resources--often by majorities far larger than those in other communities. Nonetheless, a serious conflict has been developing in the area of police-community relations. The depth of this conflict was harshly reflected in a public opinion poll following the death of Eulia Love. A Los Angeles Times survey taken four months after the shooting showed that only 30 percent of the citizens of the black community were satisfied with the way the Department was doing its job, a precipitous decline of 24 per cent over a period of eighteen months.

The Police Commission does not accept the inevitability of antagonism between the Department and the black and Hispanic persons who look to it for protection and service. Committed to the lessening of police-community tension, the Commission has examined the problems described in the Department's study and verified by the representatives of minority communities.

In the foregoing section of this report we have established a number of changes in training designed to improve levels of mutual understanding, proper conduct and effective police service.

Toward that same end and as part of our further examination, we have conducted a preliminary review of citizen complaints against Department personnel. This preliminary review will be discussed in Section IV of our report to be released subsequently. Our preliminary review of the citizen complaint process may well lead to further changes in the administration and implementation of that process. In addition to these further changes, we are setting forth in this section specific steps the Commission has taken.

2. Direct Commission Involvement in Misconduct and Serious Injury Cases

Citizen complaints against Department personnel--their nature, investigation, adjudication and ultimate disclosure to the public--are matters of utmost concern to the Commission, requiring direct involvement in the following fashion.

- A. The Chief of Police or his designee shall report orally to the Commission on any case under investigation where there is a serious injury to any person and misconduct is alleged or indicated. This report shall be made at the earliest opportunity.
- B. A confidential written summary of each case involving an allegation of serious misconduct against a member of the Department is being prepared, immediately following its adjudication by the Chief of Police, for consideration by the Commission in executive session.
- C. The Commission shall cause an audit of investigations of alleged misconduct to be made routinely and in individual cases.

D. The Commission will participate directly in the review and final adjudication of incidents resulting in serious physical injury to persons in the custody of, or as a result of, contact with Department personnel.

E. The Commission has recently taken a test case involving allegations of misconduct and has assigned a Commissioner to monitor the progress of the case and the effectiveness of the complaint process from beginning to end.

3. Accountability to the Public

Minority persons questioned on the subject of police-community relations have stressed that the mechanisms for communication do exist but unfortunately the community feels that the lines are not open. In order to strengthen existing methods and find new avenues for accountability, the Commission will adopt the following procedures:

A. Department's Response to Complainants

After the investigation of a citizen complaint has been completed, the complainant is notified in writing. In the past, the letter of notification has been brief, without explanation of the reasons for adjudication. The Board has determined that as a matter of future policy, a detailed statement concerning the results of an investigation and the conclusions reached with respect to a specific complaint will be furnished to the complainant. The nature of disciplinary action, if any, will be included.¹

¹We have requested an opinion from the City Attorney regarding the full, written disclosure of material to complainants. Such disclosure is dependent upon the concurrence of City Attorney.

B. Officers' Business Cards

In order to provide high level service the Department must hear from the people of Los Angeles. It is incumbent on the Department to assure the public that comments are received openly, that they are viewed by administrators as crucial to their ongoing review of police practices, that they are considered and used as a management tool in the evaluation of officers' performance, and that they are correctly acknowledged when acknowledgement is warranted.

Community Relations Guidelines, recently directed to all Commanding Officers in Operations on October 22, 1979, underscore this view:

"The only sure way to develop positive attitudes throughout the entire community is through the delivery of prompt, efficient and courteous police service which is truly responsive to the needs and expectations of the citizens we serve. The best way to be sure we are fulfilling our obligation to the public is to receive constant feedback which keeps us informed about how well we are doing in the eyes of the public."

To this end the Commission is directing the Department to issue business cards to each officer for distribution to the public in the course of official duty. These cards will include the

officer's name and the name of the division to which citizen comments should be directed. The Department Manual will be amended to read as follows, effective immediately:

"When any person detained by a member of this Department is subsequently released without being booked or cited, the responsible officer shall explain the reason for the detention. Prior to the person's release, the officer shall provide the detained person with an official Department business card, complete with his/her name and division of assignment. Subsequently, the Department has the responsibility of returning the person to the place where he or she was originally detained."

4. Assignments to Minority Areas

The Commission believes that the Department correctly assessed some causes of citizen dissatisfaction with police service in its Community Relations report of December 4, 1978:

"The inability of certain officers...to exercise patience and tolerance in dealing with minorities."

"Lengthy assignments in areas considered 'war zones'...in many instances lessen an officer's efficiency and creates within him a cynical attitude."

Generally, Los Angeles Police officers are well selected and trained but in any group individual temperaments will differ. Certain personal skills, while not necessarily better than others, are more suited to effective police work in minority communities. The Commission believes that assignments to communities where there is a serious problem in police-community relations, should in some instances be treated as specialized assignments and handled in a fashion similar to other assignments long recognized as specialized by the Department. Such an assignment philosophy should take into account the personal skills and abilities necessary to the rebuilding of trust between police officers and the minorities they serve. Similarly, individuals whose skills and attitudes are not particularly well suited to service in such areas should be

identified and assigned to more compatible duties. We direct the Department to review its assignment system for the purpose of developing appropriate procedures to implement the above and to report to the Commission within 30 days.

5. Experimental Community Relations Program

A. Steering Committee Concept

The Board of Police Commissioners recognizes that the ability of the police to provide optimum service to the community is dependent upon continuing public respect and approval. When there is a serious erosion of that respect and approval, as recently documented in South-Central Los Angeles, a means of rebuilding mutual trust must be established. To this end the Commission has set up a steering committee representing a broad constituency of the black community, with the aim of improving police-community relations in 77th, Southeast and Southwest Divisions.

The steering committee has named six of its members² to serve on a special task force to conduct inquiries into specific police-community problems. The Department has instructed its

²Professor Reginald Alleyne, UCLA School of Law; Mr. Jim Cleaver, Executive Editor, Los Angeles Sentinel; Dr. Claudia Hampton, Director of Human and Schools Community Relations Office, Los Angeles Unified School District; Ms. Mary Henry, Executive Director, Avalon-Carter Community Center; Mr. John Mack, President, Urban League of Los Angeles; and Mrs. Lola McAlpin-Grant, Assistant Dean, Loyola Law School.

Community Relations Coordinator, a Commander, to meet with the task force on a regular basis. Issues will be dealt with in a priority order established by the steering committee. The task force will present a specific problem facing its community to the Coordinator and both parties will agree upon a correctly written statement of the problem. That statement will be transmitted immediately and directly to the steering committee, the Chief of Police and the Board of Police Commissioners.

At no time will the Coordinator act as a buffer but will put all the means of the Department at the disposal of the task force in an effort to explore and resolve the question at issue. The task force will be expected to fully investigate its concern and document its findings. A complete sharing of all relevant information is essential to the success of this task. The only relevant information that will not be disclosed during the inquiry will be that which has been declared confidential by the City Attorney.

When an inquiry is concluded, recommendations and observations of the task force will be forwarded to the steering committee which in turn will forward them, with or without modification, to the Chief of Police and the Board of Police Commissioners, for their consideration.

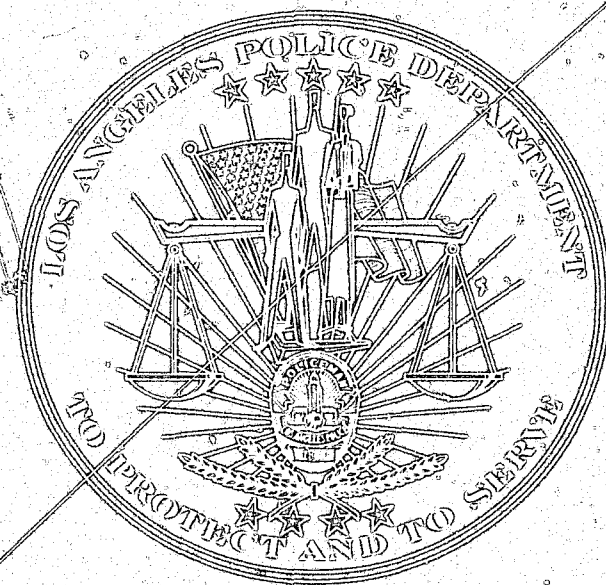
Steps will also be taken to implement a similar committee/task force structure to address the needs of the large Hispanic communities throughout the city--with particular emphasis in the San Fernando Valley, Venice and Central areas.

B. Expansion of Community Council

An alternative approach to lessening police-community tension is the use of a citizen community council, representing a cross-section of citizens in a particular community, but working at the local level with an Area Commander. Problems in Hispanic-police-community relations have been identified in Harbor Division and a coordinating council set up to resolve the concerns that have been raised. In this particular instance, however, we have experimented with the expansion of the council concept by assigning a Commissioner who has been participating in the selection of council members and in subsequent meetings.

The Commission is deeply concerned about any breakdown in communications that threatens confidence in the Department. We want to try these two new approaches for a period of time, compare the results, and determine whether either, both or a combination of both is suitable for expansion citywide.

THE REPORT OF THE BOARD OF POLICE COMMISSIONERS
CONCERNING THE SHOOTING OF EULIA LOVE
AND THE USE OF DEADLY FORCE



PART IV - OFFICER INVOLVED SHOOTINGS

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I.

INTRODUCTION

In any major metropolitan city, eruptions of violence and the subsequent use of force by police officers who are charged by the people with maintaining order is inevitable. However, many of our citizens have raised the questions as to whether the Los Angeles Police Department's use of deadly force has been excessive or improper. In order to move these questions out of the realm of rhetoric and into an area of responsible debate, the Board commissioned a statistical analysis of the Department's use of deadly force. Toward this end, we undertook an analysis of every shot fired by officers of the Los Angeles Police Department from 1974 through 1978/9 in order to determine the frequency and results of shootings in Los Angeles, how shooting patterns in Los Angeles compared with those in other large cities, and the involvement in shootings of citizens of different race or descent in Los Angeles.

The data speak to that which is measurable. There are other complex factors involved in an officer's decision to shoot that are not quantifiable. While evaluation of police performance in statistical fashion is imperfect, the Board nevertheless considers it a valid tool in the process of self-examination directed toward the improvement of police service in our community.

The statistical analysis of officer-involved shootings was undertaken with the assistance of Marshall W. Meyer, Professor of Sociology at the University of California, Riverside, who was the Commission's consultant for this project. Professor Meyer designed the study, supervised the coding of departmental investigations of shootings into machine-readable form, and prepared the drafts of this part of our Report. Professor Meyer also conferred extensively with senior staff officers of the Department regarding this study.

Because of the caution with which one must view any statistical analysis, the Board of Police Commissioners sought a critique of a draft of this part of our Report from experts in the fields of sociology, statistics, and police administration. The following are quotes from their independent reviews:

"I have carefully read the statistical analysis of Los Angeles Police Officer-Involved Shootings, 1974-78. The report makes use of simple and universally accepted methods of analysis of the data and the author draws conscientious and carefully justified conclusions from the analysis. I can find no fault with the analysis, and the findings as reported are carefully justified on the basis of the data."

Dr. Ralph Turner
Professor of Sociology
University of California, Los Angeles
President, American Sociological
Association, 1968-1969

"The report is clear and concise, and properly cautious in interpretation...extremely informative on a matter of the greatest sensitivity and seriousness."

Dr. James F. Short, Jr.
Director, Center for Social Research
Washington State University
Research Director, National Commission on
Causes and Prevention of Violence,
1968-1969

"In interpreting the data one would like to be able to assign causes or explanations to those discrepancies which are too large reasonably to be considered chance phenomena. It seems to me that there is no evidence in the data presented which would lend credence to one particular explanation."

Dr. David O. Siegmund
Professor of Statistics
Stanford University

"I think it is an excellent report, one of the best I have read on the subject, and could contribute not only to a better understanding of the problems in Los Angeles but also to serve as a guide to other police officials in other departments who want to define unnecessary use of force."

Catherine Milton
Senior Author,
Police Use of Deadly Force,
published by the Police Foundation, 1974

Although the reviewers agreed as to the technical adequacy of the data, no consensus emerged from their comments regarding particular conclusions to be drawn from them. After considering their responses, the Police Commission with the further assistance of Professor Meyer revised the report so as to incorporate the available 1979 data and carefully limited its findings to conclusions

that we believe to be clearly and objectively demonstrable. Beyond that, however, the material contained in this Report can serve as the basis for informed discussion and debate, which we hope will result in continued and expanded efforts to improve the safety and welfare of all of our citizens.

II.
STATISTICAL ANALYSIS OF LOS ANGELES POLICE
DEPARTMENT OFFICER-INVOLVED SHOOTINGS,
1974-1978/9

A. Overview of Study

This statistical analysis of officer-involved shootings identifies historical patterns of such shootings in Los Angeles. The analysis complements investigations of individual shooting incidents in that it describes the frequency of different kinds of shootings as well as circumstances surrounding shootings and results of the shooting review process over a five to six-year interval.

The study was undertaken with the full cooperation of the Los Angeles Police Department. Complete access to all pertinent data was provided, and requests for information were always met with prompt and thorough responses.

This analysis relies entirely upon the Department's accounts of shootings presented in original investigative reports of shooting incidents and other departmental documents. No attempt has been made to reconcile these departmental records of shootings with other accounts, such as those in the press or in court records, and no independent investigation of shooting incidents was made by the Board of Police Commissioners at the time of the incidents or in connection with the preparation of this analysis.

Our statistical analysis covers 913 officer-involved shootings in the Los Angeles Police Department from January 1, 1974 through December 31, 1978. It is based on files maintained by the Staff Research Section of the Personnel and Training Bureau, supplemented by information obtained from departmental personnel files and records of the Robbery-Homicide Division of Detective Headquarters Bureau. Of the 913 incidents of shooting that have been reviewed, all but one, the Symbionese Liberation Army shootout of May, 1974, are included in our computer data files and in all portions of the statistical analysis.¹

As far as can be determined, the files of shooting investigations maintained by the Staff Research Section are virtually complete for years 1977 and 1978. The 1977 files were audited at the end of the year by comparing them with shootings reported in the Chief's Daily Occurrence Log, and missing reports of shootings were retrieved and added to the files. Since January 1, 1978, all officer-involved shootings have been numbered consecutively and entered into a journal kept by the Staff Research

¹The SLA shootout is included in Tables 1, 2, 3, and 9 below but otherwise excluded because it would distort grossly the other shooting statistics. More than 5,000 rounds (plus 83 tear gas canisters) were fired by Los Angeles Police officers in the SLA incident, more rounds than the total fired in the remaining 912 officer-involved shootings analyzed here.

Section. The entries are made the morning after shootings occur, and a journal notation is made when administrative review of the shooting has been completed. No audits or independent journal entries were made for shootings prior to July 1, 1976. The 1977 audit suggests that about ten per cent of shootings not investigated by Robbery-Homicide, i.e., ten per cent of shootings involving no injury or death, are likely to be missing for earlier years. Of shootings investigated by Robbery-Homicide, all but one, the SLA shootout, appear to be in the files of the Staff Research Section. The files include the Robbery-Homicide report on each shooting where a person is injured or copies of the supervisor's investigation (on Form 15.07) in non-injury cases, materials appended to those reports such as arrest and medical records, and the report of the Shooting Review Board, including the final administrative disposition of each case.

Two data files were designed by the Commission's consultant based on information made available by the Department. Records in the first, the "suspect" file, describe the person (or object, if any) shot at. The date and location of each shooting, a description of the person (or object) shot at, the suspect's action prior to the shooting, weapons, if any, possessed and/or used by the suspect, shots fired by Los Angeles Police officers, and the results of the shooting review process are indicated for each person (or object) shot at. Shootings of bystanders, hostages, animals, and accidental discharges and warning shots are included in the "suspect" file, but are excluded from the statistical analysis, save for Tables 1, 2, 3, and 9, which include all persons shot (hit) and shot fatally by the

Los Angeles Police Department. One entry is made in the "suspect" file for each person (or object) shot at in an incident. There are 984 entries in the "suspect" file due to the involvement of multiple suspects in some shootings. The second data file is our "officer" file. Records in this file contain information on each Los Angeles Police officer involved in a shooting in the 1974-78 interval. Up to six shootings are coded for each officer.² The location of the shooting, the officer's assignment, shots fired, and the outcome of review of each shooting are described in the "officer" file. Some 1070 officers discharged their weapons in the shooting incidents reviewed for this study, excluding the SLA shootout. Both data files were initially key punched on IBM cards and later transferred to disc storage in the City's Data Service Bureau.³

²No officer was involved in more than six shooting incidents in the 1974-78 period.

³The relationship of the "suspect" and "officer" data files to other statistical systems maintained by the Los Angeles Police Department should be mentioned. The Department Manual makes reference to an Officer-Involved Shooting System where basic data about shootings are to be maintained. Since 1978, a "Shooting Statistical Sheet" has been completed after findings of the shooting review process have been determined. Although the Department has made some effort to code these sheets into machine-readable form, Automated Information Division of the Los Angeles Police Department has not, as far as we know, completed the initial processing of this information.

The 146 officer-involved shooting incidents that occurred in 1979 have also been reviewed in connection with this analysis but have not been entered into our computer files. Certain data concerning 1979 shooting incidents are reported in Tables 1, 2, 3, and 6 and in subsequent discussion. These 146 incidents are not otherwise included in the statistical analysis since investigations, reviews, and final adjudications of a number of the 1979 Los Angeles Police officer-involved shootings were not completed in time to be included in this study.

Most of the items used in the statistical analysis are taken directly from departmental investigations, which state clearly the number of shots fired, shots wounding a suspect, and the race or descent of the person shot at. Investigative accounts of shootings also provide narrative descriptions of the events preceding a shooting, but the Los Angeles Police Department does not routinely classify the actions of suspects shot at in tactical situations. However, classification of suspects' actions was deemed necessary for purposes of this statistical analysis and was done for all cases entered into our data files.

Seven categories were used to classify suspect's actions prior to shooting incidents. These categories are based on the precipitating act of the suspect. Using a weapon, whether a gun, knife, automobile used for purposes of assault, or any other potentially lethal or injurious object, is one such category.

Threatening the use of but not actually using a weapon, whether by pointing or aiming it or by indicating verbally that a weapon would be used, is a second category. Displaying a weapon while not threatening its use, either verbally or otherwise, is a third category. Assaulting an officer or civilian where no weapon is used, threatened or displayed is a fourth category. Appearing to reach for a weapon when no weapon is actually used, threatened, or displayed and there is no assault--is a fifth category.⁴ Finally disobeying an officer's order, usually an order to "freeze" or "halt," when no weapon is used, threatened, or displayed, and there is no assault, is the sixth category. Suspects shot at after disobeying officers' orders to halt are persons believed by officers to have committed felony crimes. A seventh category is other actions precipitating shootings, and includes accidental discharges at suspects.

In almost all instances, the suspect's act precipitating a shooting incident is the final act that caused the officer to fire, i.e., that act but for which the shooting would not have taken place. The exceptions are those occasional instances where two or more potentially precipitating acts occurred within a very short period of time (e.g., firing a weapon and then disobeying a command to "freeze"), in which case only the higher classification or most

⁴Appearing to reach for a weapon is often called "furtive movement" in departmental investigations and reports.

life-endangering act of the suspect is the one coded. The categories of disobeying officers' commands and appearing to reach for weapons are thus extremely restrictive and include only cases where no more threatening action of the suspect occurred within the period immediately preceding the shooting.

The categories used to describe suspects' weapons are straightforward, but the reader should note that the unarmed category is quite restrictive. A suspect is considered to be unarmed only if he did not use a weapon, including a vehicle for purposes of assault, and if he is found after the shooting incident not to have possessed a weapon. In other words, a suspect who did not use, threaten, or display a weapon but is ultimately found to have been in possession of one is classified as being armed.

The statistical analysis of Los Angeles Police officer-involved shootings begins by examining trends in officer-involved shootings over the 1974-78/9 interval and comparing shooting patterns in Los Angeles with those in other large cities. We then turn to an examination of rates and patterns of shootings at suspects of different race or descent in Los Angeles, and an analysis of results of the shooting review process by race or descent of suspects shot at.

B. Trends in Los Angeles and Comparisons With Other U.S. Cities

1. Trends in Los Angeles, 1974-1978/9

In the past six years, there has been a substantial decrease in police shootings in Los Angeles. We begin by examining the number of shooting incidents. An incident is defined as one or more police officers shooting at one or more persons (or objects).⁵ In 1974, Los Angeles Police officers were involved in 208 shooting incidents, whereas 143 shooting incidents occurred in 1978 and 146 in 1979. Save for 1976, the number of shooting incidents decreased each year, although the largest decreases occurred in 1977 and 1978.

The number of persons shot at as opposed to shooting incidents, also decreased substantially over the five-year interval covered by our study. Some 149 suspects, persons whom police officers knew or believed to have committed felony crimes, were shot at in 1974. The number of suspects shot at was 119 in 1975, 122 in 1976, 120 in 1977, but it dropped to 101 in 1978 and 102 in 1979. Other types of shootings including shootings of

⁵Generally, each shooting incident is assigned a single Divisional Report (or DR) number by the Los Angeles Police Department regardless of the number of officers or civilians involved.

bystanders, hostages, animals, and accidental discharges also decreased over the 1974-79 interval.⁶

⁶Bystanders and hostages include persons shot at whom officers mistook for suspects when in fact a suspect was present or nearby, as well as persons hit unintentionally by officers' shots aimed at suspects. Accidental discharges include all incidents ruled accidental by shooting review boards, except for those occurring in tactical situations where officers may have had cause to fire deliberately. Other non-accidental shootings include shots fired at cars and street lamps, and warning shots.

TABLE 1: NUMBER OF SHOOTING INCIDENTS BY YEAR

	<u>1974*</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979**</u>
Number of Incidents	208	193	202	166	143	146

*Includes SLA shootout

**Reported only in Tables 1, 2, 3 and 6; not otherwise included in statistical analysis.

TABLE 2: PERSONS/OBJECTS SHOT AT BY YEAR

	<u>1974*</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979**</u>
Suspects	149	119	122	120	101	102
Bystanders/Hostages***	0	2	12	6	0	**
Animals	22	21	30	20	12	**
Accidental Discharges****	39	39	43	24	23	**
Other Non-Accidental	15	19	10	12	13	**

*Includes SLA shootout (6 suspects).

**1979 incidents not involving suspects were not classified as to persons/objects shot at.

***Whether or not considered a suspect when shot.

****Other than shots fired accidentally at persons suspected of crimes in tactical situations.

Commencing in 1978, there was a substantial decrease in persons shot (hit) and persons shot fatally. The number of persons actually shot--that is, hit--changed little prior to 1978, and the number of persons shot fatally did not decline prior to that year. The number of persons shot increased through 1976; the number shot fatally increased through 1977. About eighty persons per year were shot from 1974 through 1977. This number decreased to 63 in 1978 and 61 in 1979. (These numbers of persons shot, it should be noted, include police officers shot accidentally by themselves or other officers; there were 6 such shootings in 1974, 6 in 1975, 9 in 1976, 1 in 1977, 3 in 1978, and 4 in 1979.) About thirty people per year were shot fatally from 1974 through 1977, but the number of shooting fatalities dropped to 20 in 1978 and 14 in 1979.

TABLE 3: TOTAL PERSONS SHOT (HIT) AND PERSONS SHOT FATALLY BY YEAR

	<u>1974*</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>
Total number shot (hit)	75	81	84	74	63	61
Number killed	26	30	30	33	20	14

*Includes SLA shootout (4 shot, 2 killed by LAPD bullets).

The decreased numbers of total shooting incidents, persons shot at, persons hit, and persons shot fatally in 1978, as well as the further decrease in persons shot fatally in 1979 may be fortuitous or may be due to factors reflected in national trends in police shootings.⁷ On the other hand these changes may reflect specific actions taken by the Police Commission and the Department for the purpose of reducing the number of shootings. Commission and departmental actions related to shootings include revision of the Los Angeles Police Department shooting policy, which was adopted by the Commission September 8, published by the Department September 30, 1977, and followed by a series of four-hour shooting seminars that all officers were required to attend. The new shooting policy and related training may have been the cause of decreased incidents of police shootings overall as well as decreased injuries and fatalities in 1978, and again in 1979.

The decreased number of accidental shootings in 1977 may also reflect specific departmental actions. The goal of eliminating accidental discharges was made explicit and given special emphasis

⁷National Center for Health Statistics series on fatal police shootings, which may underestimate substantially such deaths as noted below, suggests a decline in shooting fatalities throughout the United States.

in the 1976 and 1977 Office of Operations statement of goals and objectives published in mid-year. This emphasis may have been a cause of decreased accidental shootings in 1977, as well as the continued low number of accidental discharges in 1978.

There is no way to determine with certainty to what extent changes in shooting policy as opposed to other events account for decreased incidents, persons shot, and shooting deaths in 1978 and 1979. However, researchers have argued that policy does affect the behavior of police officers,⁸ and the changes in shooting patterns in Los Angeles that occurred in 1978 are consistent with the changes in policy instituted in the fall of 1977. The new shooting policy includes a preamble stating that "A reverence for human life shall guide officers in considering the use of deadly force." It changed the directive that "An officer does not necessarily shoot with the intent to kill" to "An officer does not shoot with the intent to kill." The new policy places specific restraints on shootings of fleeing felons. The former policy stated that, "An officer is

⁸Three sources of this argument are Gerald F. Uelman, "Varieties of Police Policy," Loyola of Los Angeles Law Review 6(1973) 1-65; and Catherine H. Milton et. al., Police Use of Deadly Force (Washington, D.C.: Police Foundation, 1977), ch. 2; and James J. Fyfe, "Administrative Interventions on Police Shooting Discretion," Journal of Criminal Justice 7(1979), 309-323..

authorized the use of deadly force when it reasonably appears necessary to prevent the escape of a felon." The policy adopted in 1977 authorizes deadly force only

To apprehend a fleeing felon for a crime involving serious bodily injury or the use of deadly force where there is a substantial risk that the person whose arrest is sought will cause death or serious bodily injury to others if apprehension is delayed.

The effects of the new shooting policy resulting from both direct departmental implementation of the revised policy and officers' increased awareness of departmental and community concern about shootings should be particularly evident in decreased frequency of shooting incidents where the lives of police officers and others are not in immediate danger, although the effects should be reflected in other categories as well.

The statistical analysis of Los Angeles Police Department shooting data reveals changes in the shooting behavior of officers consistent with both shooting policy changes made in late 1977 and the tenor of public debate about police shootings at that time. The data show that certain kinds of shooting incidents decreased much more rapidly than others from 1977 to 1978, especially those most restricted by the new shooting policy.

A number of shootings are precipitated by suspects' actions other than an assault upon an officer or third person or a suspect's display of, threat of using, or actual use of a weapon. For example, some shooting incidents occur after suspects who are believed to be dangerous felons disobey orders to halt, even though no weapon is used, threatened, or displayed, and there is no assault. Some suspects are fired at after making movements appearing to the officer as attempts to reach for a gun or other weapon, even though no weapon is used, threatened, or displayed, and no assault takes place. Taking these two categories together, 36 shootings at suspects were precipitated by disobeying orders to halt or by appearing to reach for a weapon in 1974 and 32 in 1977. Only 11 shootings were precipitated by disobeying orders to halt or appearing to reach for a weapon in 1978, a 66 per cent decline in such shootings in the year following adoption of the current shooting policy. Between 1974 and 1977, shootings precipitated by felony suspects' disobeying orders to halt declined from 20 to 15, but there were only seven such incidents in 1978 after the new policy was fully implemented. Between 1974 and 1977 the number of shooting incidents precipitated by suspects' appearing to reach for weapons ranged from 11 to 17 each year, but only four shootings were precipitated by such actions in 1978.

TABLE 4: SHOOTINGS AT SUSPECTS PRECIPITATED BY SUSPECTS' DISOBEYING ORDERS TO HALT AND APPEARING TO REACH FOR WEAPONS, BY YEAR

	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>
Felony Suspect Disobeying					
Command to Halt	20	18	18	15	7
Per cent of all suspects					
shot at	14%	15%	15%	12%	7%
Suspect Appearing to					
Reach for Weapon	16	11	11	17	4
Per cent of all suspects					
shot at	11%	9%	9%	14%	4%
All Other Precipitating					
Actions	107	90	93	88	90
Per cent of all suspects					
shot at	75%	76%	76%	74%	89%

In addition to examining suspects' actions that precipitated shootings, we should consider whether or not suspects shot at were in fact armed. A suspect is considered armed if he possessed a gun, knife, other cutting instrument, blunt instrument, simulated weapon, or if he assaulted an officer or another person with a vehicle; most unarmed suspects were involved in shootings in the two categories we have just discussed--those precipitated by disobeying officers' orders to halt or appearing to reach for weapons. A number of suspects are shot at who are ultimately found to have been unarmed. From 1974 to 1977, the number of suspects shot at who were ultimately found to have been unarmed dropped from 39 to 32 per year, but in 1978 the number dropped to 14, a 56 per cent decline from the previous year. From 1974 through 1978, 70 per cent of the suspects involved in shootings precipitated by disobeying officers' commands or appearing to reach for weapons were ultimately found to have been unarmed. Sixty-seven per cent of the suspects who disobeyed officers orders to "freeze" or "halt" and seventy-three percent of the suspects who appeared to be reaching for weapons were in fact unarmed.

TABLE 5: SHOOTINGS AT SUSPECTS FOUND TO BE UNARMED, BY YEAR

	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>
Number of unarmed suspects	39	34	34	32	14
Per cent of suspects shot at	27%	29%	28%	27%	14%

Altogether, the data show that in 1978, the year in which the current shooting policy was fully implemented, shootings at suspects disobeying orders to halt or appearing to reach for weapons decreased sharply, not only in number but in proportion to total shootings. Similarly, shootings at suspects ultimately determined to be unarmed decreased sharply, both in number and in proportion to total shootings.

We should also consider the number of shots fired in shooting incidents. Although the percentage of suspects who were fired upon only once in an incident increased steadily from 1974 to 1976 (but declined in 1979), the mean number of shots fired at each suspect also increased from 1974 to 1977 but dropped in 1978 after the new policy was instituted and dropped further in 1979. Whereas an average of 4.40 shots were fired at each suspect shot at in 1977, 3.69 shots per suspect were fired in 1978 and 3.19 in 1979.

TABLE 6: PERCENT OF SUSPECTS FIRED AT ONCE AND MEAN NUMBER OF SHOTS FIRED AT EACH SUSPECT, BY YEAR

	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>
Percent single shots	38%	40%	43%	43%	46%	41%
Mean number of shots	3.87	4.11	4.11	4.40	3.69	3.19

Overall, from 1974 to 1978, numbers of shooting incidents, accidental shootings, persons shot at, shots fired, persons hit, and shooting fatalities decreased in Los Angeles. Paralleling these trends, shootings precipitated by suspects' disobeying orders to halt or appearing to reach for weapons, and shootings of suspects ultimately determined to be unarmed decreased in both number and in proportion to total shooting incidents. Changes occurring between 1977 and 1978 suggest the impact of the new restrictive shooting policy on actual behavior of police officers. Reductions occurred in all categories except accidental shootings, which had declined sharply in the previous year. The greatest declines were in the number and percentage of shootings where the suspect's action precipitating a shooting was disobeying an officer's command to halt or appearing to reach for a weapon, and in the number and percentage of shootings where the suspect was ultimately found to be unarmed.⁹

⁹One might ask at this point what impact potentially missing cases might have on these conclusions. If a fraction of single-shot incidents where no one was struck by a bullet were absent from the 1974 and 1975 data, then numbers of shooting incidents and suspects shot at would decline even more rapidly than Tables 1 and 2 show, and, in all likelihood, shootings following disobeying an officer and for furtive movements as well as shootings of unarmed suspects would also decline more rapidly. Shots per incident would increase

Continuation Footnote 9

more rapidly from 1974 to 1977 than shown in Table 6. Our conclusions concerning the effects of the new restrictive shooting policy would not be altered, however, because of the extremely low likelihood that a small number of missing cases would be distributed so that rates of change in the early years of the study would exceed the rate of change between 1977 and 1978.

2. Comparison of Los Angeles With Other U.S. Jurisdictions

Any attempt to compare U.S. cities (and counties) with respect to police shootings or in any other respect is extremely hazardous. This is so because localities differ in their population composition, industrial and commercial bases, and forms and functions of government. The last, functions of government, is a major consideration when examining police shootings. The Los Angeles Police Department, for example, does not have primary responsibility for patrolling the freeways, whereas many city police departments enforce traffic laws on all streets. The Los Angeles County Sheriff's Department (LASD) does not have primary traffic responsibility in unincorporated areas of Los Angeles County, although it does in cities contracting for its services. The New York Police Department, by contrast, has full traffic responsibility in the City, but a separate Transit Authority police force patrols the subways where a substantial portion of New York's crimes are committed. Such diversity among governmental entities means that statistical comparisons must be made with caution and that judgments should not be based on them unless large differences appear.

The difficulty of comparing police shootings in various localities is further compounded by the unreliability of national data on the subject. Many researchers have relied at least partially on the National Center for Health Statistics series describing "Death by Other Legal Intervention" as a measure of civilian fatalities caused by police actions, almost all of which

are by shooting. However, ample evidence now exists showing that the NCHS series underestimates by forty to fifty per cent the true number of civilian deaths resulting from police action.¹⁰ Our own comparison of the data published by the Police Foundation with the 1973 and 1974 NCHS mortality statistics, the latter released in March, 1979 supports this conclusion. As can be seen from the table below, the Police Foundation study found twice as many civilian fatalities caused by police in Washington, D.C. as NCHS did; it also found almost as many fatalities in Birmingham as NCHS did in all of Alabama, and almost as many in Detroit as NCHS reported for the entire state of Michigan. Because police shootings nationwide are underreported, the Los Angeles Police Department's policy of disclosing all shootings may have had the inadvertent and erroneous effect of making the Department appear to be more shooting-prone than other police agencies. Comparisons of Los Angeles with other national data reported by NCHS are therefore likely both to be misleading and to cast the Los Angeles Police Department in an unfavorable and unfair light.

¹⁰ Lawrence W. Sherman and Robert H. Langworthy, "Measuring Homicide by Police Officers." Unpublished manuscript, SUNY at Albany, 1979.

TABLE 7: COMPARISON OF POLICE FOUNDATION AND NCHS DATA ON SHOOTING DEATHS

CITY	Police Foundation Study*		STATE	National Center for Health Statistics**	
	1973	1974		1973	1974
Birmingham	5	6	Alabama	6	9
Detroit	28	24	Michigan	31	22
Indianapolis	2	11	Indiana	13	21
Kansas City	5	1	Missouri	8	11
Oakland	1	3	California	37	35
Portland	0	3	Oregon	2	4
Washington, D.C.	10	12	D.C.	5	5

* Milton et. al., op. cit., Table 9.

**Death by "other legal intervention", codes E970-77. Shooting deaths may be 2 to 3 per cent lower.

Perhaps the most familiar if not the easiest comparison is between the Los Angeles Police Department and the Los Angeles County Sheriff's Department. The Sheriff's Department, (LASD), is responsible for law enforcement in unincorporated areas of the County and cities (such as Lakewood) contracting for patrol service. Some 1.85 million people were covered by the LASD's force of 5500 sworn officers compared to 2.84 million covered by the Los Angeles Police Department's force of 7300 sworn officers during the period covered by this study. Data kindly supplied to us by the Sheriff's staff show that unlike the Los Angeles Police Department's pattern, neither the number of persons shot, that is, hit by LASD deputies nor the number of persons shot fatally declined after 1975. In fact, a substantial increase in both categories occurred commencing in 1976. Whereas in 1975, some 26 individuals were shot and 6 shot fatally by LASD deputies, 44 were shot and 16 shot fatally in 1978. No information about shooting incidents that did not result in injury has been made available by the Los Angeles Sheriff's Department and, as far as we are aware, the Sheriff's Department does not maintain statistical data on shootings not resulting in injury.

TABLE 8: NUMBER OF PERSONS SHOT (HIT) AND SHOT FATALLY BY LASD, BY YEAR

	1975	1976	1977	1978
Number shot (hit)	26	42	44	44
Number killed	6	17	12	16

Summary statistics depict the differences in shooting patterns between the Los Angeles Police Department and the Los Angeles Sheriff's Department during the periods studied in this analysis. Per year, the Los Angeles Police Department shot 2.64 citizens per 100,000, whereas the Los Angeles Sheriff's Department shot 2.11. In 1978, however the Los Angeles Police Department shot 2.18 citizens per 100,000, and the Los Angeles Sheriff's Department 2.38. Per year, .979 citizens per 100,000 were shot fatally by police officers in Los Angeles, whereas the comparable rate for territory patrolled by the Los Angeles Sheriff's Department was .689. In 1978, however, the fatality rate was .704 per 100,000 for the Los Angeles Police Department and .865 for the Los Angeles Sheriff's Department. Overall, the ratio of deaths to total shootings was also somewhat higher for the Los Angeles Police Department than the Los Angeles Sheriff's Department, but it was lower in 1978. The data show that in the past, the Los Angeles Police Department had had more shootings and shooting deaths per capita and more deaths per shooting than the Los Angeles Sheriff's Department, but that in 1978, Los Angeles Police Department rates were lower in these categories than those of the Los Angeles Sheriff's Department. These summary statistics, it should be noted, are not adjusted for differences in crime and arrest rates for the populations served, which are substantial.¹¹

¹¹For example, the arrest rate for Part I offenses in 1978 was 11.0 per thousand in Los Angeles and 8.9 per thousand in the territory served by the Los Angeles Sheriff's Department.

Comparisons of numbers of persons shot--that is, hit--and shot fatally in Los Angeles with other cities yield a complex pattern of statistics. While the per capita rate of shootings in Los Angeles is lower than in most of the other eight cities for which we have data, the rate of fatal shootings per police officer is higher in Los Angeles than in five other cities, and the ratio of fatal shootings to all shootings is higher than in any other locality for which we have data. Other than the Los Angeles Sheriff's Department, comparable recent shooting data for periods in the first half of the 1970's are available for New York, Birmingham (Alabama), Oakland, Portland, Kansas City (Missouri), Indianapolis, Washington, D.C., and Detroit. No comparable data are available after 1975. The New York data for the 1971-1975 interval are from James J. Fyfe's Ph.D dissertation¹², and data for the other seven cities for 1973 and 1974 are taken directly from the Police Foundation study reported in Police Use of Deadly Force. As can be seen in the following table, shootings per capita are virtually identical in Los Angeles, New York, and Kansas City. Per capita, shooting rates are higher than Los Angeles in Birmingham, Indianapolis, Washington, D.C., and

¹²Complete reference is in notes to Table 9. Fyfe reviews the entire literature on police shootings in Chapter 2 of his dissertation. Almost all of the studies cited concern fatalities but not non-fatal incidents, and others have serious methodological flaws.

TABLE 9: POLICE SHOOTINGS IN LOS ANGELES AND OTHER JURISDICTIONS

	Years	Persons Shot (Hit)	Shootings per 100,000*	Shootings per 1000 Officers*	Persons Shot Fatally	Shooting Fatalities per 100,000*	Shooting Fatalities per 1000 Officers*	Ratio of Shooting Fatalities to Shootings
**LAPD	1974-78	377	2.65	10.32	139	.979	3.81	.37
LASD	1975-78	156	2.11	6.90	51	.689	2.25	.33
New York City	1971-75	1057	2.61	8.72	323	.789	2.67	.31
Birmingham	1973-74	41	6.93	32.18	11	1.86	8.63	.27
Oakland	1973-74	17	2.45	11.77	4	.578	2.77	.24
Portland	1973-74	9	1.19	6.30	3	.397	2.10	.33
Kansas City	1973-74	26	2.66	9.92	6	.615	2.29	.23
Indianapolis	1973-74	36	3.54	16.22	13	1.28	5.86	.36
Washington, D.C.	1973-74	70	4.77	7.09	22	1.50	2.23	.31
Detroit	1973-74	179	6.44	16.05	52	1.87	4.66	.29

* Average annual rates
 ** Includes SLA shootout (4 shot, 2 killed)

Sources: LAPD: Department files
 LASD: 1977 and 1978 Annual Reports on Tactical Deputy Involved Shootings
 New York: James J. Fyfe, "Shots Fired: An Examination of New York City Police
 Firearms Discharges." Ph.D. Dissertation, State University of
 New York at Albany, 1978.
 Other seven cities: Catherine Milton et. al., Police Use of Deadly Force, op.

Detroit. The Los Angeles Sheriff's Department, Oakland, and Portland have lower per capita shooting rates, although, as already noted, the Los Angeles Police Department's shooting rate was lower than the Los Angeles Sheriff's Department in 1978. Per officer, shooting rates were higher than Los Angeles in Birmingham, Oakland, Indianapolis, and Detroit; and lower in the Los Angeles Sheriff's Department, New York, Portland, Kansas City, and Washington. Per capita deaths were higher than Los Angeles in Birmingham, Indianapolis, Washington, and Detroit; shooting deaths per police officer were higher only in Birmingham, Indianapolis, and Detroit. Finally, the ratio of deaths to shootings is higher in Los Angeles than in the other jurisdictions, although it is only slightly higher than Indianapolis. Put somewhat differently, of the ten police agencies including the Los Angeles Sheriff's Department for all years for which there are comparable data, Los Angeles ranks sixth in shootings per capita, fifth in shootings per officer, fifth in shooting deaths per capita, fourth in shooting deaths per officer, and first in deaths per shooting. Bearing in mind the unavailability of comparable recent data from other cities, we note that the 1978 and 1979 Los Angeles data showing substantial reductions in shootings may indicate that these rankings have changed.

The data suggest that Los Angeles officers have not differed greatly from other police officers in the frequency with which they use deadly force, but that in incidents where persons are shot--that is, hit--fatalities have more often resulted in Los Angeles than in

other cities. Again, we note that while these comparisons are based on the only reliable data that are available, no data are available for areas outside of Los Angeles for the time period that would be most useful for this study.

There are several possible explanations for the past high ratio of fatal shootings to total shootings in Los Angeles. The statistical analysis suggests two possible contributing factors, namely that Los Angeles Police officers fired their weapons more accurately than officers in other cities, and that they fired more rounds in each shooting incident. Data on rounds fired as well as on shooting incidents where no person was hit are available for only Los Angeles and New York, hence comparisons will be limited to these two cities. These comparisons yield several results. First, Los Angeles Police officers appear to shoot more accurately than New York Police Department officers. Of 2432 rounds fired at suspects in Los Angeles from 1974 to 1978, 722, or 30 per cent, struck their targets.¹³ Of 7394 rounds fired at suspects in New York City from

¹³The Los Angeles Police Department, like other major departments in the United States, trains officers to shoot for the central body mass. Since 70 per cent of rounds, shot from an average distance of seven feet, miss their intended targets, it would not be feasible to train officers to shoot for extremities.

1971 to 1975, 1130, or 15 per cent, actually hit their targets.¹⁴ Second, Los Angeles Police officers fired more rounds per incident than their counterparts in New York did in the period prior to 1976. Over the 1971-75 interval, an average of 3.28 bullets was fired per incident by New York officers. Los Angeles Police officers fired an average of 4.42 rounds per incident from 1974 through 1978. As noted earlier, the number of rounds per incident fired by Los Angeles Police officers declined substantially in 1978 and again in 1979.¹⁵

There is no guarantee that New York is representative of other U.S. cities or that Los Angeles is not, nor do we know what recent data for other cities would show, but the data available to us do suggest the following:

-The number of shootings per capita in Los Angeles is not high compared to other U.S. cities for which there are data.

¹⁴ The New York figures are from a secondary analysis of Fyfe's data undertaken by Lawrence Sherman at the request of the Commission's consultant.

¹⁵ The results would be changed little, if at all, by the addition of 10 to 14 single-shot non-injury incidents to our data files. Furthermore, we have no way of knowing whether large numbers of such incidents are not missing from the New York study.

-The ratio of deaths to shootings in Los Angeles in the past was higher than other U.S. cities, although this may not have been the case in 1978 and 1979.

-Los Angeles Police officers shoot more accurately than New York Police officers.

-Los Angeles Police officers have in the past fired a higher mean number of rounds per incident than New York Police officers, although rounds per incident in Los Angeles decreased substantially in 1978 and again in 1979.

These results are consistent with the hypothesis that many shooting deaths have occurred in Los Angeles because the Los Angeles Police Department fires accurately, but the high ratio of deaths to shootings in Los Angeles prior to 1978 may also have been due in part to the high number of shots fired by the Los Angeles Police Department. To the extent that the latter is the case, the decrease in shots fired in the past two years is of some importance.

Several further observations are in order. First, it appears that Los Angeles Police officers face armed opponents with no greater frequency than New York officers. Seventy-two per cent of "primary opponents" were armed in New York compared to 75 per cent of suspects in Los Angeles. The same also appears to be the case when Los Angeles is compared with the seven cities surveyed by

the Police Foundation.¹⁶ Second, shooting backgrounds may present more risk to bystanders in New York than Los Angeles. Third, the ammunition used by New York Police officers is different from that used by Los Angeles Police.¹⁷ It may also be that neither backgrounds nor ammunition make any difference in numbers of shots fired once an officer decides to shoot, although both may affect the way he is conditioned to shoot.

¹⁶Police Use of Deadly Force found that 57 per cent of persons shot (hit) were armed with guns and "other weapons, primarily knives" in the seven cities studied. In Los Angeles, 59 per cent of persons shot from 1974 through 1978 possessed guns or knives. The Police Foundation reported that a higher proportion of persons shot was unarmed than is indicated in Los Angeles. (The differences between percentages reported in the text and this footnote are primarily explained by the fact that persons using vehicles for assault, simulated weapons, and blunt instruments were considered armed for purposes of this study, but not for purposes of the Police Foundation report.)

¹⁷New York Police Department uses 158 grain semi-wadcutter ammunition compared to the 158-grain round ball ammunition used by the Los Angeles Police Department.

C. Police Shootings Involving Minorities

1. Numbers and Circumstances of Shootings

A large number of blacks compared to Hispanics and whites have been involved in police shootings in Los Angeles. Of the 584 suspects shot at from 1974 through 1978 whose race or descent is known, 321 (55 per cent) were black, 126 (22 per cent) were Hispanic, 131 (22 per cent) were white, and 6 (1 per cent) were of other non-white origins. The race or descent of 21 suspects shot at from 1974 through 1978 is unknown. In 1979, however, of 101 suspects shot at whose race or descent is known, 46 (45 per cent) were black, 32 (32 per cent) were Hispanic, and 23 (23 per cent) were white. The race or descent of one suspect shot at in 1979 is not known.

The proportion of black suspects involved in Los Angeles Police Department shooting incidents appears to have changed little over the decade prior to 1979. During a three and a half year period from 1968 to 1971, 57 per cent of suspects shot at by Los Angeles officers were black.¹⁸ This proportion differs insignificantly from the proportion of suspects shot at who were black--55 per cent--from 1974 through 1978.

¹⁸Descriptive data concerning 695 shooting incidents was included as part of the "Enactment Development Plan" for the DEFT shooting simulator, which is now in operation. Whether the 695 incidents include all shootings in the 42 month period covered is not stated clearly. Data for Hispanics were not included in this document.

TABLE 10: POPULATION, ARRESTS, ATTACKS ON OFFICERS, ADW'S UPON OFFICERS, SUSPECTS SHOT AT, SUSPECTS HIT, AND SUSPECTS SHOT FATALLY BY RACE OR DESCENT (PERCENTAGES)

	<u>1977 Popula- tion*</u>	<u>1974-78 Total Arrests</u>	<u>1974-78 Part I Arrests</u>	<u>1974-78 Attacks on Officers</u>	<u>1974-78 ADW's upon Officers</u>	<u>1974-78 Suspects Shot at</u>	<u>1974-78 Suspects Hit</u>	<u>1974-78 Suspects Shot Fatally</u>
BLACK	18%	36%	46%	44%	42%	55%	53%	50%
HISPANIC	24	27	24	24	25	22	22	16
38 WHITE	52	35	28	28	26	22	23	33
OTHER								
NON-WHITE	<u>6</u>	<u>2</u>	<u>2</u>	<u>4</u>	<u>7</u>	<u>1</u>	<u>2</u>	<u>1</u>
	100%	100%	100%	100%	100%	100%	100%	100%
(Number)		(1,267,299)	(219,224)	(5976)	(2360)	(584)	(307)	(128)

* Population percentages are based on results of a 1977 sample survey conducted by the Community Development Department and reported in "Population, Employment, and Housing Survey, 1977" Volume III.

From 1974 through 1978, blacks accounted for 36 per cent of all arrests and 46 per cent of Part I (or F.B.I. Index crime) arrests¹⁹ in Los Angeles. From 1974 to 1978, blacks were reported to have committed 44 per cent of all attacks and 42 per cent of assaults with deadly weapons upon Los Angeles Police officers. Fifty-five per cent of the suspects shot at, 53 per cent of those actually hit, and 50 per cent of suspects shot fatally by Los Angeles Police officers in this period were black.²⁰ In 1979, blacks accounted for 36 per cent of all arrests and 44 per cent of Part I arrests, and were charged with 38 per cent of all attacks and 41 per cent of assaults with deadly weapons upon Los Angeles Police officers. Forty-five per cent of the suspects shot at, 50 per cent of those actually hit, and 62 per cent (8 of 13 suspects) shot fatally by Los Angeles Police officers in 1979 were black.

¹⁹Part I offenses include some violent and some non-violent crimes: murder, forcible rape, robbery, aggravated assault, burglary, larceny-theft, and auto theft.

²⁰Los Angeles differs little in the relationship of Part I arrests to shootings from the seven cities studied by the Police Foundation. Part I arrests are at best imperfect indicators of life-endangering situations where police use of firearms may be necessary. But they are the only data available for the cities studied by the Police Foundation that classify citizens by race or

Continuation Footnote 20

descent. Whereas 46 per cent of Part I arrestees and 53 per cent of persons shot in Los Angeles from 1974 through 1978 were black, the corresponding proportions for blacks are 83 per cent of Part I arrests and 80 per cent of shootings in Birmingham; 76 per cent of Part I arrests and 76 per cent of shootings in Oakland; 27 per cent of Part I arrests and 44 per cent of shootings in Portland; 61 per cent of Part I arrests and 62 per cent of shootings in Kansas City; 53 per cent of Part I arrests and 64 per cent of shootings in Indianapolis; 94 percent of Part I arrests and 89 per cent of shootings, in Washington, D.C.; and 83 per cent of Part I arrests and 80 per cent of shootings in Detroit. The difference between percentages of persons shot who were black and black Part I arrestees is higher than Los Angeles in Portland and Indianapolis but lower in Birmingham, Oakland, Kansas City, Washington, D.C., and Detroit. These data, which are not reported for individual cities in Police Use of Deadly Force, were provided to the Commission's consultant by the Police Foundation. No comparable data on Hispanics were available from the Police Foundation.

From 1974 through 1978, Hispanics accounted for 27 per cent of all arrests and 24 per cent of Part I (or F.B.I. index crime) arrests in Los Angeles. From 1974 to 1978 Hispanics were reported to have committed 24 per cent of all attacks and 25 per cent of assaults with deadly weapons upon Los Angeles Police officers. Twenty-two per cent of the suspects shot at, 22 per cent of those actually hit, and 16 per cent of suspects shot fatally by Los Angeles Police officers in the period were Hispanic. In 1979, Hispanics accounted for 31 per cent of all arrests and 30 per cent of Part I arrests, and were charged with 32 per cent of all attacks and 34 per cent of assaults with deadly weapons upon Los Angeles Police officers. Thirty-one per cent of the suspects shot at, 33 per cent of those actually hit and 15 per cent of those (2 of 13 suspects) shot fatally by Los Angeles Police officers in 1979 were Hispanic.

Reported total attacks on police officers and assaults with deadly weapons on officers declined in the 1974-1979 interval as did the proportions of these attacks involving black suspects. Thus, of suspects charged in connection with attacks on officers, 52 per cent in 1974 were black, 41 per cent in 1978, and 38 per cent in 1979. Of suspects charged with assaults with deadly weapons on officers, 51 per cent in 1974 were black, 40 per cent in 1978, and 41 per cent in 1979. The number of black suspects charged with attacks on officers declined even more noticeably--from 646 in 1974, to 440 in 1978, and 377 in 1979. The number of blacks involved in assaults

with deadly weapons on officers also declined during this period, from 239 in 1974 to 199 in 1978 and 163 in 1979. The proportion of attacks on officers involving Hispanics increased during the same 1974-1979 interval. 21 per cent of suspects charged in connection with attacks on officers in 1974 were Hispanic, compared to 26 per cent in 1978 and 32 per cent in 1979. Of suspects charged with assaults with deadly weapons on officers, 22 per cent in 1974 were Hispanic, as were 27 per cent in 1978 and 34 per cent in 1979. The number of Hispanic suspects charged with attacks on officers has also increased--from 257 in 1974 to 283 in 1978 and 321 in 1979. The number of Hispanics involved in assaults with deadly weapons on officers increased from 104 in 1974 to 135 in both 1978 and 1979.

Departmental records do not indicate the race or descent of assailants involved in shootings of officers from 1974 to 1978. However, a total of 19 officers who discharged their weapons were shot--that is, hit--by suspects' bullets from 1974 through 1978. Thirty-seven per cent (seven) of the suspects involved in these shootings were black, 37 per cent (seven) were Hispanic, and 26 per cent (five) were white. From 1974 through 1978, five Los Angeles Police officers were shot fatally. Four blacks and one Hispanic were apprehended in connection with these shootings; the descent of the person responsible for one of the officer fatalities is unknown.

A higher percentage of shootings by police officers than of reported violent crimes takes place in preponderantly black communities in Los Angeles. From 1974 through 1978, 26 per cent of

TABLE 11: REPORTED ATTACKS ON OFFICERS BY RACE OR DESCENT, 1974-1979

<u>All Attacks on Officers</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>
Black Number	646	540	603	429	440	377
Percent	52%	48%	43%	39%	41%	38%
Hispanic Number	257	220	364	288	283	321
Percent	21%	20%	26%	26%	26%	32%
White Number	308	331	372	350	304	270
Percent	25%	29%	27%	31%	28%	27%
Other Number	42	39	58	48	54	27
Percent	3%	3%	4%	4%	5%	3%
TOTAL	1253	1130	1397	1115	1081	995
<u>ADW's On Officers</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>
Black Number	239	187	206	166	199	163
Percent	51%	45%	40%	36%	40%	41%
Hispanic Number	104	92	142	124	135	135
Percent	22%	22%	27%	27%	27%	34%
White Number	103	112	132	136	126	85
Percent	22%	27%	25%	30%	25%	21%
Other Number	23	27	38	30	39	19
Percent	5%	7%	7%	7%	8%	5%
TOTAL	469	418	518	456	499	402

homicides, forcible rapes, and robberies occurring in Los Angeles took place in the Southwest, 77th Street, and Southeast Divisions of the Los Angeles Police Department. Thirty-three per cent of police shooting incidents involving suspects within the City limits of Los Angeles occurred in these three divisions, as did 31 per cent of shootings where a suspect was hit and 34 per cent of fatal shootings of suspects by the Los Angeles Police Department.²¹

A greater proportion of shootings at blacks than at Hispanics and whites followed suspects' disobeying officers' orders to halt and suspects' appearing to reach for weapons. From 1974 through 1978, fifteen per cent of shooting incidents involving blacks were preceded by suspects' disobeying an officer's order to halt, and 12 per cent were preceded by suspects' appearing to reach for weapons. Nine per cent of Hispanic suspects were shot at after disobeying orders to halt and 6 per cent after appearing to reach for weapons; the corresponding proportions for whites were 9 per cent following disobeying orders to halt and 9 per cent after appearing to reach for weapons. The proportion of black suspects shot at after displaying, threatening to use, or actually using a

²¹A similar comparison cannot be made for the Hispanic community since the one preponderantly Hispanic police division in Los Angeles, Hollenbeck, is small and accounts for only three per cent of homicides, forcible rapes, and robberies in the City.

weapon was 66 per cent, whereas 74 per cent of Hispanics and 76 per cent of white suspects were shot at under these circumstances.²²

²²Among suspects involved in shootings precipitated by disobeying an officer's orders or appearing to reach for a weapon, similar percentages of suspects of different race or descent were ultimately determined to be unarmed. Specifically, 70 per cent of blacks, 74 per cent of Hispanics, and 67 per cent of whites involved in those kinds of shootings were unarmed.

TABLE 12: SUSPECT'S ACTIONS PRECIPITATING SHOOTINGS, BY RACE OR DESCENT, 1974-78

	<u>Black</u>	<u>Hispanic</u>	<u>White</u>
Suspect Using Weapon	22%	23%	28%
Suspect Threatening Use of Weapon	39	45	43
Suspect Displaying Weapon	5	6	5
Suspect without Weapon			
Assaulting Officer or Civilian	5	9	6
Suspect Appearing to Reach for Weapon	12	6	9
Suspect Disobeying Command to Halt	15	9	9
Other (including accidental shootings of suspects)	<u>1</u>	<u>3</u>	<u>1</u>
	100%	100%	101%
(Number)	(321)	(126)	(131)

Note: Disobeying orders to halt or appearing to reach for weapon were coded only if no assault took place, and there was no use, threat, or display of a weapon in the period immediately preceding the shooting. Assault was coded only if there was no use, threat, or display of a weapon. For each person shot at, only one precipitating event was coded--the most life-endangering.

A greater proportion of blacks than of Hispanics or whites shot at by the Los Angeles Police Department from 1974 through 1978 were ultimately determined to have been unarmed.²³ A somewhat higher percentage of blacks than of Hispanics or whites were carrying guns when they were shot at, but a lower percentage of blacks than of Hispanics and whites had other weapons such as knives, blunt instruments, and so forth. Twenty-eight per cent of blacks involved in shooting incidents with the Los Angeles Police Department in fact possessed no weapon when they were shot at. Twenty-two per cent of Hispanics and 20 per cent of whites were ultimately determined to be unarmed. Fifty-four per cent of blacks shot at possessed guns compared to 48 per cent of Hispanics and 49 per cent of whites; 18 per cent of blacks, 30 per cent of Hispanics, and 31 per cent of whites had other weapons.

²³As noted earlier, unarmed suspects are in most cases suspects involved in shootings precipitated by disobeying officers' orders or appearing to reach for weapons.

TABLE 13: SUSPECT'S WEAPON, BY RACE OR DESCENT, 1974-1978

	<u>Black</u>	<u>Hispanic</u>	<u>White</u>
No weapon	28%	22%	20%
Gun	54	48	49
Other weapon, including automobile	<u>18</u>	<u>30</u>	<u>31</u>
	100%	100%	100%
(Number)	(321)	(126)	(131)

Changes from 1977 to 1978, which reduced shootings at suspects disobeying officers' orders to halt or appearing to reach for weapons (where there was no assault and no use, display or threat of a weapon) and of unarmed suspects, diminished the frequency with which blacks and Hispanics were involved in these kinds of shootings. Thus, eight (of 57) shootings at blacks in 1978 were precipitated by disobeying officers' orders or appearing to reach for weapons compared to an average of 19.75 (of 66) such shootings per year from 1974 through 1977. Eleven blacks shot at in 1978 were found to be unarmed compared to an average of 20 from 1974 to 1977. In 1978, one Hispanic (of twenty) was shot at following disobeying orders to halt or appearing to reach for a weapon (compared to an average of 4.5 of 26.5 from 1974 through 1977), and none was unarmed (compared to 1974-77 average of 4.5). Two whites

(of twenty) were also shot at following disobeying orders to halt or appearing to reach for a weapon (compared to 5.5 from 1974 through 1977), and three white suspects were in fact unarmed (compared to 5.75 per year from 1974 through 1977).

No statistically significant difference exists between blacks and other suspects in the number of shots fired, although under some circumstances fewer shots are fired at Hispanics than at others. Where shootings are precipitated by disobeying an officer, appearing to reach for a weapon, or assaults, blacks are fired upon an average of 2.44 times, Hispanics 1.73 times, and whites 2.41 times. The mean number of shots fired when a suspect either displayed a weapon, threatened to use it, or actually used it was 4.85 for blacks, 4.78 for Hispanics, and 4.99 for whites. The mean number of shots fired at blacks found to be unarmed was 2.62, unarmed Hispanics 1.50, and unarmed whites 2.42.

TABLE 14: MEAN NUMBER OF SHOTS FIRED AT SUSPECT BY RACE OR DESCENT, 1974-1978

	<u>Black</u>	<u>Hispanic</u>	<u>White</u>
Suspect's Action:			
-Disobeying order to halt, appearing to reach for weapon, assault	2.44	1.73	2.41
-Displaying, threatening use of, actually using weapon	4.85	4.78	4.99
Suspect's weapon:			
-None	2.62	1.50	2.42
-Gun	5.00	4.95	5.16
-Other weapon	3.49	4.16	4.32

2. The Shooting Review Process

A brief comment on the shooting review process is required. The reader is cautioned that the only information about the review process we have is its result: the finding as to whether or not a shooting was in policy, in policy but fails to meet departmental standards, accidental, or out of policy; and the action, if any, taken against the officer in the 1974-1978 interval. We have no information concerning informal discussions among review board members or their interviews with investigators and witnesses that could potentially yield evidence not in the written record, nor do we have information about informal discussions that may have entered into the final classification and the administrative action taken, if any, against the officer. Prior to November 28, 1978, the classification of a shooting and administrative action were under the jurisdiction of the Director (Assistant Chief), Office of Operations. The Director (Assistant Chief), Office of Special Services had this responsibility for the following year. With the adoption of Part 2 of our Report, direct responsibility was transferred to the Board of Police Commissioners and the Chief of Police.

An examination of findings and actions from all shooting reviews (as opposed to the findings in only those cases involving suspects disobeying officers or appearing to reach for weapons and unarmed suspects) shows only small differences in results from the shooting review process for blacks compared to Hispanics and whites. Eighty-two per cent of shootings involving black suspects,

77 per cent involving Hispanics, and 80 per cent involving whites were determined to be in policy. Seven per cent of shootings at black suspects, 9 per cent of shootings at Hispanics, and 11 per cent of shootings at whites were found out of policy.

TABLE 15: FINDING OF SHOOTING REVIEW BY RACE OR DESCENT OF SUSPECT, 1974-1978

	<u>Black</u>	<u>Hispanic</u>	<u>White</u>
In policy	82%	77%	80%
Fails to meet standards	4	6	5
Accidental*	2	4	0
Out of Policy	7	9	11
Multiple findings	<u>5</u>	<u>5</u>	<u>4</u>
	100%	100%	100%
(Number)	(321)	(126)	(131)

*Accidental discharges against persons suspect of crimes.

In 85 per cent of shootings involving blacks, 80 per cent involving Hispanics, and 79 per cent involving whites, there was either no administrative action or only training was recommended. For all shooting incidents there was administrative disapproval in 18 per cent of the cases, and in ten per cent of incidents an involved officer was penalized by loss of days off, suspension, or termination.²⁴

²⁴These data also speak to the adequacy of the categories previously used to evaluate shootings. Whereas less than nine per cent of shootings were judged out of policy, eighteen per cent resulted in some form of administrative disapproval. In other words, there were a fair number of shootings that were not out of policy but were disapproved, or, put somewhat differently, not out of policy but not approved.

TABLE 16: ACTION TAKEN BY RACE OR DESCENT OF SUSPECT

	<u>Black</u>	<u>Hispanic</u>	<u>White</u>
None, training	85%	80%	79%
Warning, admonishment, reprimand*	5	9	12
Loss of days off	6	9	4
Suspension, resignation	<u>4</u>	<u>2</u>	<u>5</u>
	100%	100%	100%
(Number)	(321)	(126)	(131)

*Warnings, admonishments, and reprimands are forms of administrative disapproval less severe than loss of days off. Warnings are given orally by commanding officers. Divisional admonishments are written, delivered by the commanding officer, and acknowledged in writing. Departmental reprimands are given in writing at the direction of the Chief of Police, and they require written acknowledgement.

While differences in overall outcomes from shooting reviews are small, larger percentage differences, which are not statistically significant due to the small number of cases involved, appear between suspects of different descent when suspects' most threatening actions just prior to shootings are taken into account. It was shown above that a higher percentage of blacks than others are involved in shootings following suspects' disobeying orders to halt or suspects' appearing to reach for weapons and there was no

assault and no display, threat, or use of weapon immediately preceding the shooting. These kinds of shootings were less often found out of policy in the review process when the suspect was black than when he was Hispanic or white. Specifically, 18 per cent (sixteen of 87) of shootings at blacks occurring after a suspect had disobeyed a police officer's order to halt or after a suspect appeared to reach for a weapon were found out of policy, whereas 32 per cent (six of nineteen) shootings at Hispanics and 33 per cent (eight of 24) of shootings at whites precipitated by these actions were judged out of policy. Twenty-nine per cent (25 of 87) of shootings at blacks either disobeying officer's orders to halt or appearing to reach for weapons resulted in some form of administrative disapproval (ranging from warning to termination) compared to 42 per cent (eight of nineteen) of shootings at Hispanics and 38 per cent (nine of 24) of shootings at whites.

TABLE 17: SHOOTINGS PRECIPITATED BY SUSPECTS' DISOBEYING COMMAND TO HALT OR APPEARING TO REACH FOR WEAPON ONLY: FINDINGS AND ACTIONS BY SUSPECT'S RACE OR DESCENT, 1974-1978

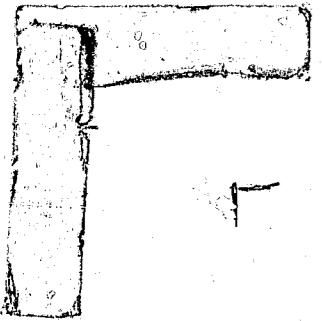
	<u>Black</u>	<u>Hispanic</u>	<u>White</u>
Per cent out of policy	18%	32%	33%
Per cent administrative disapproval (includes in policy but below departmental standards)	29%	42%	38%
(Number)	(87)	(19)	(24)

As also noted earlier, black suspects shot at are more frequently unarmed than Hispanics or whites. The data also suggest that a smaller percentage of shootings at unarmed blacks were found to be out of policy or deserving of administrative disapproval by the review process than shootings of unarmed Hispanics or whites. Some 22 per cent (20 of 91) of shootings at blacks ultimately found to be unarmed were ruled out of policy, compared to 29 per cent (eight of 28) of shootings at Hispanics and 38 per cent (ten of 26) of shootings at whites. Administrative disapproval was imposed in 33 per cent (30 of 91) of the instances when blacks found to be unarmed were shot at, but administrative disapproval occurred in 43 per cent (twelve of 28) of the cases where unarmed Hispanics were shot at and in 46 per cent (twelve of 26) of the shootings at whites were ultimately found unarmed.

TABLE 18: SHOOTINGS AT UNARMED SUSPECTS ONLY: FINDINGS AND ACTIONS BY SUSPECT'S RACE OR DESCENT, 1974-1978.

	<u>Black</u>	<u>Hispanic</u>	<u>White</u>
Per cent out of policy	22%	29%	38%
Per cent administrative disapproval (includes in policy but below departmental standards)	33%	43%	46%
(Number)	(91)	(28)	(26)

The data suggest that shootings that may deserve the closest scrutiny by review boards and are frequently the most controversial resulted in somewhat different results from the review process, when a comparison is made on the basis of race or descent of suspects. However, it should be noted again that the percentages in Tables 17 and 18 are based on relatively small numbers of cases, and, that a substantial reduction occurred in 1978 in the numbers of cases to which Tables 17 and 18 apply.



END