

Police Agency Efforts To Prevent Abuses
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As soon as law enforcement agencies began to develop in the United States, the challenge of providing public safety and maintaining order in a free society void of police misconduct began to emerge. Similar to the airlines industry which relies on the Federal Aviation Administration to investigate airline crashes and the recovery of the “black box” recorder to avoid future aviation errors; law enforcement has review boards, commissions, and other agencies to handle this function. These groups serve to discover how police misconduct is able to permeate an agency, and sometimes even multiply within that agency. While there is no “black box” per se, some of these commissions have provided valuable insight explaining what practices allowed corruption to flourish, as well as providing proactive steps which can be taken to minimize future problems.

This section will briefly highlight some of the more significant commissions established in the past, discuss the issue of civilian review boards, and acquaint the reader with a few misconduct cases which have altered the path of law enforcement. The willingness to acknowledge mistakes and to examine past failures is the first step toward professional law enforcement. In order to understand how to establish more dignified behavior from police officers, one must pay attention to the studies, which followed some of law enforcement’s biggest failures.

Perhaps the first major commission ever established to review police misconduct in the United States was the **Wickersham Commission** in

1931. President Hoover established this Commission, which published a 14 volume report on criminal justice in America. One volume was specifically dedicated to a review of police practices, and emphasized the need for training and upgrading police service. A second volume was devoted to explaining police brutality, the use of third degree tactics in order to secure confessions and even torture as a means of gaining compliance.¹

“The third degree brutalizes the police, hardens the prisoner against society, and lowers the esteem in which the administration of justice is held by the public.”

---National Commission on Law Observance and Enforcement,

George Wickersham, Chairman, 1931²

The Report shocked the conscience of the American public as dramatically as the Rodney King Incident did almost 60 years later. Law enforcement agencies became very defensive and attempted to justify their behavior. The International Association of Chiefs of Police (I.A.C.P.) established a committee to refute the Commission’s allegations.³

In the 1940’s, the public was focused on World War II and police corruption did not receive the attention of the previous decade. Nonetheless, there were instances that grabbed national attention. Police in Los Angeles were accused by a grand jury of protecting prostitutes for \$100 per week apiece. A racial riot in Detroit left 34 dead and cost 2 million dollars in property damage. The police were criticized for failing to properly handle incidents involving racial violence.⁴

In the 1950's, police corruption again came to the forefront. The public watched the televised hearings of the **Kefauver Committee** which exposed extensive corruption in government. Grand juries were impaneled in Oakland, California and Philadelphia to examine allegations of pay-offs and extortions. The 60's and 70's was a period in law enforcement history in which most scholars would agree that the public and the government began to seriously consider the delivery of police services and the need for professional standards.⁵

Five blue-ribbon national commissions were formulated during this period to examine the practices of law enforcement agencies and made recommendations for reforms.

- **The President's Commission on Law Enforcement and the Administration of Justice** - 1967, 1968.
- **The National Advisory Commission on Civil Disorders (Kerner Commission)** 1967.
- **The President's Commission on the Causes and Prevention of Violence** - 1968.
- **The President's Commission on Campus Unrest - Kent State** - 1970.
- **The National Advisory Commission on Criminal Justice Standards and Goals** - 1973.⁶

The most significant expose on police corruption in the 1970's may have been the **Knapp Commission Report on Police Corruption**, published in 1973. This Report took a serious look at institutional corruption in the largest police department in the country. Appointed by Mayor Lindsay in 1970, the

Commission took a bold stance in identifying corrupt practices of gratuities, organized pay-offs and corruption throughout the organization.⁷ Frank Serpico, a detective who testified about corruption at the hearings was portrayed in a book and a blockbuster movie. This raised the awareness of the general public concerning police corruption.

The Knapp Commission examined the issues of accepting gratuities and described the slippery slope leading to corrupt police practices. The report which was generated was a significant expose on the code of silence that allowed institutional corruption to flourish in the New York City Police Department.

The Report described corrupt police behavior as follows:

Corruption, although widespread, is by no means uniform in degree. Corrupt policemen have been described as falling into two basic categories: "Meat-Eaters" and "Grass Eaters"....The meat eaters are those policemen who.....aggressively misuse their police powers for personal gain. The grass eaters simply accept the payoffs that the happenstance's of police work throw their way.⁸

The Commission described five major factors which influenced how much graft an officer received and what the source of the gratuities were as follows:

- 1. The character of the officer which is the primary factor and determines whether an officer would accept any gratuity or what level of graft he would accept.*
- 2. The officer's unit or particular branch of the department Plainclothes Vice assignments provided more opportunity to become involved in payoffs.*

3. *The officer's geographic area of assignment. Harlem for example was considered "the Gold Coast" because of the vice activities which were considered to be lucrative graft opportunities by the officers receiving payoffs.*
4. *The officers specific assignment. Uniform sector cars were considered to be lucrative compared to City Hall.*
5. *The last factor the Commission identified was rank. The higher the rank, the higher the expected amount of payoff was expected.*⁹

During the next two decades, numerous police misconduct scandals erupted from coast to coast which sparked police reforms to combat this misconduct. Perhaps the three incidents which will forever leave their mark in the quest toward professional behavior from our law enforcement officers were the Arthur McDuffie case in Miami, the Rodney King incident in Los Angeles, and the Michael Dowd case in New York. Each of these incidents was followed by substantial reforms to prevent future abuse by the involved law enforcement agencies. The implications of these watershed events are substantial and will positively impact law enforcement in general for generations to come. The following is a brief review of each incident and the major recommendations for change which resulted:

Arthur McDuffie

In December, 1979, Arthur McDuffie, a thirty three year old black insurance executive, went for a late night ride on his motorcycle. After committing a traffic violation, he refused to pull over when a Metro-Dade Police Officer attempted to stop him. McDuffie lead numerous officers on an 8-mile high speed

chase, and was subsequently apprehended. What transpired following his capture would lead to the most destructive riot in United States history prior to the Rodney King incident. Numerous Anglo and Latin Metro-Dade officers were accused of beating McDuffie to death and then conspiring to cover up the beating. They reported that his injuries were the result of his losing control of his motorcycle at the conclusion of the chase. The Medical Examiner was able to establish that he was savagely beaten with a metal flashlight, then several officers eventually came forward and testified about the beating and the ensuing cover-up.

Five officers were indicted for manslaughter and evidence tampering while several others were fired for administrative violations. The trial was moved to Tampa, Florida because of the intense media coverage and a request for a change of venue. The Dade County community fully expected a conviction based upon the extensive media coverage and the testimony by other officers that the beating in fact had occurred. The black community described the incident as another lynching and were demanding and expecting justice.

On May 17, 1980, an all white jury acquitted all of the defendants of all charges. By 9:00 P.M., Miami 's Liberty City exploded with widespread looting and savage beatings of white motorists. The National Guard was activated and, for the next nine days, attempted to restore order to the community. Before it was over, the police recorded 1400 arrests, 18 deaths, and damage was estimated to be in excess of \$125 million dollars.¹⁰

Following the verdict, the city simmered and the police and the community struggled to understand what led to this violent disturbance. Clearly, the McDuffie verdict was the flashpoint which ignited tensions that were escalating for a long period of time in Miami. The U.S. Justice Department analyzed police activity before and after the disturbance and issued a report for the Law Enforcement Assistance Administration entitled, "Prevention and Control of Urban Disorders, Issues for the 1980's". The report concluded that the police themselves were partly responsible for the riot. The report in part stated:

*"Although deep-seated anger, frustration and disappointment with the role of the police and the criminal justice system in Dade County were not the sole causes of the disorder, few would disagree with the judgment that actions or inaction's by the police contributed to and aggravated the potential for violent outbreak."*¹¹ The Metro-Dade and Miami Police Departments failed to recognize the potential for violence in the aftermath of the verdict and were not prepared to handle a civil disturbance of this magnitude.

This Report focused, not only on the McDuffie case, but provided valuable insight into assessing tension between the police and the community to better anticipate the potential outbreak of a civil disturbance. It suggested certain indicators of unrest which should be used to gauge the "State of Community Mental Health" between the police and the citizens they serve. These factors include:

- Disturbance calls involving conflicts between groups.

- Incidents in which the responding police officer finds him/herself the target of abuse over what is considered routine police action.
- Incidents of stoning of police or fire vehicles responding to calls for service.
- Assaults between groups.
- Assaults against police.
- Citizen complaints of excessive force by police officers.
- Changes in media coverage of police events or incidents.
- Lack of citizen willingness to assist police in routine matters.¹²

In their book *Above the Law*, J. Skolnick and J. Fyfe cite the Metro-Dade Police Department as rising from the ashes of this disturbance into an outstanding police agency. The Department created **Citizen Advisory Committees** at each district station to assist in formulating policies, while at the same time, implemented an ambitious affirmative action program in recruitment and promotional standards. The **Metro-Dade Police/Citizen Violence Reduction Project** was implemented to enhance officers skills at diffusing violent confrontations through a series of role playing exercises. Every officer on the Department completed the training and, according to Project Director J. Fyfe, use of force and complaints against officers subsequently dropped between 30 and 50 % in the following year and a half.¹³

Immediately following the civil disturbance, the Metro-Dade Police Department implemented an aggressive **Early Identification Program** which, to this day, serves as a model to all law enforcement agencies. More specific information pertaining to how this system functions will be described in further

detail later in this chapter. Another program evolving from this disturbance is the **Field Force Concept**. The Field Force Concept of response to Civil Disturbance became a major component of training for both the Metro-Dade and Miami police departments to better prepare for mobilization of resources. Several minor disturbances in the mid 1980's were contained as a result of the Field Force Concept. On January 16, 1989, Miami Police Officer William Lozano shot a black motorcyclist which resulted in a 3-day civil disturbance. The Field Force Concept once again proved a significant success in containing the disturbance to a relatively small area.

The Rodney King Incident

In the early morning hours of March 3, 1991, a California Highway Patrol vehicle observed a vehicle being driven by Rodney King traveling at a high rate of speed on the 210 Freeway and attempted to initiate a traffic stop. The vehicle fled and a pursuit began which lasted almost 8 miles and ended at Foothill Boulevard with a total of 27 officers on the scene. George Holiday awoke from the sirens and, from his apartment, began to videotape the apprehension of Rodney King. The 90 second videotape that he produced will be remembered as one of the most significant events in law enforcement history. Rodney King was struck 56 times and shocked twice with a taser gun as he was surrounded by officers. The national and international community was shocked as the tape was repeatedly played around the world on CNN news.¹⁴

Four L.A.P.D. officers were charged with a variety of charges involving brutality against Rodney King. The entire nation was paused for the Simi Valley

verdict on April 29, 1992. Like McDuffie, the City of Los Angeles erupted in flames when not guilty verdicts were read against three out of four officers. The jury hung on one count against Officer Powell. Before it was over, sixty people were dead, two thousand injured, and damage was estimated to exceed 800 million dollars.¹⁵ A second trial in Federal court resulted in two officers being convicted but L.A.P.D. continues to struggle to regain the confidence of the public which it serves.

The Christopher Commission

In addition to the investigation being conducted by the Los Angeles Police Commission and the L.A.P.D. Internal Affairs section, the Mayor of Los Angeles appointed an independent commission to review the Rodney King incident. Warren Christopher was selected to head the **Independent Commission on the Los Angeles Police Department** to examine all aspects of the L.A.P.D. which contributed to the problem of excessive force. The panel raised questions concerning the L.A. P.D. , which specifically cited:

- ***The apparent failure to control or discipline officers with repeated complaints of excessive force.***
- ***Concerns about the LAPD's "culture" and officers' attitudes toward racial and other minorities.***
- ***The difficulties the public encounters in attempting to make complaints against LAPD officers.***
- ***The role of the LAPD leadership and civilian oversight authorities in addressing or contributing to these problems.***¹⁶

The Commission reviewed departmental files and extensive data which revealed that a distinct number of officers were responsible for a substantial portion of excessive force complaints:

Of approximately 1800 officers against whom an allegation of excessive force or improper tactics was made from 1986 to 1990, more than 1,400 had only one or two allegations. But 183 officers had four or more allegations, 44 had six or more, 16 had eight or more, and one had 16 such allegations.¹⁷

The Commission noted patterns of racism and bias which became evident in their review of the Mobile Digital Terminal ("MDTs") messages sent between patrol units. The pervasive attitudes and failure of supervisors to monitor or audit these transmissions was noted by the commission. ¹⁸

The final report illuminated concerns with recruitment, training, supervision, the complaint process, and numerous other areas which the Los Angeles Police Department clearly needed substantial improvements. The publication of the report has allowed other law enforcement agencies to better understand how the King incident happened and perhaps inspect their own organizations to ensure the safeguards recommended by the Christopher Commission are in place in their own respective agencies.

Michael Dowd

On May 6, 1992, Suffolk County police officers arrested N.Y.P.D. Officer Michael Dowd for serious narcotics trafficking charges. Embarrassing questions

began to surface as to why after 13 previous complaints to N.Y.P.D. about Dowd's misconduct in 10 years, another police department was responsible for effecting his arrest. N.Y.P.D. Sergeant Joseph Trimboli publicly acknowledged that he had investigated allegations against Dowd for five years but he believed that high ranking members of the department "*Did not want this investigation to exist. They wanted it to go away*" because they feared another embarrassing scandal "*like what had occurred in the 77th precinct....*"¹⁹

Commissioner Lee Brown directed a departmental inquiry be conducted following Dowd's arrest to determine why the departments investigative apparatus failed. The department noted a number of deficiencies but as the corruption scandal in Dowd's precinct widened, the public demanded answers as to the measures being taken to cleanse the department of widespread corruption.

In July, 1992, New York City mayor David Dinkins signed an executive order which created **The Commission To Investigate Allegations Of Police Corruption and the Anti Corruption Procedures of the Police Department,** (commonly referred to as the **Mollen Commission**).²⁰

Milton Mollen was selected to chair this commission which was given a threefold mandate:

- *To investigate the nature and extent of police corruption in the department.*
- *To evaluate the department's procedures for preventing and detecting corruption.*

- *To recommend changes and improvements in those procedures.*²¹

In July, 1994, this Commission issued an extensive report which exceeded the initial mandate, detailing the new character of police corruption. Michael Armstrong, chief counsel to the earlier Knapp Commission may have summed up the new state of modern police corruption best when he testified at the Mollen Commission on October 07, 1993:

“ The crooks, however, that you have uncovered, the criminal seem to be a different breed of criminal [than twenty-years ago], ... the guys you’re digging up, these guys are walking around with lead-lined gloves and riding shotgun for organized crime people, it seems to me they have changed the nature of being a ‘meat eater’ in the Department. Instead of taking money to look the other way while someone else commits a street crime, they’re out there competing with the criminals to commit street crimes themselves, and it seems to me that is a very big difference.”²²

The Commission boldly exposed widespread corruption in the N.Y.P.D. involving activities such as drug-trafficking, theft, burglary, robbery, perjury, and the use of excessive force to facilitate corruption. Their recommendations to prevent corruption and enhance the investigative capabilities of the internal affairs process sounded an alarm to law enforcement agencies nationwide. The failure of the N.Y.P.D. to apprehend Officer Michael Dowd, prior to his arrest by the Suffolk County Police Department, was symptomatic of a system that was almost totally dysfunctional.

Like many law enforcement agencies, internal affairs units in the N.Y.P.D. were not given the resources, personnel or equipment to effectively investigate and expose corrupt behavior within the organization. The Mollen Commission highlighted the importance of prioritizing the internal affairs process to signal to all agency members that integrity control is a high priority. The recommendations and work of this Commission have become a valuable asset to all law enforcement agencies concerned with combating the new breed of police corruption which has surfaced in the 90's.

Civilian Review

In light of the sensational incidents of police misconduct which have surfaced during the last half of the century, the issue of creating the best system to investigate the police themselves has emerged. Douglas Perez completed a 15 year study of police review systems throughout the United States. His book, Common Sense About Police Review, is perhaps the most comprehensive analysis of this topic ever compiled and provides valuable insight on the issues involved.

Traditionally, law enforcement agencies and police union officials have desperately resisted attempts to involve civilians in the investigation of police misconduct. They argue that this process reduces morale and cannot be effective because civilians do not have the training or investigative expertise to properly handle this function. They further argue that civilians will tend to disregard officers rights and cater to the emotions of the press and the community when a scapegoat is needed to ease tensions.

Advocates of civilian review argue that police cannot be trusted to investigate their own personnel and tend to sustain few allegations of misconduct. They argue civilian personnel outside the involved agency are more objective and diligent in reviewing allegations of misconduct. Many even suggest that civilian review will validate complaints more often and reduce police abuses. The research conducted by Perez cuts through the emotional debate and provides a basis to judge the pros and cons of civilian review. This is a tremendous value to communities confronting this issue. Perez indicates that there exists over 30 variations of civilian review mechanisms in the United States. He notes that of the 25,000 law enforcement agencies, all but a few have some type of internal review process for investigating police misconduct.²³

Perhaps the most significant finding in Perez' study can be best summarized as follows:

1. Internal affairs units sustain misconduct on average 25% of the time.

Civilian review agencies sustain misconduct on average 10% of the time.²⁴

2. Citizen complainants and witnesses are more comfortable with civilian investigators.²⁵

3. Police witnesses and subject officers tend to be more open with police investigators.²⁶

4. Where cities have parallel civilian and internal systems, no significant difference in the outcome of cases exists.²⁷

5. Police internal systems are clearly harder on themselves, than their civilian counterparts.²⁸

A national survey of the 50 largest cities in the United States, published by the University of Nebraska at Omaha in 1991, disclosed the recent popularity of the civilian review process as indicated in the following text:

sixty percent of the fifty largest cities in the United States have a civilian review process.

Fifteen, half of the current total, have been established since 1986.²⁹

The oldest continuously operating civilian review board in the United States is the **Berkeley Police Review Commission (PRC)**. The board was founded in 1973 and runs parallel to the departmental internal review system operating in Berkeley.³⁰ Perez noted that while perceived as effective by the citizens, it is expensive to maintain in addition to the system already in place by the department. Almost a half million dollars annually to investigate 100 complaints in a city of 104,000 people is a major drain on the operating budget, especially when the complaints are already being investigated by the department itself.³¹ The issue of civilian review will continue to be debated for generations to come. We believe that as the spirit of community policing continues to reinvent the dynamics of law enforcement, police administrators will embrace the concept of the involvement of civilians in the internal review process.

The critical issue in this entire dynamic is one of trust. Police misconduct is often investigated by internal affairs, the local prosecuting authority, the U.S. attorneys office, the FBI, the Civil Rights Commission, grand juries, and

numerous other agencies. No matter how comprehensive and impartial these investigative bodies complete their task in reality, the perception of some in the community will be that government is not capable of policing itself. The philosophy of community policing clearly establishes citizen participation and involvement in all departmental issues of community concern. As the wave of community policing continues to sweep the country, civilian review will evolve as a major component of effective law enforcement. The essential ingredient to validate the process is the involvement of the community itself via some form of civilian review.

The cornerstone of human dignity and the police must be grounded to the element of trust. No matter how thorough, impartial and objective a departmental internal affairs unit is, the public will never completely trust the police to investigate themselves. It is time for law enforcement as a profession to recognize that they must involve civilians at some level in this process to establish the necessary credibility with the public they serve.

Conclusion:

Almost since its inception, law enforcement in the United States has struggled to balance public order and provide police services without violating citizens' rights and basic human dignity. Historically, the enormous power and authority granted to individual police officers to protect citizens has led to numerous scandals of brutality and corruption throughout the country.

Beginning with the Wickersham Commission in 1931, this section highlighted a few of the sensational police misconduct scandals. In each case,

commissions were established to help prevent future problems. The Knapp Commission, the Christopher Commission and the Mollen Commission have all published extensive reports which illuminated the reason why the respective police departments failed to prevent the misconduct.

The issue of civilian review has emerged as a component in the process of rebuilding the image of law enforcement. The work of Douglas Perez, discussed in this section, demonstrates that while police undoubtedly are capable of policing themselves, civilians must play a role in the process to maintain credibility with the public.

Law enforcement as a profession will always have individuals who will abuse their power and authority. The challenge each agency faces is to identify these individuals early in their careers and replace them with the individuals who have the skills and ethics required in this complex and noble profession.

¹ Victor Kappeler, Richard Sluder, Geoffrey Alpert, *Forces of Deviance: Understanding the Dark Side of Policing* (Prospect, Illinois, Waveland Press, Inc., 1994), p.p. 52-54.

² Jerome Skolnick and James Fyfe, *Above the Law: Police and the Excessive Use of Force* (New York, N. Y., The Free Press, 1993), p. 43.

³ Victor Kappeler, Richard Sluder, Geoffrey Alpert, *Forces of Deviance: Understanding the Dark Side of Policing* (Prospect, Illinois, Waveland Press, Inc., 1994), p. 53.

⁴ *Ibid.*, p.p. 53-54.

⁵ *Ibid.*, p. 54.

⁶ Municipal Management Series, *Local Government Police Management* (Washington D.C., ICMA 3rd edition, 1991), p. 14.

⁷ The Knapp Commission Report on Police Corruption (New York, N. Y., George Braziller, Inc., 1973), p.p. I-II.

⁸ Edwin J. Delattre, *Character and Cops: Ethics in Policing* (Washington D.C., American Institute for Public Policy Research, 1989), p. 82.

⁹ The Knapp Commission Report on Police Corruption (New York, N. Y., George Braziller, Inc., 1973), p.p. 67-68.

¹⁰ Jerome Skolnick and James Fyfe, *Above the Law: Police and the Excessive Use of Force* (New York, N. Y., The Free Press, 1993), p.p. 181-184.

¹¹ The Miami Herald, October 27, 1980, p. 1B.

¹² U. S. Department of Justice, Law Enforcement Assistance Administration, *Prevention and Control of Urban Disorders: Issues for the 1980's* (Washington D.C., University Research Corporation, 1980), p.p. 32-33.

¹³ Jerome Skolnick and James Fyfe, *Above the Law: Police and the Excessive Use of Force* (New York, N. Y., The Free Press, 1993), p.p. 183-184.

¹⁴ *Ibid.*, p. 2.

¹⁵ Stacy Koon with Robert Deitz, *Presumed Guilty* (Washington D.C., Regnery Gateway, 1992), p. 191.

¹⁶ The Independent Commission of the Los Angeles Police Department, 1991, Summary of Report, p. 50.

¹⁷ *Ibid.*, p. 52.

¹⁸ *Ibid.*, p. 53.

¹⁹ The City of New York, Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department Commission Report, Milt Mollen, Chair, July 7, 1994, p. 91.

²⁰ *Ibid.*, Exhibit 1.

²¹ *Ibid.*, p. 1.

²² *Ibid.*, p. 22.

²³ Management Information Service (Washington D.C., I.C.M.A., Volume 24, Number 8, August 1992). p. 2.

²⁴ *Ibid.*, p. 5.

²⁵ *Ibid.*, p. 4.

²⁶ *Ibid.*, p. 4.

²⁷ *Ibid.*, p. 5.

²⁸ *Ibid.*, p. 6.

²⁹ Samuel Walker and Vic W. Bumphus, *Civilian Review of the Police: A National Survey of the 50 Largest Cities, 1991* (Criminal Justice Policy Focus, Number 91-93, University of Nebraska at Omaha, 1991), p.p. 1-6.

³⁰ Management Information Service (Washington D.C., I.C.M.A., Volume 24, Number 8, August 1992), p. 12.

³¹ Ibid., p. 13.