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*Congressional Black Caucus
Task Force on Law Enforcement Misconduct
Report and Recommendations
October 6, 2000*

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On March 3, 1999, the Congressional Black Caucus (CBC) established a special Task Force on Law Enforcement Misconduct in the wake of brutal police shootings in several Congressional Districts represented by CBC Members, particularly the shooting in New York of Amadou Diallo, an unarmed African who was shot at 41 times and hit 19 times outside his apartment door. Representative James E. Clyburn, Chairman of the CBC, appointed two Co-Chairs for this important Task Force: Representative Danny K. Davis of Illinois and Representative Gregory Meeks of New York.

The CBC Task Force on Law Enforcement Misconduct was charged by the Caucus with the responsibility of examining the problem of excessive use of force by law enforcement in several regions. This report summarizes what we learned from hearings conducted and provides recommendations on how to address this problem nationally, particularly where there has been a disproportionate impact on African Americans or other minorities. Members of the CBC determined that several hearings across the nation were necessary to get the facts, hear details concerning the problems and elicit recommendations for solutions, including possible legislation, administrative and/or community action.

The CBC Task Force convened four hearings around the country to examine the issue of law enforcement misconduct. The first hearing was held on May 10, 1999 in Washington, DC on Capitol Hill. This kick-off hearing set the stage for the hearings to follow; civil rights experts and leaders from several national organizations testified about the persistent and deadly problem of police brutality and the violations of civil rights associated with such abuse. The second hearing was held in New York City on June 21, 1999. The third hearing was held in Chicago on July 31, 1999. The fourth and final hearing was held in Los Angeles on August 30, 1999. The CBC Task Force was represented at three subsequent hearings held in Greenville, South Carolina, Rochester, New York, and Highland Park, Illinois which were convened by the Center for Constitutional Rights and the Rainbow Coalition respectively.

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INTRODUCTION

This report details what we have learned from our hearings and provides recommendations to many of the problems that were cited. The report consists of the following four major areas: Racial Profiling, Use of Excessive Force, Civilian Review Boards, and the Blue Wall of Silence. Each of the sections of this report were written by experts in the various areas. This task force has concluded that law enforcement misconduct remains prevalent, persistent and systemic in many of our urban and rural communities of color. At present the fear of being profiled, stopped or even killed by law enforcement is perhaps at the greatest level in communities of color, than at any time in our history. Most of the witnesses who testified at the hearings expressed a deep mistrust and cynicism of police assigned to serve and protect their communities. Perhaps Attorney General Janet Reno said it best when she stated that "when minority communities, in the wake of a shooting, immediately assume the police officer, not the suspect, is at fault, we have a problem. The tensions that arise between police and minority residents have serious consequences both in terms of effective policing and community unrest." Our report seeks to address many of the concerns that were raised at the hearings and promote law enforcement integrity and combat law enforcement misconduct. We commend all of the men and women who under difficult circumstances do an outstanding job of serving and protecting our citizens each and every day.

EXECUTIVE SUMMARY OF RECOMMENDATIONS

Collect and analyze data regarding whether there is a pattern of profiling based on race. Data is not being collected and Department of Justice is not fully using its existing authority to collect needed data. Additional legislation, including H.R. 1441, the Traffic Stops Statistics Study of 1999, will improve the collection of this needed data.

Direct the General Accounting Office to conduct a study on the use of racial profiling by law enforcement agencies, especially those receiving federal funds.

Condition federal funds to entities with good policing practices and withhold federal funds from departments or localities with records of police misconduct.

Establish thorough, credible and independent investigations of police use of excessive or deadly force.

Collect data on the incidents of death of detainees in police custody and promote requirements for the consistent reporting of such deaths.

Promote uniform guidelines/procedures for local police review boards with subpoena and investigative power/authority.

Full and adequate funding for federal civil rights complaint investigations and enforcement. The length of time to conclude these investigations must be reduced and made more timely.

Expand and complete Department of Justice pattern and practice investigations of law enforcement agencies, particularly in the areas of New Jersey, New York, Chicago and Los Angeles.

Punish cases of misconduct by police officers (administrative discipline, denial of pay or dismissal) and prosecute cases of criminal behavior to the full extent of the law. Police officers must not be exempt from the laws they are sworn to uphold.

Improve the accountability of law enforcement officers to uphold the law.

When state prosecution fails to adequately address police misconduct, there must be vigorous federal prosecution. Violations of criminal laws and violations of constitutional rights must be fully investigated and prosecuted -- existing laws must be enforced without exemption for individuals carrying a badge.

Revise Title 18 USC Section 241, 242 to enable federal prosecutors to more effectively prosecute cases of police misconduct.

Improve training of police officers to (1) break down the blue wall of silence whereby officers may observe misbehavior by other officers but fail to report it due to indoctrination and fear of retribution by other officers, (2) break down the level of mistrust by the community (particularly the minority community) and their fears or expectation that laws will not be administered fairly.

Improve hiring practices of law enforcement agencies to better screen out candidates not suitable for the job (including psychological screening).

Improve the responsiveness of law enforcement agencies to the victims and families of victims of police misconduct, including full disclosure of information about each case.

Provide incentives to Law Enforcement Agencies who equip all their police cars with video cameras.

SECTIONS OF THE REPORT

- I.** **Racial Profiling**
by Mr. Ron Daniels, Center for Constitutional Rights

- II.** **Excessive Use of Force**
by Allyson Collins, Human Rights Watch

- III.** **Civilian Review Boards**
by Monique Dixon, Advancement Project

- IV.** **Blue Wall of Silence**
by Dr. Tricia Bent Goodley, Howard University

Racial Profiling and the Crisis of Law Enforcement Misconduct

by Ron Daniels

Police brutality and misconduct are certainly not a new phenomenon in American society, particularly as it relates to Black people and people of color. From the Kerner Commission Report in 1968, which documented that many of the urban rebellions that rocked this nation in the 60's were triggered by incidents of police brutality, to the highly publicized Rodney King police beating case, the tensions and mistrust between African Americans and law enforcement has periodically been the focus of national attention. In the most recent period, the brutal torture of Abner Louima and the fatal shooting of Amadou Diallo by officers of the New York Police Department catapulted the issue of police brutality and misconduct onto the national stage. Indeed, largely because of the aggressive, zero tolerance strategy of policing propounded by Rudolph Giuliani and his insensitivity towards and frayed relations with people of color communities, New York emerged as the epicenter of the national crisis of police brutality and misconduct - a crisis which prompted the Congressional Black Caucus (CBC) to conduct a series of hearings across the country examining the issue of law enforcement misconduct. In the view of many observers it was entirely appropriate for the CBC to hold its initial regional hearing in New York because the policing philosophy and strategy utilized in New York has been adopted as a "model" for crime reduction in many communities around the nation.

High profile incidents of police brutality involving the use of torture and deadly force like the Abner Louima, Anthony Biaz and Amadou Diallo cases in New York, Tyesha Miller in Riverside, California, Jonny Gammage in Pittsburgh, Archie Elliot in Prince Georges County, Maryland, Malice Green in Detroit and Kim Groves in New Orleans have tended to capture the local and national spotlight. However, what has fueled much of the anger and outrage of people in communities of color across the country is the widespread use of racial profiling by police authorities as a crime reduction methodology. Indeed, the pattern and practice of race based traffic stops became so pervasive over the past decade that the term "Driving While Black" (DWB) emerged in the popular vernacular of the Black community to describe what vast numbers of Blacks view as the humiliating and unconstitutional targeting of Black people and people of color as criminals in American society.

Some police officials vigorously defend the use of profiling as an effective law enforcement tool which is not racist in character. Civil rights leaders like Kwesi Mfume, President/CEO of the NAACP and civil rights attorneys like Reginald Shuford, of the American Civil Liberties Union argue that the practice of type casting Blacks and people of color as "probable suspects" extends beyond traffic stops to other areas of day to day living. Few Blacks, for example, whatever their status or station in life, have not experienced being super-scrutinized by clerks and security personnel while shopping in various retail outlets. Similarly, Blacks and people of color sense that they are far more likely to be stopped, interrogated or even searched by officers of the Immigration and Naturalization Service when returning from a trip abroad. And, Blacks and Latinos, particularly young men, bitterly complain about routinely being stopped and frisked in their neighborhoods as they walk to and from their homes. Racial profiling has become so pervasive and intrusive that civil rights advocates whimsically suggest that things have gotten

so bad that Black people are not only stopped for the “crimes” of driving while Black, traveling while Black, shopping while Black and walking while Black, but any day now the police may begin to stop Black people for “breathing while Black.”

Unfortunately racial profiling in America is not a laughing matter for large numbers of Black people and people of color in America. It is an ugly reality which when coupled with other forms of police misconduct and abuse is eroding confidence and faith in those who are entrusted with protecting life, limb and property in our communities – the police. Therefore, it is not surprising that outrage about racial profiling was a persistent theme of the hearings conducted by the Congressional Black Caucus Task Force on Police Misconduct in Washington, D.C., New York, Chicago and Los Angeles. In hearings conducted by the Center for Constitutional Rights in Greenville, South Carolina and Rochester, New York where Richard Boykin, Chief of Staff for Congressman Danny Davis, Co-Chairman of the CBC Task Force, represented CBC, racial profiling was also a dominant issue.

Regrettably, a major barrier to dealing with the issue of racial profiling is the lack of reliable national data with statistics on traffic stops and other forms of profiling. Consequently, Civil rights leaders, police reform advocates and policymakers have often encountered skepticism from members of the media and critics when addressing the issue of racial profiling. There is a sense that the outcry against this practice is merely based on “anecdotal” information rather than hard fact. Fortunately, a number of studies conducted by scholars, public policy institutes and government agencies in recent years have begun to provide substantial evidence verifying the crisis Blacks and other people of color have been fighting to bring to the nation’s attention.

In a policy report on racial profiling issued in February of this year by the Progressive Policy Institute, John D. Cohen, Janet Lennon and Robert Wasserman suggest that “when a police officer detains and investigates a person or group of people primarily because of their race - absent of any information linking them to criminal activity - that officer is engaging in racial profiling.” Persistent complaints and protests by African American motorists that they were being disproportionately pulled over by officers of the State Highway Patrols on the I-95 corridor from New Jersey to Florida, perhaps, more than any other factor, sounded the alarm that race based traffic stops were being used up and down the east coast, that Black people and “dark” skinned looking people were being stopped primarily on the basis of skin color.

The outcry over race based traffic stops was so intense in New Jersey that Governor Christine Todd Whitman was forced to remove the State Police Superintendent. According to a 1999 Interim Report on racial profiling released by the Attorney General of that state, 53% of the motorists stopped and searched by officers of the Highway patrol from selected barracks on the New Jersey Turnpike were Black and 24% were Hispanic. However, critics of this report note that this data underestimated the true number of race based searches because a substantial number of searches were not categorized by race. Indeed, by some calculations Blacks comprise about 14% of the motorists on the New Jersey Turnpike but comprise over 70% of those stopped for traffic offenses.

A study conducted by Professor David A. Harris of the University of Toledo which examined the performance of 12 officers of the State Police engaged in drug interdiction revealed that of 732 motorists stopped and searched between 1995 and 1996, 75 percent were African American and 5 percent were Hispanic. "Of the 12 officers involved, 2 stopped only African Americans. Over 95 percent of the drivers stopped by one officer were African Americans and 80 percent of the drivers stopped by six officers were African American." Professor Harris' findings were similar in the State of Florida. Based on a review of video-taped stops along a stretch of I-95 in Volusia County, Professor Harris found that "more than 70 percent of the persons stopped ... were African American or Hispanic. African Americans, however, made up 12 percent of the driving age population in Florida." In addition, "80 percent of the cars searched belonged to African American or Hispanic drivers, and African American and Hispanic drivers were detained for twice as long as whites." Though the data cited here merely offers a rough outline of the issue, it nonetheless provides credible information about the problem of race based traffic stops as experienced by Black people and people of color.

As previously noted, the issue of racial profiling is not confined to traffic stops. Amadou Diallo was the victim of another method of racial profiling that is every bit as pervasive, aggravating and sometimes fatal as race based traffic stops – massive sweeps and stop and frisk operations in communities of color carried out by specialized, paramilitary units like the Street Crimes Unit in New York City. Almost without exception, police departments across the country have developed paramilitary units to employ military styled crime reduction strategies targeted at "high crime" areas in communities of color. In the May 31, 1999 issue of The Nation magazine, Christian Parenti reported that "throughout the nation, paramilitary SWAT or tactical policing - that is, law enforcement that uses the equipment, training, rhetoric and group tactics of war - is on the rise." Referencing the work of sociologist Peter Kraska, Parenti suggests that there are now more than 30,000 of these paramilitary units in the nation. These units are on the prowl routinely conducting what many civil rights organizations and police reform proponents believe are unconstitutional operations in communities of color.

Pumped up by its motto "We Own the Night," according to data published in the New York Times of February 15, 1999, the NYPD's infamous Street Crimes Unit (it was officers from this unit that killed Amadou Diallo) conducted some 45,000 reported stops and frisks from 1997-1998 in search of guns (It is important to note that these are reported stops. Officials of the NYPD admit that as many as 1 of 3 or 1 of 5 or even 1 of 10 stops are never recorded. Using the most conservative estimate of 1 of 3, this would mean that nearly 150,000 people were actually stopped by the NYPD from 1997 to 1998). Of the 45,000 reported stops, 10,000 were arrested and of those arrested 5,000 cases were dismissed. Therefore, 40,000 innocent people were stopped solely on the basis of the fact that they either lived in a "high crime" neighborhood or fit the "profile" of a "probable suspect." A random survey conducted by the New York Daily News March 26, 1999, in selected Black and Latino neighborhoods found that out of 100 people interviewed, 88 had been stopped and frisked by the NYPD.

Black people and people of color rightfully feel that the Constitution of the United States

should provide safeguards and protections against what appears to them to be abusive police behavior. A March 2000 Government Accounting Office Report submitted to Congressman James Clyburn, Chairman of the Congressional Black Caucus explicitly addresses this point. It states in part that “the Fifth and Fourteenth Amendments prohibit law enforcement officers from engaging in discriminatory behavior on the basis of the individual’s race. The Fifth Amendment protects against discrimination by federal law enforcement officers and the Equal Protection Clause of the Fourteenth Amendment protects against discrimination by state and local law enforcement officers... The Fourth Amendment guarantees the rights of people to be secure from unreasonable searches and seizures.” In addition, the report indicates that Title VI of the Civil Rights Act of 1964, the Omnibus Crime Control and Safe Streets Act of 1968 and the Omnibus Crime Bill of 1994 all have anti-discrimination provisions which should protect citizens from discriminatory behavior by police authorities.

There is virtually a unanimous view among public interest legal institutions and civil rights organizations, however, that widespread use of the kind of stop and frisk methods and sweeps noted above constitute a wholesale disregard and violation of the rights of people who are victimized by these tactics. It is tantamount to throwing the Constitutional and statutory protections cited above in the thrash can. Determined to set an example which would compel police authorities nationwide to respect these constitutional and statutory protections, on March 8, 1999, the Center for Constitutional Rights filed a federal civil rights class action law suit against the NYPD, seeking to shut the Street Crimes Unit down. The suit argues that the practices of the Street Crimes Unit violate the Fourth Amendment protection against unreasonable search and seizure and the Equal Protection Clause of the Fourteenth Amendment because of the use of racial profiling. A victory in this milestone case would strike a significant blow against the onerous practice of racial profiling in this country. However, litigation is only one component of what must be an all out assault on the unconstitutional use of race based strategies of policing, crime reduction and control.

In order to effectively confront the current epidemic of police brutality and misconduct there is a critical need to examine the root causes of the crisis. In that regard one of the most damaging aspects of the crisis is the criminalization and demonization of Black people in the mass media or what might be termed the “Willie Hortonization” of Black people. During the 1988 presidential campaign candidate George Bush seized on the early release of a Black Massachusetts convict named Willie Horton as the symbol of criminality and lawlessness in American society. After his release Mr. Horton committed another crime. Bush successfully used the figure dark and menacing looking Black man in his campaign advertisements to dramatize his get tough on crime, lock them all up and throw away the key platform for reducing crime. Over the past decade a flood of police stories of television and *Boyz in the Hood*, *Menace to Society* genre films supposedly depicting real life in the Black community have contributed to perception of young Black men as criminals in the minds of much of White America. Some analysts are convinced that criminalization and demonization of Blacks in the media has invariably had an impact on police officers in departments across the country. Consistent with the view, it follows that Blacks and people of color would be far more likely to be viewed as “suspects” on the highways, in retail shopping outlets and on the streets. The “split second decision” to see Amadou

Diallo's behavior on the stoop of his apartment building as "suspicious" rather than harmless may well have been a function of stereotypical imagery in the minds of the four White police officers who fired a barrage of forty-one bullets at a unarmed man. If Amadou Diallo had been White, many Blacks believe that the split second to determine that he had a wallet and instead of a gun would have gone in his favor.

While the criminalization and demonization of Blacks in the media is a major problem, in my judgment the most crucial factor fueling the current wave of police brutality and misconduct is the "War on Drugs." As the brothers and sisters in the "hood" are given to say, "the War on Drugs in a war on us." At the National Redeem the Dream March mobilized by Martin Luther King III and Rev. Al Sharpton to protest racial profiling, Congressman John Conyers, the Dean of the Congressional Black Caucus and Ranking Member of the House Judiciary Committee, observed that much of the increase in police misconduct is attributable to the War on Drugs.

As Timothy Egan states in an article in the February 15th edition of the New York Times: "... In the 1980s crack cocaine scared the country, and the criminal justice system has never been the same." The "scare" produced dramatic changes in policing strategies, sentencing policy in the courts and the growth of prisons and jails. Indeed, when I testified at a national summit on police community relations convened by Attorney General Janet Reno in June of 1999, I pointed out that what distinguishes the current epidemic of police brutality and misconduct from previous crises is racial profiling and the militarization of the police. The War on Drugs is in large measure predicated on the presumption that stopping drug trafficking in communities color is the key to "victory."

As noted previously, the adoption of the "war" paradigm of policing has led to the creation of para-military special units like narcotics squads, the Street Crimes Unit in New York, and heavily armed swat teams. The deployment of these para-military units in communities of color in cities and locales across the country and the targeting of people of color neighborhoods, with an emphasis on Black and Latino youth, is a key source of tension and conflict with the police. Racial profiling is an integral component of the War of Drugs. The use of race based traffic stops is part and parcel of a racist drug interdiction strategy widely utilized by policing authorities across the country. Black motorists are disproportionately stopped on I-95 because the police authorities in the east coast corridor have targeted Blacks and people of color as the primary suspects as a part of federal and state drug interdiction strategies. The GAO's report to Congressman Clyburn seems to suggest a direct connection between the War on Drugs and the escalation of traffic stops on the nation's highways. The report points out that "in 1986 the Drug Enforcement Administration (DEA) established Operation Pipeline, a highway drug interdiction program that trains federal, state and local law enforcement personnel on indicators that officers should look for that would suggest possible drug trafficking activity among motorists." The DEA denies that racial profiling is a component of the training.

However, the American Civil Liberties which closely monitors racial profiling and has filed a number of lawsuits seeking to have the practice abolished, thinks otherwise. In a 1999 report entitled "Driving While Black: Racial Profiling on Our Nation's Highways," the ACLU argues

that the training materials utilized by DEA construct a “drug courier profile” which implicitly predisposes officers to target minority motorists. The Progressive Policy Institute February 2000 Policy Report on racial profiling is even more explicit in this regard. Its Report states in part:

“... For several years police have known that African-American gang members from New York fly to Florida to buy cocaine. These gang members then use rental cars to transport cocaine back to various locations in the Northeastern United States. Aware of this pattern, police officers from various agencies have adopted an enforcement approach in which they select primarily cars driven by African-Americans males traveling northbound on Interstate 95 to stop and search for drugs. While these stops have occasionally led to seizures of illegal drugs, they have also resulted in individuals who are not involved in illegal activity being stopped and detained.”

It is of course that last sentence that constitutes the essence of the unconstitutional nature of racial profiling. As the statistics on the Street Crimes Unit in New York indicate, huge numbers of innocent people are subjected to the indignity of being stopped and frisked on the basis of the fact that some members of their race or ethnic group have been identified as participants in illegal activities. Every member of a group is rendered a “suspect” simply because some members of the group may be involved in wrongdoing. The presumption of innocent is therefore cast aside in the effort to win the “war.” As the Progressive Policy Institute’s Report notes, “the vast majority of serial killers are white. Yet no one would argue that because all white people are potential serial killers, they should be subject to random police stops.” Not only would one no one make this argument, many Blacks feel that if Whites were subjected to such treatment there would be a national uproar so ferocious that a change of policy would be virtually instantaneous. In fact one of the sources of tension in the Black community results from the belief that the Black people are the primary targets of the War on Drugs even though there is substantial data which suggests that drug usage and trafficking is higher among Whites.

Finally, in terms of the root causes, it is extremely important to situate the current crisis of police brutality and misconduct within a social, economic and political context. Bluntly stated, with the rise to prominence and power of conservatives in our country, the War on Drugs has replaced the War on Poverty. As Jerome Miller, President of the National Center on Institutions and Alternatives asserts in an article entitled “Race, Imprisonment and Oppression” in the February 28th edition of the Boston Globe, “the bottom line is that crime policy has become a substitute for public policy ... Over the past 20 years there has been a terrible propensity on the part of politicians to deal with difficult economic, social, family and personal problems with a meat axe approach to the criminal justice system.” The practice of racial profiling, more police and prisons has been instituted as a substitute for policies which promote social, economic and racial justice for Black people and people of color. What large numbers of Blacks and people of color painfully experience in various aspects of their daily lives is racial profiling instead of racial justice. This formula of ill conceived public policy and policing practices has produced a highly combustible chemistry in communities of color throughout the nation.

Obviously the crisis of police brutality and misconduct with the hideous and ever present face of racial profiling must be addressed. Within a democratic society, the institutions of

governance and security must gain and maintain the respect, confidence and trust of all of the people who live in that society. The sustained erosion of confidence in these institutions will inevitably lead to tensions, conflict and the eventually disintegration of civil society. More than four decades after the Kerner Commission Report on the civil disorders of the 60's, America has yet to fully grasp the significance of its findings as it relates to police misconduct and its admonition that this country could not long prevail as two nations, separate and unequal. As we begin a new century and millennium, it is time that this nation act decisively to heal the deep divide between police authorities and people of color.

The very first order of business as it relates to the issue of racial profiling is to pass national legislation that will mandate the collection of data on traffic stops. According to the GAO Report to CBC Chairman Clyburn, as of October of 1999 some 15 states launched initiatives designed to address the issue of racial profiling. As of that date North Carolina and Connecticut had actually passed legislation mandating the collection of data on traffic stops. Eleven states had introduced similar bills. In 1999 President Clinton issued an Executive Order directing federal law enforcement agencies to compile data on race and sex of persons involved in traffic stops. At the August 26 Redeem the Dream March, the Rev. Al Sharpton, Martin Luther King III and other civil rights leaders called upon President Clinton to go a step further and ban racial profiling by federal law enforcement agencies.

While all of these efforts and recommendations are commendable, the passage of the Traffic Stop Statistics Act, authored by Congressman John Conyers, is imperative. Thus far, however, there is an unsettling lack of awareness about the bill among police reform and accountability organizations and advocates around the country. There is an urgent need to build a solid coalition to conduct a massive educational campaign in order to mobilize the necessary congressional support to pass this incredibly important bill. The same applies to the Law Enforcement Trust and Accountability Act which was also authored by Congressman Conyers. Taken together these two pieces of vital legislation would make significant strides towards addressing the crisis of police brutality and misconduct in our nation in a meaningful way.

Second, and of no less importance, police reform and accountability organizations and advocates must continue to insist on a new model of policing in our nation. Last year the Center for Constitutional Rights hosted a National Symposium on Community Based Constitutionally Compliant Policing. The Symposium was designed to focus on new models of policing that stress the meaningful involvement and partnership of people in communities with police authorities. There must be a fundamental shift away from the para-military models of policing that have been adopted by so many police departments in the country towards the adoption of community based models where community people have an influential and effective role in assisting the police to devise and implement strategies for security and crime reduction in their neighborhoods.

Third, organizations like the Center for Constitutional Rights and the American Civil Liberties Union must maintain the legal offensive against racial profiling and other forms of police

misconduct by continuing to file civil rights lawsuits which seek damages and injunctive (policy) relief within the judicial arena. Legal strategies and litigation can have the effect of complementing community based struggles for police reform and accountability while simultaneously increasing the cost that various jurisdictions must pay for engaging in or tolerating discriminatory policing practices and/or failing to effectively address issues of police brutality and misconduct. In this regard, we must be clear that there is no substitute for the kind of persistent community based activism which so many organizations have utilized to successfully bring the issue of police brutality and misconduct to the forefront of national attention.

Finally, the Congressional Black Caucus, the civil rights/human rights community and advocates for police reform and accountability must keep their eyes on the prize in terms of the root causes of the crisis of racial profiling, police brutality and misconduct. The prevailing policy of substituting policing, prisons and the death penalty for social, economic and racial justice must be reversed. Our collective voices must be raised to proclaim enough is enough! We must demand a moratorium on more police, prisons and the death penalty while decisively reaffirming our commitment to the dream of an Economic Bill of Rights that Martin Luther King was striving to have this nation enact at the time of his death. As much as anything, the crisis of racial profiling, police brutality and misconduct is a crisis of misguided values and misplaced national priorities. I end this section of the CBC Report on Law Enforcement Misconduct with the concluding passage from my article in Police Brutality, an anthology on this issue edited by Jill Nelson.

“It is not enough ... to simply train police to function differently in our communities as they pursue the mission of maintaining peace and security. The familiar slogan, no justice no peace is in reality a formula for crime reduction and the creation of wholesome and secure communities. Unless and until this nation makes a firm and irreversible commitment to ensure that all of the people who live in this society will enjoy access to the same social and economic rights — good jobs, quality education, housing, health care, clean environment — instability, violence and crime will continue to be a problem which no amount or method policing can contain for long. As community based organizations, civil rights/human rights organizations and public interest advocacy groups struggle against police brutality and misconduct, the fight to create a new paradigm of policing must necessarily be seen as a part of the broader struggle to create a more just and humane society. Therefore, the demand for police reform and accountability must necessarily be coupled with the demand for public policies which promote social, economic and racial justice. Our goal must be nothing short of creating a just, humane and peaceful society. If there is no justice, there will be no peace in these United States of America.”

Ron Daniels is Executive Director of the Center for Constitutional Rights, which has played a leading role in bringing the crisis of police brutality and misconduct to the nation's attention. His nationally syndicated column Vantage Point appears in more than one hundred African American and progressive newspapers nationwide and is regularly featured in The Black World Today (www.tbwt.com) an international online newspaper which deals with a range of issues and concerns of relevance to Black people worldwide.

Police Use of Excessive Force

by Allison Collins

Police brutality is one of the most serious, enduring, and divisive human rights violations in the United States. Each year, thousands of allegations of police abuse are filed across the country. While videotaped police actions, such as the beating of Thomas Jones by Philadelphia police officers or the apparent excessive use of force by Los Angeles police officers to disperse political protesters, displayed the problem vividly during recent months, most incidents of alleged police abuse take place without public scrutiny. Those low-profile, more typical cases require that investigative and disciplinary systems are in place, with or without public outcry, that guarantee that police officers who violate departmental rules, or the law, are held accountable.

Police officers engage in unjustified shootings, severe beatings, fatal chokings, and unnecessarily rough physical treatment in cities throughout the United States, while their police superiors, city officials, and the Justice Department fail to act decisively to restrain or penalize such acts or even to record the full magnitude of the problem. Habitually brutal officers usually a small percentage of officers on a force may be the subject of repeated complaints but are usually protected by their fellow officers and by the shoddiness of internal police investigations. A victim seeking redress faces obstacles at every point in the process, ranging from overt intimidation to the reluctance of local and federal prosecutors to take on brutality cases. Severe abuses persist because overwhelming barriers to accountability make it all too likely that officers who commit human rights violations escape due punishment to continue their abusive conduct.

We recognize that police officers, like all human beings, are fallible, and that the situations they confront are often dangerous and require quick decisions. Nevertheless, the cost of pervasive police abuse is monumental in the tens of millions of dollars in damages that cities pay every year in response to victims' civil lawsuits; in police criminality and the corruption of ideals of public service; and in the ensuing public mistrust that, particularly in communities of racial minorities creates a rift between the police and the public.

Race continues to play a central role in police brutality in the United States. Indeed, despite gains in many areas since the civil rights movement of the 1950s and 1960s, one area that has been stubbornly resistant to change has been the treatment afforded racial minorities by police. In the cities we have examined where such data are available, minorities have alleged abuses by police more frequently than white residents and far out of proportion to their representation in those cities. Police have subjected minorities to apparently discriminatory treatment and have physically abused minorities while using racial epithets. Each new incident involving police mistreatment of an African-American, Hispanic-American or other minority and particularly those that receive media attention reinforces a belief that some residents are subjected to particularly harsh treatment and racial bias.

Since the mid-1960s, incidents of real or perceived police abuse have sparked civil unrest,

including costly and violent uprisings, and a lingering distrust between racial minority communities and the police. The thirty-year-old findings of the National Advisory Commission on Civil Disorders (also known as the Kerner Commission), published in 1968, are still relevant:

Almost invariably the incident that ignites disorder arises from police action. Harlem, Watts, Newark and Detroit all the major outbursts of recent years were precipitated by routine arrests of Negroes by white officers for minor offenses....[T]o many Negroes police have come to symbolize white power, white racism and white repression. And the fact is that many police do reflect and express these white attitudes. The atmosphere of hostility and cynicism is reinforced by a widespread perception among Negroes of the existence of police brutality and corruption, and of a "double standard" of justice and protection one for Negroes and one for whites.

Virtually the same conclusions relating to police-community tensions are found in the 1991 Christopher Commission report on Los Angeles, published in the aftermath of the notorious beating of Rodney King. The report stated: "Within minority communities of Los Angeles, there is a widely-held view that police misconduct is commonplace. The King beating refocused public attention to long-standing complaints by African-Americans, Latinos and Asians that Los Angeles Police Department (LAPD) officers frequently treat minorities differently from whites, more often using disrespectful and abusive language, employing unnecessarily intrusive practices such as the 'prone-out,' and engaging in use of excessive force when dealing with minorities."

Nevertheless, most police departments examined continue with "business as usual" until scandals emerge. Those who claim that each high-profile abuse incident is an aberration, committed by a "rogue" officer, are missing the point: police brutality persist in large part because the accountability systems are so defective.

If the barriers to accountability for police brutality were removed, the number and severity of abuses that officers commit would no doubt be greatly reduced. Yet the administrative and legal procedures that should guarantee accountability are seriously flawed and have been extremely resistant to change.

Victims of police brutality have many options for reporting abusive treatment by officers but little chance of seeing those officers punished or prosecuted. Citizen review agencies are often overwhelmed and understaffed; reporting an abuse to such an agency may, eventually, lead to an investigation, but it is unlikely to result in the offending officer's being appropriately punished. Filing an abuse complaint with a police department's internal affairs unit can be intimidating, and police departments' excessive secrecy usually means that the complainant learns nothing about any disciplinary action that may have been taken against the accused officer. Filing a civil lawsuit is an option for some victims, but success rates vary widely from city to city, and typically it is the municipality rather than the officer that is held financially responsible. Also, most victims of abuse correctly perceive that criminal prosecution, either locally or federally, is rarely an option except in highly publicized cases. As a result, resentment and frustration often exacerbate the original abusive treatment. Because it is an open secret that oversight procedures for police abuse often do not function effectively, many abuse victims do not even bother to

pursue a complaint at all. This series of factors results in violent officers remaining on the job.

In examining abuses committed by police officers and barriers to investigation, redress, and prosecution, we found common shortcomings. These failings fall into three basic categories: lack of effective public accountability and transparency, persistent failure to investigate and punish officers who commit violations, and obstacles to justice. Reform at all levels — departmental, municipal, and federal are necessary to secure real change.

Public Accountability and Transparency

Reforms to curb abusive police conduct tend to occur only when the local news media or high-profile court cases focus public attention on the problem. That this happens relatively seldom, in comparison with the incidence of ill-treatment, is partly due to the lack of information supplied to the public regarding allegations of police brutality.

Citizen review agencies, tasked with monitoring and, in some cases, investigating cases of excessive force, are often undermined from all sides: by police unions and others who attack them, by city officials who under-fund them, and by police officers who refuse to cooperate with them. Moreover, the limited mandates of many civilian review agencies discourage public involvement or support. Some citizen review agencies do not produce public reports, while others provide incomplete information to the public. None of the reports we examined indicates whether an officer was disciplined in a specific case or prosecuted in a criminal proceeding. Although these agencies are the point of greatest transparency in the system, their reports almost never include even the most basic facts on specific cases that are of interest to the public.

Police internal affairs units, the principal departmental investigators of physical abuse allegations, operate as a rule with excessive secrecy. The public, to whom police departments should be accountable, thus cannot ascertain whether, in fact, the police are policing themselves. Indeed, complete information about the operations and activities of internal affairs units is nearly impossible to obtain. Essential information, such as the number of deaths in custody in a particular department, is generally withheld or is provided in a manner that is unhelpful in determining responsibility for the death. While police representatives claim privacy issues are the reason for protecting information about investigations or disciplinary hearings, police departments also resist providing information even when relevant names or other identifying information is excised.

Local prosecutors are no more transparent. When police officers are prosecuted for brutality-related crimes, it is usually under state criminal charges of murder, manslaughter, assault, battery, or rape. Comprehensive statistics are generally not made available to the public regarding prosecution efforts against police officers, reasons for prosecutorial decisions, or prosecutorial success rates in these cases. Without information about the number of police officers prosecuted, which does not appear to be maintained by most district attorneys' offices, it is impossible to know with certainty whether local attorneys are appropriately handling cases (and, consequently, whether federal prosecutors need to initiate their own investigations).

Federal data are hardly more useful. Federal prosecutors do track the numbers of civil rights complaints filed with the Justice Department, as well as the number of ensuing indictments and prosecutions, but two different offices at the Justice Department maintain parallel and incompatible databases and the Federal Bureau of Investigations maintains its own distinct data on civil rights investigations so that no one office is able to provide the public with complete information regarding complaints against, and prosecutions of, police officers in a particular U.S. district or city. Nor does the Justice Department provide public analysis of the imperfect statistics it does have, such as to account for increases or decreases in alleged cases of brutality in any category or region.

Six years after Congress called on the Justice Department to produce an annual nationwide report on the use of excessive force by police officers, that report is still awaited. Reports claiming to respond to the congressional mandate have been produced, but they ignore the crucial question that Congress asked the Justice Department to answer -- how much excessive force is being used, and is the problem increasing or decreasing? Without this basic information requested by Congress, and more, it is extremely difficult, if not impossible, for governments and police departments to craft enlightened policies that balance the importance of public order with the absolute requirement that the state protect anyone in its jurisdiction from human rights abuses at the hands of police officers.

Investigation and Discipline

External pressures are essential to force police leaders to improve chain of command control of officers who commit abuses. But police brutality will subside only once superior officers judge their subordinates and are judged themselves on their efforts to provide sufficient and consistent oversight, appropriate administrative discipline and, when necessary, punishment of the perpetrators of abuse. There is no substitute for police leadership to make clear to new as well as veteran officers that brutality is not acceptable. The highest-ranking commanders must also hold to account superior officers who are found to have ignored or tolerated abuses committed by officers under their command. The current, longstanding and pervasive tolerance of abuse within police forces, which has been noted by specialized commissions, remains a crucial impediment to reducing police brutality.

Internal affairs divisions must be central to any examination of how police departments deal with abusive behavior by officers. Therefore, it is alarming that no outside review, including our own, has found the operations of internal affairs divisions satisfactory. In each city we examined, internal affairs units too often conducted substandard investigations, sustained few allegations of excessive force, and failed to identify officers against whom repeated complaints had been filed.

In many cases, sloppy procedures and an apparent bias in favor of fellow officers combine to guarantee that even the most brutal police avoid punishment for serious abuses until committing an assault so flagrant, so unavoidably embarrassing, that it cannot be ignored. Three major investigations and reports into police department misconduct in recent years (in Boston, Los Angeles, and New York) harshly criticized the operations of internal affairs units, blaming them for a climate of impunity that fostered brutality and corruption.

Even when police departments do try to hold officers who commit abuses accountable, many avoid dismissal or severe disciplinary sanctions because officers are provided with many opportunities to fight punishments; in many cases they prevail due to poor performances by departmental prosecutors, thus sending a signal to fellow officers that they may not be held accountable no matter their actions.

Police officers accused of using excessive force or other misconduct are often protected by special law enforcement officers' "bills of rights," providing for specific protections for officers accused of misconduct. These special statutes have been initiated by police unions and their supporters in state legislatures, and in many states help to shield officers from appropriate punishment. Some of the "bills of rights" allow, for example, for the purging of officers' personnel files of all but sustained complaints; even the rare sustained complaint may be purged after a set number of years in some states; these files are required to appropriately discipline or dismiss officers in the future. The police unions, which provide legal counsel for accused officers, also negotiate contracts for police officers that make discipline or dismissal of officers difficult for police officials to accomplish even in cases where sanctions are clearly appropriate. While officers are entitled to full due process safeguards, many of the protections they currently enjoy are exceptional and, in practice, undermine police leaders' efforts at accountability.

In some cities, police officers are afforded extensive protections as civil servants (government employees) so that strong disciplinary sanctions, including dismissals, are often weakened or reversed. In some cases, officers appeal directly to the courts when they are dismissed. In other cities, arbitration a process relied upon to resolve disputes between officers and the city typically serves to stack the deck further in the officers' favor. When a police department seeks to dismiss an officer, he or she may appeal the dismissal order and an arbitrator is appointed to decide whether the punishment should stand or not. The person chosen as the arbitrator is agreed upon between the police union and the city, but in practice the arbitration process usually favors the officer seeking reinstatement. Police unions provide experienced attorneys to represent the officer, while cities are often represented by far more junior and inexperienced attorneys who argue to uphold the dismissal. There have been many cases involving officers against whom repeated brutality complaints have been sustained, where the police department has sought to dismiss the officers, yet they have been reinstated, often due to minor technicalities, by arbitrators.

The apparent lack of collective official will to control officers who commit abuses and to require all police forces to abide by the law and the police departments' own policies is evident in the lack of linkage among various entities responsible for overseeing the police and for criminally prosecuting officers who break the law. Although prior to filing a civil lawsuit many plaintiffs will have already filed a complaint with the police department's internal affairs unit or citizen review agency, this is not always the case. When a complaint has not been filed, the filing of a civil lawsuit alleging violations by police should trigger an investigation by the relevant civilian review agency or internal affairs division; yet this occurs in a small percentage of cities. Some city attorneys "notify" the relevant internal affairs unit, but no investigation is automatically initiated, and in other cities, the city attorney's office fails to notify the department in a formal way

at all.

Indeed, in most cities, even when the municipal government pays out large settlements or jury awards to the victim as a result of a civil lawsuit for brutality, there may not be an investigation into the incident by the police department. There may not even be an indication in the officer's personnel file that such a lawsuit was filed or settlement or jury award paid (or, if there is an indication, it may have no negative effect on his or her chances for promotions or positive performance reviews). Similarly, citizen review agencies do not track civil lawsuits in most cases. Thus, the wealth of information normally found in such lawsuits, and the enormous cost of abuse to city budgets (and thus the taxpayers), go unexamined.

Obstacles to Justice

From filing a complaint to pursuing legal recourse, the victim of police abuse is faced with unnecessary difficulties. Police departments and citizen review units, as a rule, will not initiate an investigation into alleged police brutality without a formal complaint. Yet there are serious flaws in the way complaints from the public are initially received or forwarded for action. Filing a complaint is unnecessarily difficult and often intimidating, whether the person seeking to complain deals with a precinct sergeant, an internal affairs investigator or, to a lesser extent, a civilian review agency. Complainants may be met with hostile officers who do not wish to receive a complaint about a colleague. They may be dissuaded from filing a complaint by threats or other techniques. Officers receiving complaints may suggest that they do not believe the complainant, or ask intimidating questions about the complainant's criminal history or charges that may be pending as a result of the arrest that gave rise to the abusive incident. Most police departments prohibit attempts to impede or dissuade a complainant from filing a complaint, yet supervisors rarely confront or punish officers who do so. As noted above, even if a complaint is filed, often the complainant is not advised about whether it has been pursued and the results of any investigation or disciplinary sanction against the subject officer.

Criminal prosecutions are difficult and, in isolation, generally do not lead to improvement in police practices. Police abuse experts warn that when the criminal law is used as a substitute for departmental standards that is, standards built into a police department's system of discipline and promotion the results are almost invariably disappointing. Stricter internal discipline is essential if a pattern of police abuse is to be interrupted. That said, however, it is clear that local prosecutors must do more to hold criminally abusive officers accountable in order to redress serious crimes, show that police are not above the law, and restore public confidence in the police.

There are many reasons why prosecutors choose not to pursue a case against an allegedly brutal police officer. The traditionally close relationship between district or county attorneys and police officers, who usually work together prosecuting criminals, militates against the vigorous pursuit of police abuse cases. Because it is hard to grand juries (bodies that review a prosecutor's evidence in a case and decide whether or not to indict) and trial juries that a police officer did not merely make an understandable mistake but actually committed a crime, local prosecutors tend to shy away from these cases.

When local prosecutors fail to pursue brutality cases, it is the responsibility of the federal government to prosecute. Specifically, the Criminal Section of the Civil Rights Division of the Justice Department is responsible for prosecuting these cases under federal criminal civil rights statutes (18 U.S. Code, §§ 241 and 242). Yet federal prosecutors almost never pursue even strong cases, due in part to the high legal threshold required to win such cases (prosecutors need to prove the accused officer's "specific intent" to deprive an individual of his or her civil rights) and a shortage of resources (indicating that civil rights prosecutions of law enforcement officers are a low priority). Of the thousands of complaints the Civil Rights Division receives annually, it prosecutes only a handful. For example, during Fiscal Year 1999, approximately 12,000 civil rights complaints, most alleging police abuse, were submitted to the Justice Department. During the same year, just thirty-one officers were either convicted or pled guilty to crimes under the civil rights statute stemming from complaints during 1999 and previous years. Although federal prosecutors claim they play a "backstop" role in prosecuting officers, it is notable that even when local prosecutors decline prosecution or do a poor job in presenting a case, federal prosecutors often fail to step in.

Absent administrative or criminal accountability, many police abuse victims or their families rely on privately filed civil lawsuits for redress. In practice, private civil lawsuits usually allow police departments to continue doing business as usual. Some victims have succeeded in obtaining compensation from municipalities, and a small percentage of civil lawsuits have forced police departments themselves to accept liability for ill-treatment, leading to reforms in training or flawed policies. But because most civil jury awards are paid by cities, most police departments acknowledge that they do not always track civil lawsuits, though an officer's behavior may have cost a city hundreds of thousands, or millions, of dollars in payments to victims. Moreover, even when a lawsuit demonstrates serious violations, there is usually no effort by police supervisors to consider civil lawsuits in an officer's performance evaluations. In the end, taxpayers are paying at least twice for officers who commit abuses, once for their salaries and again to pay victims of their abuse, while often getting little legitimate police work or protection from them.

When all of these systemic shortcomings in dealing with abuse by police officers are combined, it becomes understandable why officers who engage in brutality have little reason to fear they will be caught, punished, or prosecuted.

One area where the federal role in checking police abuse has intensified has been the Justice Department's enhanced powers to conduct investigations to determine whether there is a "pattern or practice" of abuse in particular police departments and to bring lawsuits ordering reforms to end abusive practices. Two of the country's largest police departments, the Los Angeles Police Department and the New York City Police Department, have been investigated by the Justice Department under these powers, and are now in the midst of negotiating agreements to avoid injunctive action by the Justice Department. Other police departments have also been investigated under these powers.

In New York City, several high-profile incidents involving the NYPD, including the assault on Abner Louima in August 1997, and the February 1999 shooting death of Amadou Diallo, who

The wide-ranging Rampart scandal revealed poor management and practices by LAPD officials and the district attorney's office, and lax oversight by the civilian police commission. It also demonstrated that many of the key Christopher Commission reforms from 1991 had yet to take hold, leading to ineffectual monitoring of officers' behavior.

In a May 2000 letter to the Los Angeles City Attorney, the Justice Department stated that it had found, as a result of its investigation, that "the LAPD is engaging in a pattern or practice of excessive force, false arrests, and unreasonable searches and seizures in violation of the Fourth and Fourteenth Amendments to the Constitution." Furthermore, the Justice Department found that "serious deficiencies in City and LAPD policies and procedures for training, supervising, and investigating and disciplining police officers foster and perpetuate officer misconduct." The Justice Department stated its intention to work with city officials to enter into a consent decree that would ensure reforms would be forthcoming. A key area of focus for the Justice Department was the LAPD's long-term failure, despite Justice Department funding, to implement a comprehensive risk management system to identify patterns of at-risk conduct, including an "early warning system" to identify officers who show a pattern of citizen complaints, citizen injury or uses of force.

Recommendations

Police, state, and federal authorities are responsible for holding police officers accountable for abusive acts: police officials must ensure that police officers are punished when they violate administrative rules, while state and federal prosecutors must prosecute criminal acts committed by officers.

--Federal Aid Policy: It is common under federal law to condition a grant to state and municipal entities on compliance with provisions of federal law. We believe that such conditionality is appropriate in the case of the rights to life, physical integrity, and humane treatment of persons in the United States - rights protected under international treaties, the U.S. Constitution, and under U.S. civil rights law. Directly and indirectly, local police departments receive billions of dollars annually in federal grants to support training, community relations, personnel hiring, and equipment purchases.

Congress should pass legislation that would withhold these funds from police departments or receiving cities unless they provide data regarding the use of excessive force - data that the Justice Department has failed to compile even though Congress instructed it to do so in 1994. Congress should also pass legislation that would withhold grants if it can be shown that the police department requesting the funding fails to fully respect human rights. Specifically, when the Justice Department, as part of its "pattern or practice" investigations, identifies widespread rights violations in a police department, federal funding to that department should be ended if the police department fails, or demonstrates its unwillingness, to implement reforms.

Congress should also condition federal funds on all recipient police departments' demonstrable progress in adopting the reforms set out in agreements already made by the Justice Department with two police departments (Steubenville, Ohio and Pittsburgh, Pennsylvania) under the "pattern

or practice" review, such as to create and utilize "early warning systems" to identify officers who are repeatedly the object of citizen complaints and including civil lawsuits against officers as part of the "early warning" tracking system; to develop and implement a use of force policy that is in compliance with applicable law and current professional standards; to require officers to file appropriate use of force and other reports; to conduct regular audits and reviews of potential racial bias, including the use of racial epithets by officers; to apply appropriate discipline following sustained complaints; and to appoint an independent auditor to ensure improvements. Since the Justice Department has endorsed these standards for some departments as essential for improved accountability, all police departments should be rewarded for taking demonstrable steps toward implementing similar procedures.

--The Justice Department's Civil Rights Division, particularly its Criminal Section and Special Litigation Section, should be funded adequately so that it can fulfill its mandate. The funding should be in proportion with the growth of law enforcement agencies and their personnel who are subject to investigation or prosecution by the division.

--Due to the common reluctance of local district or county attorneys to prosecute police officers accused of brutality, each state should create a special prosecutor's office to handle criminal prosecutions of officers accused of criminal acts, including cases of brutality and corruption. The special prosecutor's office should also investigate district attorneys who, for extended periods, knowingly utilize evidence and testimony of notoriously abusive and corrupt officers and take no steps to prosecute them. Too often, scandal-ridden police departments, and usually low-level officers, bear the brunt of responsibility while higher-level officials escape scrutiny altogether.

--Police officials must address seriously the code of silence that undermines efforts to hold police accountable for abuse. They must provide consistent positive reinforcement for those who report misconduct and punishment for those who fail to do so. Supervisors should stigmatize abuse, not those who report it.

--Police departments must establish and utilize effective early warning systems to identify officers who repeatedly abuse the public they are sworn to serve, as well as programs for officers who are having emotional or other problems and need assistance to avoid committing a serious abuse. Early warning systems should take into account all complaints, use of force reports, civil lawsuits, and internal police management information concerning an officer. The threshold for triggering a review of an officer with repeated complaints or civil lawsuits should be low enough to ensure that officers receive attention and are handled appropriately before they repeatedly use excessive force against the public.

--Civil lawsuits should be paid from the police department's budget, not out of general city funds as is usually done. In this way, police departments would have a strong financial incentive to deal appropriately with officers who are frequently the subject of civil suits. Amounts, incidents, and trends in police misconduct lawsuits should be used in policy planning.

Civilian Review Boards

POLICING THE POLICE:

The Community's Role In Shaping Effective Civilian Oversight by Monique L. Dixon

Public reactions to incidents such as the Rampart police scandal in Los Angeles and the police shooting of unarmed Amadou Diallo in New York City make clear that policing in this country suffers a serious crisis in public confidence. Communities of color, in particular, distrust police. Their skepticism "has a long history – it is reported that the nation's first police force was developed in the South to prevent disruptions by slaves" – and has only worsened during this age of race-based traffic stops by police, also known as racial profiling or "driving while black or brown." Responding to the problem of eroding community and police relations and the need for police accountability, cities nationwide have created civilian oversight procedures that allow the public to participate in the investigation of citizen complaints against police.

But, when it comes to civilian oversight, "one size does not fit all" communities. Currently, there are over 90 different civilian review procedures in this country, that vary in structure and investigative power. Civilian oversight entities may be a part of the police department or independent. Their investigative powers range from auditing systems where citizens review and comment on the thoroughness of police investigations, to external review of complaints where a civilian board or community ombudsman accepts and investigates citizen complaints and are granted subpoena power to compel additional testimony or documents when necessary.

Researchers have found, however, that all too often citizen review procedures are under-funded and under-staffed making them unable to effectively fulfill their missions. Professor Samuel Walker, a leading expert in the area of civilian oversight of police, believes that many citizen review procedures are experiencing problems because they have not had a clear vision of their role and mission. This blurred vision occurs, according to Walker, because community activists and government officials have failed to study citizen review procedures in other cities, borrow the best practices and learn from their mistakes.

Walker asserts further that effective citizen review procedures must define their role in proactive terms. They should have a broad mission to improve policing and engage in activities that will improve both the complaint process and the quality of policing.

Expanding on Prof. Walker's position, this paper posits that persistent community action in the creation and implementation of citizen oversight procedures is key if these procedures are to be utilized effectively. Mobilized communities have been the catalyst for the creation of civilian oversight mechanisms, and must continue to be a strong force when faced with oversight

was unarmed, and the March 2000 shooting death of Patrick Dorismond, also unarmed, raised concerns that NYPD officers were not being adequately trained, supervised, or disciplined. Following the assault on Abner Louima in August 1997, the Justice Department initiated an inquiry of the NYPD's management.

During 1999, some trends were favorable and it appeared that the federal scrutiny may have played a role in the improvements. The number of police shootings decreased to 31, from 43 in 1998, yet the controversial shootings of several unarmed men overshadowed news of this reduction in shootings.

The number of brutality complaints filed with the Civilian Complaints Review Board (CCRB) and new civil complaints also declined. During 1999, the CCRB received a total of 2,117 allegations of the use of excessive force by officers, compared to 2,440 in 1998; and down dramatically from 3,510 allegations of excessive force in 1995. The number of new civil complaints filed alleging police abuse also appeared to decline during the last fiscal year. Still, during fiscal years 1998 and 1999, New York City taxpayers paid plaintiffs in civil lawsuits alleging police misconduct approximately \$68 million.

The department's disciplinary system remained troubled. A July Commission to Combat Police Corruption report found that the NYPD's disciplinary system remains seriously flawed. The report found that the conviction rate on police disciplinary charges was dropping, and that cases were unnecessarily delayed and poorly presented at departmental trials. What's more, NYPD law students and inexperienced attorneys were prosecuting most of the cases, according to the report. In another review, the Public Advocate's office reviewed NYPD records and found that out of 664 officers the Civilian Complaint Review Board (CCRB) cited for misconduct, only six were dismissed from the force, about a third were not disciplined at all, and about half received very light punishment. These shortcomings, in effect, allow some of the few officers brought up on charges escape appropriate punishment.

In Los Angeles, the Justice Department conducted a "pattern or practice" inquiry focusing on the origins of the Rampart scandal. The anti-gang unit based in the LAPD's Rampart Division brutalized residents, and framed some suspects. The officer at the center of the scandal, Rafael Perez, provided information about his and other officers' misconduct after he was caught stealing cocaine from a police evidence room and sought a lighter prison sentence.

In one case, Javier Ovando was shot, allegedly by Perez's partner, and paralyzed and then served three years in prison. The officers allegedly framed him and placed a gun at the scene to make it appear Perez had been armed. Approximately 100 other convictions have been overturned as a result of the officers' tainted testimony and evidence that sent city residents to prison. Official estimates for the costs to the city and county of Los Angeles in residents' civil lawsuits for excessive force, false imprisonment and other violations -- combined with the costs to investigate and review all cases related to the expanding number of officers involved in the scandal -- is predicted in the \$100's of millions.

procedures that do not meet a community's needs. This paper looks at promising community activities in four cities that have led to the formation of effective or reformation of ineffective citizen review procedures.

Portland, Oregon – Community Mobilization Creates Leverage for Reform

In 1982, the City of Portland, Oregon created a civilian oversight agency, the Police Internal Investigations Auditing Committee ("PIIAC or Committee"). Like many civilian review agencies around the country, PIIAC suffered from several inherent weaknesses that have prevented it from reaching its full potential. However, recent community mobilization appears to be on the verge of resulting in significant improvements in Portland's civilian oversight procedures.

Events in the early 1980's leading to the creation of PIIAC include a racially-charged prank by two Portland Police Bureau (PPB) patrol officers who left dead opossums at a black-owned Portland restaurant. The officers were fired, but later reinstated after an arbitrator ruled that the punishment was too harsh. Growing community concern about the police department's internal investigation of citizen complaints led the City Council to propose the ordinance that formed PIIAC. Despite zealous opposition by the police union, voters approved the measure.

PIIAC is comprised of five members of the City Council who make up the auditing committee, thirteen citizen advisors who are drawn from neighborhood associations, and one staff member trained in doing investigations. The citizen advisors and staff person assist Committee members in performing their duties. The Committee meets once a month to hear the appeals brought by citizens who are not satisfied with the results of the PPB's internal investigations. PIIAC can not conduct independent investigations. Instead, the Committee reviews and comments on the thoroughness of the police internal investigation, and makes recommendations on whether further examination of citizen complaints is needed.

In addition, PIIAC is authorized to conduct random audits of internal investigation files and review - but not re-open - certain closed investigations (e.g., use of force). The Committee is authorized to prepare quarterly reports that identify trends of police performance and suggest recommendations for policy and procedure reform.

This last element of PIIAC has been recognized by experts as a proactive form of citizen oversight because it systematically audits internal investigations of the police department and recommends changes. Despite this positive feature, Portland residents, have complained that when PIIAC reviews citizen appeals, the Committee tends to support the findings of the police department's internal investigations.

For example, it is reported that in 1999, PIIAC sent no cases back to the police internal affairs division for further investigations. Some believe that PIIAC members are hesitant to overrule a police department finding because members of PIIAC lack sufficient training

on how to properly review police investigations. In a recent press report, a PIIAC member explained that "There are so many things that we do not understand . . . We are not doing our job."

Additionally, many Portlanders believe that PIIAC is inherently weak because the statute creating the Committee explicitly prohibits PIIAC from accepting and investigating citizen complaints, leaving only the police department as the depository for these complaints. Finally, community members are dismayed that PIIAC is barred from reviewing officer-involved shootings.

The community's frustrations with PIIAC led to a recent campaign to create an independent civilian review board. The NAACP, National Lawyers Guild and other community groups formed a coalition which met to develop strategies for addressing the City's growing problems with racial profiling and other incidents of disparate treatment of minority groups by police. Part of this strategy was a campaign called Portland Accountability Campaign 2000 in which community organizers made a failed attempt to obtain enough signatures to place an initiative on the November ballot that would have created an independent citizen review board. Additionally, the coalition conducted a local ad campaign detailing the public's overwhelming demand for effective civilian oversight of the police department.

Under the pressure of these campaign efforts, the Mayor of Portland invited the NAACP, National Lawyer's Guild and other community groups to develop a work group in May 2000. The group has been charged with presenting recommendations to improve PIIAC, and is scheduled to present its recommendations to the Mayor during Fall 2000. These recommendations are likely to include the creation of an independent civilian review board with subpoena power, and strategies for strengthening the PIIAC.

While the final outcome of these community-based campaigns is yet to be seen, Portlanders have successfully organized and have clearly expressed to the City government that PIIAC, in its current form, is unacceptable and more effective civilian oversight is needed.

Boise, Idaho - A Rash of Police Shootings and Community Pressure Results in a Potentially Effective Civilian Oversight Process

Boise, Idaho is a late bloomer when it comes to the creation of civilian oversight of police. In 1999, the City Council created Boise's first civilian review procedure in the form of the Office of the Community Ombudsman (OCO). This office resulted from a public demand for civilian oversight of police following a rash of seven separate police involved shootings during a 20-month period. Eight people died - seven citizens and one police officer who became the first Boise officer ever killed in the line of duty. While the OCO has been operational for only one year, it already appears that it is on its way to becoming a proactive form of civilian oversight.

Believing that Boise police officers were becoming too aggressive, the American Civil

Liberties Union of Idaho, and Concerned Citizens for Police Accountability, a community group led by the father of one of the police shooting victims, held town hall meetings where hundreds of Boise residents called for the creation of a civilian review board to investigate complaints against police and make recommendations for police reform.

In 1998, amid community pressure, the City Council and the Mayor of Boise drafted a resolution that created the community ombudsman position. In March 1999, Pierce Murphy, a former human resources executive, was hired and became the first ombudsman in the State who exclusively monitors a police department.

Murphy's first job was to research civilian oversight procedures nationwide, incorporate their best elements, and propose a city ordinance outlining the responsibilities of his office. Public hearings on the proposed ordinance was held in July 1999 and it was enacted by the City Council during that month.

The ordinance provides that the ombudsman must be appointed by the mayor and confirmed by the city council. In an attempt to make the position independent of city politics, the ombudsman may be removed only for cause, by five out of the six city council votes, or a majority of the city council's vote with the mayor's approval. The ombudsman has eight responsibilities. He must:

- accept and investigate citizen complaints against Boise police officers, and issue findings of fact to the complainant and Chief of Police,
- hear appeals of complaints of citizens who were dissatisfied with the police department's internal investigation of their complaints,
- conduct investigations of all "critical incidents" in which officers use deadly force or when serious injury results from the actions of an officer (the ombudsman is required to investigate this without the initiation of a citizen complaint),
- audit all internal police investigations,
- make recommendations regarding police training and procedures,
- use mediation to resolve minor complaints,
- conduct community outreach, and
- issue a semiannual report to the mayor and city council discussing the investigations conducted by the ombudsman office.

The structure of the OCO is promising because it has the elements of both an external investigative agency and an auditing system, and the office has the authority to make recommendations about police policies and practices. But, like most civilian oversight entities, OCO has a small staff - the ombudsman, one investigator, and a receptionist - empowered to do a daunting job. This is reflected in the OCO's first report which was released in December 1999.

That report revealed that from July 1 to December 31, 1999, the office had 327 contacts with the public. Of the 327 contacts 22 resulted in complaints about police. Of the 22

complaints, one was sustained. In that complaint, the Ombudsman found that an officer used unnecessary force to subdue a man who was trying to leave a hospital. The officer was subsequently asked to resign by the police chief, and he did.

Additionally, the Report indicates several policy recommendations which include the development of procedures on how officers should respond to individuals with seizure disorders and mental illnesses. The Boise Police Department has implemented these recommendations.

Some critics, however, argue that 22 citizen complaints is a very small number for a police department of over 250 officers serving a population of about 170,000 people. Additionally, while statistical information about the gender of the officer and citizen involved in the complaints is detailed in the report, the racial makeup of officers and complaining citizens are noticeably absent. This could be due to the fact that the police involved shootings that led to the creation of the OCO involved white officers and victims. Nevertheless, the Community Ombudsman should collect racial data about complaints against police to gauge any potential trends regarding police interactions with citizens who are members of a racial minority group.

Despite these concerns, public response to the OCO has been positive so far. Ombudsman Murphy explained that "the community likes the fact that there is a neutral office that investigates their complaints against police." A representative at the ACLU confirmed this sentiment stating that the ombudsman office "is doing a reasonable job," and vowing to push for a stronger form of civilian oversight if it appears that the OCO becomes ineffective.

Oakland, California - Community Group Challenges Police Union's Influence on Reform Proposals for Citizens' Police Review Board

The Oakland Citizens' Police Review Board (CPRB or Board) was created by city ordinance in 1980. The CPRB has 9 members, who are recommended and confirmed by the City Council, and a staff of investigators. It accepts for immediate investigation complaints alleging use of excessive force and/or communication of bias based upon a legally protected status (race, gender, national origin, religion, sexual orientation and disability). All other complaints must be filed with the Police Services Agency of the Oakland Police Department before CPRB can investigate them.

During CPRB's early years, the Board did not have the authority to compel witness testimony. But, in 1996, community pressure, following a rash of police involved shootings, led the City Council to grant the CPRB subpoena power. This expansion of CPRB's power was due in part to the efforts of People United for a Better Oakland (PUEBLO).

PUEBLO is a multi-ethnic, community-based organization that fights for social, economic and racial justice in Oakland, California. In 1993, PUEBLO launched its Campaign for Community Safety and Police Accountability which has been successful in securing policy reform in the area of police accountability. PUEBLO's activities in this area have been aggressive and

fruitful. Most notable is PUEBLO's recent challenge to the local police union's influence on the City Council's consideration of reform to the CPRB.

In May 1998, PUEBLO and the American Civil Liberties Union filed a complaint with the Oakland Public Ethics Commission alleging that Oakland's City Council violated open meetings laws by discussing proposed changes to CPRB in a closed meeting with the Oakland Police Officers' Association. The police union contended that changes to civilian review of police are subject to contract negotiations with the union which are done in closed meetings.

But, in December 1999, an Alameda County judge disagreed with the police union and ruled that the Oakland City Council may no longer meet in a closed session to discuss and act on proposed changes to the CPRB. The City has appealed and the case is currently in mediation.

PUEBLO and the City Council are working in other ways to strengthen the CPRB. PUEBLO serves as a member of the CPRB Task Force which was created by the City Council to develop recommendations for reforming the CPRB. As of July 11, 2000, the Task Force had reached consensus on a few recommendations that include expanding the jurisdiction of the CPRB to all citizen complaints and increasing the staff of CPRB.

New York City – Civil Liberties Activists, Civic Groups and Others Seek to Improve Civilian Oversight of Police

With a police force of over 35,000 officers, New York City has been the setting for numerous police scandals involving corruption and the use of excessive force for over 30 years. For most of those years, the New York City Police Department had an internal complaint review board, predominantly composed of police officers, that provided oversight for the investigation of civilian complaints against police. It was not until 1993, when the City Council of New York revised the City Charter to create an all civilian review board that is outside of the police department.

The new Civil Complaint Review Board (CCRB or Board) is comprised of 13 members appointed by the mayor. The Board employs a staff of investigators. The Board is authorized to investigate allegations of police misconduct involving force, abuse of authority, discourtesy and offensive language, and may compel witness testimony if necessary. The CCRB investigates the facts of each case, determines whether allegations in complaints are substantiated, and if so, recommends disciplinary action to the police commissioner who may discipline officers.

Shortly after the CCRB began operating, the public started losing confidence in the Board's ability to thoroughly investigate complaints. For example, in 1995, 21 year-old Anibal Carrasquillo was shot in the back by police officers who thought he looked suspicious. No charges were filed against the officer. Carrasquillo's mother filed a complaint with the CCRB hoping that it would hold the officer accountable. Instead, the

CCRB ruled that the excessive force complaint could not be substantiated even though the officer had another serious excessive force complaint pending against him prior to the Carrasquillo shooting. In a moment of candor, during a national public radio interview, Carrasquillo's mother stated that the "CCRB is a joke."

This sentiment has been echoed by the New York Civil Liberties Union (NYCLU), an organization which has monitored the progress of the CCRB and has become the Board's most vocal critic. In a 1998 report entitled *Five Years of Civilian Review: A Mandate Unfulfilled*, the NYCLU found that from 1993 to 1996, the CCRB had failed its mission because it lacked adequate resources to expeditiously investigate complaints. Even in the rare instance when cases were fully investigated and substantiated, the NYCLU reported that the Police Commissioner rarely imposed discipline.

In 1997, the police-involved torture and sodomy of Abner Louima outraged New Yorkers and heightened their determination to improve civilian oversight of police misconduct. That year, under pressure from the community, Mayor Giuliani created a Task Force on Police/Community Relations and charged it with "the responsibility of developing strategies, recommendations and educational efforts designed to improve the relationship between the police and the community in New York City."

Some members of the Task Force made a number of recommendations that called for expeditious but quality investigations, and a commitment by the Police Commissioner to act on CCRB complaints in a timely fashion. The CCRB reports that the Board has experienced an increase in the number of substantiated cases against officers and the police commissioner has disciplined an increasing number of officers. The Board attributes this improvement to quality investigations, although it admits that it continues to have a backlog of cases.

Community activists and elected officials continue to monitor the CCRB with an eye on moving the Board toward improvement. For example, in April 1999 shortly after the police shooting of Amadou Diallo, a number of elected officials, ministers and community activists proposed a "10-point plan" which called for major reform of the New York City Police Department. The proposed reforms included the formation of an independent body with subpoena power to investigate alleged police brutality. Community mobilization surrounding this proposed "10-point plan" is ongoing.

Finally, in July 2000, the Office of the New York City Public Advocate released a report entitled *Disciplining Police: Solving the Problem of Police Misconduct*. In this Report, the Public Advocate analyzed substantiated misconduct cases against over 1000 police officers. His findings included the following: discipline rates have increased, however, three-quarters of the officers only received light penalties (e.g., letter of reprimand), and most officers with substantiated complaints have a record of misconduct or other questionable behavior. The Report also includes recommendations to improve the disciplinary process and the CCRB.

Conclusion

In response to a growing number of incidents of police brutality, communities nationwide have pressured their local governments to create civilian oversight procedures that allow public participation in the investigation of citizen complaints against police and enhance police accountability. Many of these entities, however, operate with limited staff and small budgets resulting in a backlog of cases and shoddy investigations. But, there is a bright side. Determined to achieve effective civilian oversight, ambitious communities have successfully utilized communication, litigation and public education strategies to form or reform civilian review procedures that will meet the needs of their neighborhoods.

Vigilant civic and political activism is essential to the movement toward effective citizen oversight of police.

The Blue Wall of Silence

by Dr. Tricia Bent Goodley

Defining the Blue Wall

The “blue wall of silence“, “code of silence“, “the code“, or “the blue curtain” can be defined as “the reluctance of police officers to report corrupt activities by their fellow officers” (Klockars, et.al., p.1). Similar to racial profiling, the blue wall of silence does not constitute a formal policy. Yet, it is sustained by a culture that supports and perpetuates these “informal policies” through a number of formal mechanisms. Although most police departments know that the code exists, they blatantly refuse to monitor such actions, fail to discipline individuals who engage in such actions and actually advocate respecting officers who demonstrate a sense of loyalty to “the job”, via such actions. The easy answer is to maintain that there is no “blue wall” policy, and that individuals who display renegade behaviors will be punished.

Background

With a rise in reported police brutality and the increased visibility of such offenses, the need to address this policy is crucial. The blue wall of silence has obvious advantages for police officers but is, simultaneously, a major detriment to building strong community-police relations. This component of the report will address various aspects of the blue wall of silence, while making recommendations as to how to move forward in addressing this issue.

In a recent study conducted by the National Institute of Justice, a sample of 902 police officers responded to several questions related to the blue wall of silence. The responses, generally, were contradictory, but shed some light on the potential power of this policy. Although “more than 80 percent of police surveyed reported that they do not accept the “code of silence” as an essential part of the mutual trust necessary to good policing. However, about one-quarter (24.9 percent) of the sample agreed or strongly agreed that whistle blowing is not worth it, more than two-thirds (67.4 percent) reported that police officers who report incidents of misconduct are likely to be given a “cold shoulder” by fellow officers, and a majority (52.4 percent) agreed or strongly agreed that it is not unusual for police officers to “turn a blind eye” to other officers’ improper conduct. A surprising 6 in 10 (61 percent) indicated that police officers do not always report even serious criminal violations that involve the abuse of authority by fellow officers” (Weisburd, et.al., p. 3, 5).

Interestingly, the blue wall of silence, depending upon the individual police department

may not cover all offenses. Another recent study by NIJ, found that a majority of police officers "indicated that they would report a fellow police officer who had engaged in behavior they deemed to be at an intermediate or high level of seriousness" (Klockars, et.al., p. 6). However, it was found that "less serious" offenses were less likely to be reported. Differentiation between a "less serious" and "more serious" offense was not delineated. This is an important difference to further understand.

Essentially, the core issues related to the blue wall of silence are as follows:
How do we encourage police officers to report incidences that violate the public trust, no matter how small or large the offense? How do we ensure the security of those officers that have the courage to come forward? What administrative changes need to take place to support officers who come forward? How do we begin to change police culture to promote honesty and integrity in our police departments?

Sides of the Blue Wall

In reality, all professions advocate loyalty to the principles of the profession, pride in job, and a sense of camaraderie with colleagues. Any very few could argue that such principals were not necessary in any workplace. However, the difference between police culture and many other professions, is that poor judgment on the part of any one officer can mean someone's life and grossly effect the faith a community has in its police department.

The importance of trusting fellow police officers is crucial to effective policing and the safety of police officers. Loyalty is a crucial part of this discussion but it does not necessitate lying for or protecting someone who has violated the ethics of being a good police officer or violated the community trust. If an individual feels as if s/he is not going to be supported on a call as a result of reporting a peer, then the police officer's ability to get the job done and to feel more secure changes. This benefits neither the community nor the officer. It is important to feel that fellow officers will support each other in potentially dangerous situations. If "whistle-blowing" is seen as a force that diminishes the assurance that every officer has unqualified support in difficult situations, it then becomes less likely that police officers will come forward.

Those police officers that choose to go against the blue wall of silence face consequences. They may experience a delay in backup, which may be explained by some justifiable excuse that cannot be linked to the police officer's violation of the blue wall of silence. They may be re-assigned to a more dangerous neighborhood, a less desired tour, they may be denied vacation time, or other cultural and administrative consequences. This is in addition to the isolation and comments that have to be endured for doing what is right.

Police officers who act with integrity and live the "protect and serve" ethic need to have the support of the culture and the administration. There are individual, cultural, and administrative changes that must take place to fully address this issue. One without the other is insufficient, and will prove unsuccessful.

Solutions

Individual. Not every person who wants to be a police officer should not be one, regardless of the lineage of law enforcement in the family, or any other superficial qualifications. There are certain characteristics that we need to look for with police officers. Most police officers are good, hard working individuals, who are concerned about doing a good job and ensuring the safety of the community. These dedicated women and men are effective, healthy and moral when engaging communities; what qualities do they cultivate that others lack? It must be the case that to some degree, there are individual deficiencies that are either undetected or unacknowledged with the small number, who give the larger group of good officers a poor reputation.

Screening should go beyond the psychological characteristics of a recruit, to include the social characteristics of individuals. Social workers can assist with such investigations. For example, we might ask whether recruits have experience working with or engaging diverse populations? Have they an active sense of civic duty? What is the ecology of their social condition and how might that effect their decision-making as police officers? How do they define moral and ethical practice? How might they respond to different ethical dilemmas? The key would be to fully examine the individuals we give the power to police our communities. The demands of a profession increase as the demands of a society increase. Police departments should be no different in having to respond.

Administrative. The individual is not to solely blame when a police officer violates the public trust. Once a police officer is brought into the fold, s/he responds to supervisors and administrators who establish rules and policies -- both formal and informal. Administrators and supervisors can respond via their silence or action, high standards or settling for low standards, securing the safety of all officers or protecting those who violate the public's trust.

So if police officers are rewarded for increased tickets due to racial profiling, a standard is established. If a supervisor becomes aware of such inappropriate behavior and does nothing to respond, then s/he is contributing to the problem. Supervisors should provide more hands-on supervision, by monitoring the radio, following-up on calls, and actually riding with different officers regularly.

Administrators must respond to small offenses before they become large and unmanageable. This can include firing a police officer for making false statements or other disciplinary measures. In essence, the message must be that we will not tolerate any foul play, or corruption on any level. For those who do report their colleagues for wrongdoing, administrators need to ensure the security of these whistle-blowing officers on both cultural and administrative levels.

Administrators and legislators need to be held accountable for the ways in which they contribute, either vocally or through their silence, to promotion of corruption and the blue

wall of silence within their respective departments.

Cultural Influence. This is perhaps the most difficult of the three to tackle. It encompasses voiced and silent assumptions, for example about police-community relations. It is the culture that supports apathy and indifference toward misconduct. A huge part of the cultural influence comes from police unions and their expectations. Somehow we must convince police unions to set higher standards. Police unions sometimes give blind and unconditional support to individual officers whose records and/or actions are questionable at best, and criminal at worst. Instead, police unions should change the dialogue by supporting good officers—even whistle-blowers—and refusing to make common cause with bad apples; this would confirm that their highest priority was "to protect and serve," and would go a long way toward earning and maintaining the public trust.

Until more officers have the courage to question what they know is wrong, and until more administrators fully support these officers, we will continue to struggle with this issue.

Law Enforcement Trust and Integrity Act of 2000

Supporting the Law Enforcement Trust and Integrity Act of 2000 is a first step to tackling this complicated issue. This legislation, introduced by Representative John Conyers (D-MI), promotes police accountability to the public trust, and will also provide police officers with the tools necessary to work more effectively with the communities they serve. Finally, this proposed legislation would include protection for police officers that have the courage to stand for integrity, high professional and personal ethics, and the public trust.

CONCLUSION

Fredrick Douglas once said that without struggle there is no progress. We have had to struggle with law enforcement misconduct every since we arrived on slave boats in America. Throughout Jim Crow laws, Black codes and other inequitable institutional devices we have never really been able to sit back and expect equal enforcement of the law. We have made significant progress on the question of police misconduct. For example, we are currently a part of Attorney General Janet Reno's working group to devise a set of recommendations to combat the odious practice of police misconduct. Prince George's County Executive Wayne Curry recently announced that all law enforcement vehicles in the county will be equipped with cameras. Montgomery County, Maryland has required all their officers to collect data on individuals stopped or searched. A number of other jurisdictions have passed legislation requiring the collection of data on individuals stopped. A number of officers in Chicago, New York, Los Angeles, and Maryland have been fired or indicted as a result of allegations of misconduct. The U.S. Customs Service under the leadership of Commissioner Raymond Kelley changed their entire search policy and now requires the collection of data relative to individuals detained in airports.

While there has been much progress. We believe much more needs to happen to prevent horrible deaths like that of Prince Jones and others. Moreover, if some of our recommendations are implemented we believe they will go a long way toward strengthening police-community relationships.

ACKNOWLEDGEMENTS

A special thanks to Chairman James Clyburn (D-SC), whose foresight was responsible for the creation of the CBC Task Force on Law Enforcement Misconduct. We also thank all the Members of the CBC who have been involved in the process of meeting the needs of our communities by ensuring equal treatment under the law. We thank our staff members Richard Boykin, Priya Dayananda, and Andrea Martin for their tireless commitment to ridding our nation of law enforcement misconduct. A special thanks to the following individuals whose contributions have been immeasurable toward this effort:

Hillary Shelton, NAACP

Laura Murphy and Rachael King, ACLU

Keenan Keller, U.S. House of Representatives' Judiciary Committee

Monique Dixon and Ed Jackson, Advancement Project

Ron Daniels, Center for Constitutional Rights

Allyson Collins, Human Rights Watch

Dr. Tricia Bent Goodley, Howard University

Jay Stewart, National Urban League

Congress of the United States
House of Representatives
Washington, DC 20515

September 19, 2000

The Honorable William Jefferson Clinton
President
The White House
Washington, DC 20500

Dear Mr. President:

We are writing to request an opportunity to present our formal report regarding law enforcement misconduct to you at The White House at some point during the next two weeks. As you may know, on March 3, 1999 Chairman James Clyburn appointed us as co-chairs of the Congressional Black Caucus Task Force on Law Enforcement Misconduct, and this report is a product of our hearings throughout the country.

We were charged with the responsibility of examining the extent of the misconduct and formulating recommendations. The task force held four hearings across the country and also participated in several others. We heard testimony from victims of law enforcement misconduct, family members, law enforcement officers, community leaders, and government officials. All of the testimony and lessons we learned have been made a part of our report.

The problem of law enforcement misconduct has led to a mistrust of law enforcement in many communities of color. We believe that if you will stand with us and receive this report, this issue will receive even greater visibility. In addition, if some of our recommendations are approved then we will be one step closer to ending law enforcement misconduct.

We envision that this report can help stem criticism that the federal government is receiving as a result of perceived inaction. We would also like to invite civil rights leaders and our colleagues to join us for this important release. Thank you for your consideration of our request. We look forward to hearing from you.

Sincerely,


Danny K. Davis
Member of Congress


Gregory W. Meeks
Member of Congress

Clinton Is Urged to Declare Moratorium on Federal Executions

By **RAYMOND BONNER**

WASHINGTON, Nov. 20 — An array of religious, civil rights and political leaders are appealing to President Clinton to declare a moratorium on federal executions in the closing days of his presidency.

A letter delivered to the White House today and signed by 40 people, including the former White House counsel Lloyd N. Cutler and several other onetime members of the Clinton administration, urged the president to "prevent an unconscionable act — executing individuals while the government is still determining whether gross unfairness has led to their death sentences."

Asked about the initiative, White House officials said Mr. Clinton had indicated no inclination to declare a moratorium.

Organizers sought signers who they thought would have influence with the president. The signers in-

cluded the Nobel laureate and Holocaust historian Elie Wiesel, the financier and philanthropist George Soros, members of the committee established by Mr. Clinton to study race relations in America and three Roman Catholic bishops.

In a separate letter calling for a moratorium, former President Jimmy Carter and his wife, Rosalyn, told Mr. Clinton that a federal execution "would diminish the United States' moral authority abroad." The letter, sent by the Carters last month, is to be released at a news conference that the organizers have scheduled for Tuesday.

The activity precedes by three weeks the scheduled execution on Dec. 12 of Juan Raul Garza, sentenced to death for three drug-related murders. Mr. Garza is one of 21 federal prisoners on death row. His would be the first federal execution since 1963.

Mr. Garza was earlier scheduled to be executed on Aug. 5. But Mr. Clinton granted a reprieve because of concerns about racial and geographic disparities in the application of the federal death penalty, along with what was then an absence of federal clemency procedures.

Then, in September, a Justice Department survey concluded that in 75 percent of the cases in which a federal prosecutor had sought the death penalty, the defendant was a member of a minority group, and in more than half the cases, an African-American.

In addition, the survey found that a handful of United States attorneys accounted for about 40 percent of the death penalty cases. Attorney General Janet Reno said at the time that she was "sorely troubled" by the findings, and ordered further study.

The letter sent to the president today called for a moratorium until

the study was completed and there had been a period of public debate. This would surely carry any moratorium into the next administration.

Other signers of the letter include Mary Francis Berry, chairwoman of the United States Commission on Civil Rights; Julian Bond, chairman of the N.A.A.C.P.; Kerry Kennedy Cuomo, founder of the R.F.K. Center for Human Rights; Bishop J. A. Fiorenza of Galveston-Houston, president of the National Conference of Catholic Bishops; John Hope Franklin, chairman of the President's Initiative on Race; the Rev. Theodore M. Hesburgh, former president of the University of Notre Dame; Fred Korematsu, Japanese-American civil rights leader; Anthony T. Kronman, dean of the Yale Law School; Mario Obledo, president of the National Coalition of Hispanic Organizations; and Robert B. Reich, former secretary of labor.

National News Briefs

New Stamps Planned For Postage Increase

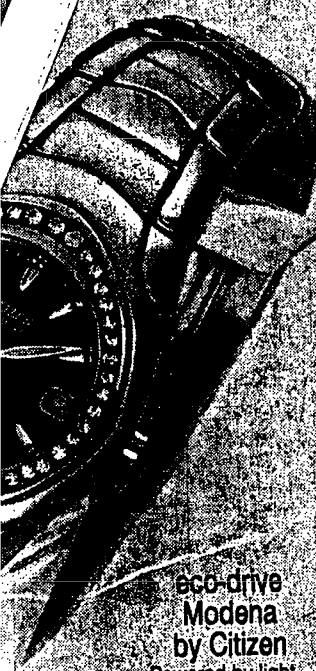
WASHINGTON, Nov. 20 (AP) — Three stamps will be issued on Dec. 15 and a fourth in January to handle the new 34-cent postage rate, the Postal Service said today.

The one-cent increase for first-class mail was approved last week by the Postal Rate Commission and is expected to take effect in January.

The new stamps will at first not have a price on them, because the



13



Eco-Drive
Modena
by Citizen
Powered by light...
solid stainless steel
bracelet with Swarovski
crystal bezel for her. \$395

...a gift for giving ★
JOY/S
...by mail

By Appointment Personal Shoppers can have the Main Floor basics you need
3rd floor, or call Main Floor Express at 212-494-KWIK (FAX 494-2699).

STEM ISSUES – Friday,

PURPOSE:

- Conyers Data Collection Legislation
- Update on the Executive Memorandum on Data Collection
- Executive Order banning Racial Profiling
- National Institute of Justice studies
- Commission to study Criminal Justice Issues
- Voting by Ex-Felons
- Request by Representative Danny Davis and Meeks to present the CBC report on law enforcement misconduct to the President

Below is background on these issues:

CONYERS' DATA COLLECTION LEGISLATION: The groups have asked us urge Congress to pass this legislation has passed the House and is pending Senate action this Congress. This legislation would require state and local government to collect data and provide grants for those purposes. The Administration supports this legislation but Hatch does not want to move this legislation.

COLLECTION: Last year, the President issued an Executive Memorandum requiring that certain federal agencies collect information on stops and arrests to determine if racial profiling exists in the federal law enforcement system. The agencies began to collect information in December 1999 for one. At the same time, DOJ and other designated agencies are analyzing the information to make some interim evaluations to the current system.

The groups have
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on similar to the

PURPOSE:

12/9 is
data - last day of
of data - explanation
and to make recommendations
urgency w/ answers of just
status. DWS was very helpful

BACKGROUND:

Same Data Collection
→ Combining states

What's DOT doing
here there's a working group

NATIONAL INSTITUTE OF JUSTICE (NIJ) STUDIES: According to Katie, OMB agreed that NIJ was the appropriate group to do such a study (as opposed to outside institutions such as a university or policy NGO). Apparently, in the FY01 Budget, NIJ has already proposed to study related issues such as improving statistics on racial disparities in the justice system, producing a new statistical series on the nature and outcomes of routine traffic stops, and producing consistent annual measures of the incidence of hate crimes. NIJ has the credibility to conduct such a study on racial profiling and examining discrimination in the criminal justice system.

Although NIJ's request is not funded in both the Senate and House bills, there was agreement that if we wanted to do a study on racial profiling, we could find ways to make sure it gets done. Michael emphasized, however, that we probably don't want to talk to DOJ or other stakeholders and commit ourselves publicly to do such a study until after Congress adjourns.

COMMISSION IDEA TO STUDY DISCRIMINATION IN THE CRIMINAL JUSTICE SYSTEM: This may be an idea that people think has merit but they may want this instead of an EO.

VOTING RIGHTS FOR EX-FELONS: The Attorney General was already working on a program to provide information to ex-felons to inform them of their voting rights. DOJ is working on this and expects to be ready to announce this after Election Day.

CBC Report on Law Enforcement Misconduct: In a letter dated 9/21, Rep. Danny Davis and Rep. Gregory Meeks requested a meeting with the President to give him a report conducted by the CBC Task Force on Law Enforcement misconduct. Kay has asked that you meet with them. I have notified the group of this letter and asked for their input on who should be in this meeting in addition to, DOJ, Counsel, DPC and Legislative Affairs.

ATTENDEES:

Beth Nolan
Bill Marshall
Michael Deich
Leanne Shimabukuro
Nancy McFadden
Katie Hong
Irene Bueno

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Dinaya / Beth

Congress of the United States
House of Representatives
Washington, DC 20515

September 19, 2000

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President
The White House
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