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Covering Police  
in  
Times of Crisis

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# Covering Police in Times of Crisis

## Introduction and Overview

A discussion on the need to work toward realistic and effective coverage of law enforcement and how to understand the legitimate concerns of the police toward the press.

## Panel Discussions

- Inflamers vs. Informers: The View From the Prosecution
- Concealers vs. Revealers: Lessons Learned From the Streets of Seattle, Cincinnati and Los Angeles
- Oversight: Who's Watching the Police?
- A Case Study From the Los Angeles Times: A Dialogue With the Reporters Who Broke the LAPD Rampart Scandal

## Epilogue

# Covering Police in Times of Crisis

A symposium sponsored by USC Annenberg's Institute for Justice and Journalism, Western Knight Center for Specialized Journalism and the Vera Institute's Police Assessment Resource Center

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*The following is both a report and an interpretive essay on the "Covering Police in Times of Crisis" symposium. Some of the remarks of the participants have been abridged and edited for clarity.*



## Introduction and Overview

One morning in December 2001, as I sat in the Vineyard Room at the University of Southern California's Davidson Conference Center, Janet Clayton, the editor of the Los Angeles Times' editorial pages, issued a clarion call to the two dozen journalists assembled before her. In my mind I recall her standing there, dressed in the garb of Mother Liberty, waving the flag of the First Amendment, and exhorting us all to follow. But, in fact, Clayton, was sitting down, professionally dressed and speaking calmly at a panel discussion that was part of a 3½-day journalism symposium, "Covering Police in Times of Crisis." Her audience was not only journalists reporting on cops but also editors, police chiefs, U.S. attorneys, civil liberties lawyers, security experts, police monitoring groups and criminologists.

"In this post-9/11 world," she said, "I want to issue a caution. I think journalists have to be more careful than ever to do our jobs. There's an awful lot of cheerleading going on that makes me very uncomfortable, and I hope it's making you uncomfortable.... Our job is not to cheerlead, not to make everybody feel good. Our job is to tell the truth as we know it.... The pressure's [on us] to get in line, sit down, shut up, say what everybody wants us to say and not make waves. I'd like to suggest that it's

more important than ever that we remember that our primary responsibility is to the public and nobody else.” These were powerful words not much heard in this time of amorphous warfare, cries for unquestioning loyalty and the exalting of not just the military but also America's entire national security apparatus, including, of course, the police.

In the case of the police, the nation's heightened fear since 9/11 has mingled with its admiration for the heroism of New York City's cops and firefighters and created intense pressure for the kind of uncritical coverage to which Clayton had alluded. The police, after all, have become not only our front line against the street crime inherent in America's tough, economically stratified, hyper-segregated society, but our protectors against terrorism as well.

But as always, they remain much, much more. The maverick former Minneapolis chief of police and ex-NYPD commander, Anthony V. Bouza, vividly pointed that out in his book, “The Police Mystique.” They can be suppressors of the poor, of ghetto blacks and browns, and of the desperate, the marginalized, the “addicts, obstreperous drunks, sociopaths, beggars, and other street types.” Keeping “them” away from “us,” wrote Bouza, is a job that turns the police into “the ultimate repositories of society's guilty secrets, the observer of the human animal's dark underside, the controller of nasty instincts, the curber of wicked appetites.”

“Usually people who come into policing have some pretty lofty ideas about helping make society a better place,” Cincinnati Chief of Police Thomas H. Streicher Jr., who was sitting in on the same panel as Clayton, pointed out during the conference. “And they're sent into the bowels of society.... I've walked into a room where someone had just dipped a two-year-old into a pot of boiling water because that two-year-old wouldn't stop crying.... I've seen a nest of baby rats in a crib with an infant.... You can't even imagine some of the things police officers see.

“Cops, in short, are required to immerse themselves deep in the muck and keep America's class-, race- and poverty-driven pathologies from spilling over into the lives of the rest of us. At the same time, they're also expected to respect the Bill of Rights and a Constitution that unequivocally guarantees the protection of personal freedoms from the tyrannical instincts of the state. The byproduct, says Bouza, is police officers who “see

themselves as having been given the very confusing and unpleasant task of being society's char cleaners — asked to undertake a task that is in large part morally bankrupt.... So they lie to you and to themselves, and stick together. They don't expect you to understand their plight or their dilemma.... [Instead] they develop the code of silence, *omerta*, the closing of the ranks, the keeping of organizational secrets.”

Reporters, say police officers, with some justification, can never really experience their reality; can never feel their emotions deadening in order to deal with human misery; can never know the ugly, tempting thrill of having absolute power over another human being's life; the frustration of seeing little or nothing really change despite their best efforts; or the physiological terror that grips an officer patrolling in a black or brown ghetto.

The truth-telling, prophetic black writer James Baldwin best described that feeling over 40 years ago in “Nobody Knows My Name”: “He is facing, daily and nightly, people who would gladly see him dead. And he knows it. He moves ... therefore, like an occupying soldier in a bitterly hostile country, which is exactly what he is.”

Baldwin was speaking back then of white officers. Today, the significant integration of most big-city police agencies and the imposing of U.S. Justice Department oversight on departments that systemically engage in police abuse have made race and policing less combustible than in the 1960s. But as the racial uprisings in Los Angeles in 1992 and in Cincinnati in 2001 have demonstrated, the situation that Baldwin described still exists, except now for cops of all colors.

Police officers thus regard critical reporters who've never walked the walk as either opportunistic sensation seekers spurred on by greedy corporate news organizations or as Ivy Tower liberals engaged in endless second-guessing free of any true understanding of the difficulty of the job or the reality of the street.

Many police chiefs also view the media as their enemy. They're under constant pressure to stomp out crime and maintain order, and to do so without engendering the kind of negative press that could cost them their jobs. So they try to manage the press, and when they don't succeed, they frequently become secretive, suspicious, defensive, unhelpful and sometimes overtly hostile. The media as the enemy becomes the working assumption of many police agencies, an assumption anchored in a bedrock cultural

belief that criticism of them is an attack on America's protectors, on the “thin blue line” that is all that separates the good from the bad, and a civil society from anarchy. As such, they believe they should receive gratitude, not criticism, and be free from the same level of scrutiny that's directed at other public institutions.

The *raison d'être* of any good reporter, on the other hand, is to ferret out the truth – as wide a truth as possible. Not just the truth of the cop on the beat or the chief in his office, but also that of the people being policed – the “different truths,” as Clayton pointed out at the conference, that “depend on who you are, where you live and what your station in life is.”

Those truths, in turn, are part of a larger, rarely understood picture of police departments as institutions buffeted by electoral and power politics, class and racial fear and envy, the demands of police unions, civil liberties organizations, businesses, neighborhood and block associations – a huge constellation of forces vying to own a piece of the police.

Covering all that and tying it together for readers, listeners and viewers is a charge felt with particular keenness by good journalists. They're not dealing with hemlines or ball scores. Cops literally are licensed to kill. They have the power of life and death over the innocent as well as the guilty, the power to put people in jail by randomly enforcing any one of thousands of laws on the books, and the power to arrest people for crimes that could land them in prison for the rest of their lives – sometimes on an officer's word alone. Often that power is abused. On Dec. 31, 1999, an article about why innocent people plead guilty appeared in the Los Angeles Times. Reporter Ted Rohrlich wrote that “Joseph McNamara, former chief of police in Kansas City, Mo., and San Jose [Calif.], has said he believes hundreds of thousands of police officers tell [relatively small] lies in court every year to convict people they are convinced are guilty and who would otherwise go free. Conservative U.S. 9<sup>th</sup> Circuit Court of Appeals Judge Alex Kozinski has called this kind of police perjury widespread and described it as 'an open secret long shared by prosecutors, defense lawyers and judges.' “

Police officers also possess the power to brutalize, frame and humiliate people, sometimes totally innocent people, often without consequence. Over the last 40 years, police departments have directly touched off dozens of large-scale protests in response

to repeated abusive behavior. In just the last decade, major scandals involving unaccountable brutality, shootings or frame-ups by police officers have erupted in cities all over America, including Los Angeles, New York, Philadelphia, Pittsburgh, Miami, New Orleans, Dallas and Cincinnati. The names of Rodney King, Stacey Koon, Mark Fuhrman, Abner Louima, Amadou Diallo and Rafael Perez have become shorthand for all that is wrong with American law enforcement.

The abuses committed by the Los Angeles and Pittsburgh police departments, in fact, have been deemed so routine that both have been forced to sign five-year consent decrees with the Justice Department. The decrees mandate major reforms aimed at ending systemic, unofficially tolerated police violence and discrimination in enforcement, with implementation taking place under the scrutiny of a federal judge.

For decades, the difference in how the police view the press and how the press views itself and its mission has been at the heart of a tense standoff between the two institutions. This standoff has existed since the moral imperatives of the civil rights and antiwar movements, the rulings of Earl Warren's Supreme Court that mandated racial equality and expanded civil liberties, and the scandal of Watergate infused the best of the press with a rediscovered sense of obligation to the disparate, multilevel truths that constitute good journalism.

Like journalists covering the war in Vietnam, big-city police beat reporters prior to the late 1960s were expected to be on the team — part of the mission, institutional water carriers. Twenty-five years ago, for example, the press in Los Angeles was so co-opted and cowed by the LAPD that when newly arrived KABC journalist Wayne Satz investigated a string of LAPD shootings of unarmed civilians, his queries and subsequent stories were so unusual that they were met with angry incredulity by a police department not used to being critically questioned or covered. When Satz persisted, "Satz sucks" bumper stickers began appearing on LAPD patrol cars, his face was plastered on targets at the police academy firing range and the chief of police publicly denounced him as an enemy of law enforcement.

But unlike Satz, many beat reporters back then had little desire to investigate police wrongdoing. Many shared the same educations, backgrounds and world views as the police officers. Often they personally liked the cops they were covering and were

seduced by being considered de facto members of an exclusive, powerful police fraternity.

“Consequently,” as Los Angeles Times media critic David Shaw once pointed out, reporters came to see themselves as “cops without guns.” During the symposium, Seattle Chief of Police Gil Kerlikowske described the situation as a kind of “parasitic” relationship in which “the flea and the dog were interchangeable. The police [department] got a free pass, all its abuses and problems were [ignored] and the press got its pictures and information. But it's a much more difficult relationship now.”

### **The Deep and the Shallow**

Separately, the press has had its own set of problems in covering the police and criminal justice system. Major newspapers with the necessary resources and expertise — such as the New York Times, The Washington Post and the Los Angeles Times — have only self-imposed constraints on their investigative coverage of law enforcement. They're able to find the larger institutional story beyond the immediate headline-grabbing incident: that nexus where power politics, entrenched traditions, relations with other institutions, the demographics of class and race, crime statistics, public perceptions, and the culture and training of law enforcement officers meet.

Washington Post reporters Craig Whitlock and David S. Fallis' investigation of police shootings in Prince Georges County, Md., for example, is a perfect study of the kind of definitive, fact-filled, consciousness-raising story that a metropolitan daily can do when it sets its mind to comprehensively investigating the police. And so is the series of stories that L.A. Times reporters Matt Lait and Scott Glover wrote from 1998 through 2001 about the systematic framing, shooting and beating of innocent people by LAPD anti-gang officers.

Smaller-market dailies and alternative weekly newspapers have done similar superb work, but they often lack the resources to assign two or three reporters to a story for three, six or 12 months, or the expertise to cut through the tangle of bureaucratic barriers raised by the criminal justice system.

Many local television stations don't even *try* to cover their police departments in any kind of enlightening, in-depth manner. They believe that complex stories of public

institutions don't generate ratings. So many resort to live police pursuits with no news value; if-it bleeds-it-leads gore, fawning press-release "reporting," shameless promotion of network specials, witless "crosstalk" and the animal segments that Paula Madison, the president and general manager of NBC's Los Angeles affiliate, KNBC, calls "water-skiing-squirrel stories." Often TV stations don't even have a regular police beat reporter, much less the inclination to investigate the larger story behind an immediate incident involving the police.

Madison, a panelist at the "Covering Police" symposium and veteran television journalist and news director, has been highly critical of local news as it is practiced in Los Angeles and in much of the country. "I hate to use the word 'shallow,'" said Madison in an interview for Los Angeles magazine prior to the conference, "but if you [inappropriately] cover [institutions] as spot news, you can simply shuffle reporters from market to market and have them call the police in the morning and ask if anything's happened overnight.... But investigative news sometimes requires a week or a month to get a story ready for air. I've seen some good investigations done; the [dirty] restaurants story, the [crooked] car dealerships, those are the same in every city. But if you know your community, it's not about that kind of investigation. [It's stories] about our infrastructure, government and budget decisions, about how contracts are let, all kinds of [in-depth] stories."

### **Antagonism Aside**

Addressing how to best reduce these mutual tensions was the primary goal of the symposium. Twenty-five mid-career journalists and editors were invited. Most were from daily papers such as The (Portland) Oregonian, the Hartford Courant, the San Francisco Chronicle, the Fayetteville (N.C.) Observer-Times and the Cincinnati Enquirer, and from television and radio newsrooms in Los Angeles, New York, Chicago and Miami.

The symposium was sponsored by the Institute for Justice and Journalism and the Western Knight Center for Specialized Journalism, both part of the USC Annenberg School for Communication, and the Vera Institute's Police Assessment Resource Center. Panelists consisted of law enforcement officials, journalists and experts in both

fields. The main panel was composed of police chiefs from Los Angeles, Cincinnati and Seattle – chiefs whose departments had experienced riots or demonstrations over the last decade – and top editors in those cities.

The events of 9/11 widened the conference's focus. The central theme was maintained, but the sponsors decided to also address some of the security and public safety concerns posed by the terrorist attacks. “But,” says Steve Montiel, director of the Institute for Justice and Journalism, “we remained particularly interested in policing issues that involved racial, ethnic, class and gender conflict – how to best cover law enforcement while incorporating context, history, analysis and diversity of perspective into stories; and how to understand the legitimate concerns of the police toward the press.” What followed was a college course on the police and the press, concentrated into 3½ days.



*For details on some of the symposium's panel discussions, follow the links to four panel discussions: “Inflamers vs. Informers,” “Concealers vs. Revealers,” “How to Watch the Police” and “A Case Study From the Los Angeles Times.”*



# Inflamers vs. Informers

## The View From the Prosecution

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The symposium opened with Zachary Carter, a former U.S. attorney for the Eastern District of New York, as the keynote speaker. Carter had prosecuted the white NYPD officers accused of the 1997 precinct-room assault on Haitian immigrant Abner Louima, and Lemrick Nelson Jr., the black man accused in the 1991 death of rabbinical student Yankel Rosenbaum during a race riot in Brooklyn.

Carter proved a provocative choice. The lean, self-assured African American, went almost directly to the heart of his problems with the press. "We won't solve the problem of the quality of police coverage unless we directly confront the fact that the media is a business," he told the assembled journalists, and that "to some extent its business interests conflict with your obligation to inform the public."

Reporters oversimplify stories and highlight conflict in the interest of the kind of sensationalism that translates into sales and ratings, said Carter. "We're long past the time when news divisions in the electronic media were loss leaders [for their stations]. Today news divisions are expected to be profit centers and have become extraordinarily competitive. Getting it first has become more important than getting it right. Keeping it simple and defining winners and losers is more important than in-depth investigations that reveal a story's complexity."

Carter used press coverage of the NYPD's killing of Amadou Diallo and its officers' assault on Louima to illustrate his points.

“The Diallo case was a classic example of how the media almost irresistibly sensationalized an incident,” he told the reporters. Indeed, the killing of Amadou Diallo had become infamous: a classic tale of white officers gunning down an innocent, unarmed black man — played big and lurid by the press. Diallo had been standing in the doorway of his Bronx apartment building on a February night in 1999, when four NYPD plainclothes officers approached him. He reached for his wallet and the officers, thinking he was reaching for a gun, opened fire. Diallo was shot at 41 times. Nineteen bullets struck him, killing him instantly.

“Forty-one Shots! — that was the blaring headline,” Carter said. But that, he maintained, was the wrong headline. The problem with the emphasis on the 41 fired shots, as Carter saw it, was that it missed the real questions while focusing on something that, from his prosecutorial point of view, was almost irrelevant. “Let’s do the math,” he said. “Four officers armed with 16-shot, 9-millimeter automatic handguns approach Diallo. Two of the officers responded to some sort of stimulus, and the other two reacted. Basically they all fired at the same time.”

So the issue for him, explained Carter, was *not* the number of shots fired — because all the officers were firing at the same time with automatic weapons at an identical target and reacting to the same perceived threat. The issue was whether any *one* of the officers was justified in emptying his weapon. “If you look at it that way,” said Carter, “you can better understand what actually happened.”

If “41 shots’ was not the lead,” asked Tina Brown, an IJJ fellow and a reporter for the Hartford Courant, “then what should have been?” “Innocent man killed by police officers,” Carter instantaneously replied. “This was one of those rare times that [a police shooting victim’s] innocence was not in doubt. “

If that was the headline, what were the issues reporters should have explored?

One was why the officers used tactics that put themselves in a position where they felt their only option was to empty their weapons into an innocent, unarmed man. Another was whether the officers should have been armed with automatic weapons that left no margin for error.

But Carter addressed a wider issue. “The NYPD had insisted long before the facts were in that race was not a factor in Diallo’s shooting,” he said. “But I don’t remember any reporter asking [a question such as] if Amadou Diallo had been white, and in the same circumstances, would he be alive or dead today? That’s the kind of question that helps the public better understand a situation, and that gives an indication of whether or not the case had a racial component – even if the actors involved may not have been racist. Race is always going to hover over cases when the race of the officer and victim are different.... But, depending on how questions of race are posed and handled by the press, the public is either going to be informed or inflamed.” In the Diallo shooting, “you had white officers who lived outside New York City, who saw [him] and assumed he was a threat because he was black, even though he did not pose a threat.”

Within Carter’s critique was a subset of issues the media might have focused more attention on: the training and tactics of the officers; their mind-set toward black males who happen to be out on the street; their suburban alienation from the community

they police; and the underlying factors that led to their reflexive stereotyping of Diallo. The questions seem at first blush irrelevant, but they go to the heart of the matter. And they, in turn, lead to other questions. What had the NYPD been doing to minimize these attitudes and incidents? Is it possible for the NYPD or any big-city police force to effectively do so? Or, in reality, are these the kinds of mistakes bound to happen when attempting to effectively police a segregated, multiracial, gun-infested urban society of haves and have-nots?

Carter believes these mistakes are not inevitable. But that question, he said, is also rarely raised by the media. As Carter posed it: “Does there have to be a trade-off between effective and respectful policing, between getting the job done right and effectively but with real respect for individual liberties and individual dignity?”

“It seems to me that reporters historically have not done the best job in making the case that it isn’t necessary to make that choice. I’ve worked with cops and federal law enforcement agencies for the last 27 years. And I’ve known very, very aggressive and effective police officers who go their entire careers without piling up civilian complaints or ever having to fire their weapons.”

In New York, in the aftermath of the Diallo case, Carter said, there had been “veiled suggestions” by city officials that if the public didn’t want high crime — the kind of intolerably high crime New Yorkers had suffered during the 1980s and early 90s — it had to understand that controversial shootings might occur. “Then, after the shooting, the police commissioner, in a cynical act, put the unit that shot Diallo back in uniform and out of civilian clothes almost overnight. These units were statistically very effective in reducing gun and narcotics cases. People didn’t know these officers because [they

were in plain clothes]. Putting them in uniform would undermine their effectiveness. People would know who they were. It was almost as if in this game of blame encouraged by the media, that, even at the risk of sacrificing some effectiveness,” city officials were going to prove themselves right and say, “ ‘We’ll show you! We’ll disband this unit!’ And no one in the press really called them on it.”

Carter’s final point was perhaps the most basic and most important for reporters covering the police to understand: How the culture of a police department affects the actions of its officers.

“Abner Louima,” said Carter, “was a police victim subjected to an extraordinary act of depravity [an officer shoved a broken broom handle up Louima’s rectum]. There was no question that this particular act was an aberration, not part of a pattern of similar acts. But that begs the real question: What was the culture in that police department that the officers involved thought they could do that and get away with it? The fact that they did suggests the possibility of an atmosphere that was conducive for this to happen — that permitted the police to believe that maybe not that particular act but certainly an act just short of that would be condoned. ...Reporters have to have an understanding of the dynamic that goes on with cops on the street: Cops believe that a certain amount of punitive force is necessary for effective policing. In many departments this is a cultural belief. Reporters need to understand that changing procedures isn’t enough, it’s [about] changing the culture.”



# **Concealers vs. Revealers**

## **Three Case Studies: Lessons Learned From the Streets of Seattle, Cincinnati and Los Angeles**

**By Joe Domanick**  
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The chiefs of police of Los Angeles, Cincinnati and Seattle — Bernard Parks, Thomas H. Streicher Jr. and Gil Kerlikowske — and editors from the cities' newspapers — Janet Clayton of the Los Angeles Times; Ward Bushee, then editor of the Cincinnati Enquirer; and Ken Bunting of the Seattle Post-Intelligencer — gathered for a panel discussion on how a police chief can set the tone for press coverage during times of turmoil.

All three cities had experienced riots and bitter acrimony between the police and the press in their wake. In 1991, for example, four white LAPD officers had been videotaped brutally smashing African American motorist Rodney King 56 times with two-foot-long metal batons — a police assault then broadcast countless times around the world. Afterward, a Los Angeles Police Department once considered the Golden Boys of American law enforcement became synonymous with naked police brutality.

The four officers were acquitted by a largely white jury living in a distant L.A. suburb that is home to many white cops. It touched off one of the worst American insurrections of the 20<sup>th</sup> century, and it led to charges that the department's response to the rioting had been feeble and inadequate.

The LAPD then ended the decade with the Rampart scandal, which began when two tenacious investigative reporters for the Los Angeles Times, Matt Lait and Scott Glover, broke a series of stories detailing how a unit of anti-gang officers, known as Rampart CRASH, had shot unarmed people, administered brutal beatings, falsified reports, lied in court, and planted guns and drugs on suspects. Throughout all three

events, the two LAPD chiefs involved — Daryl Gates in 1991 and 1992, and Bernard Parks during the Rampart scandal of 1998 — sought to limit official investigations and to minimize the LAPD’s responsibility, blaming the problems on a few rotten apples within the department. The local press, for its part, not only played the stories big but also stayed with them for months at a time, holding the LAPD’s feet to the fire.

Seattle, too, had had its problems. In December 1999, police reacted first ineffectively and then brutally to World Trade Organization protesters, who, according to some estimates, caused as much as \$20 million in damage. The furor that followed led the city’s police chief to resign and nearly caused then-President Bill Clinton to conceal his appearance at the WTO conference.

And in Cincinnati in 2001, a police shooting death — one of 15 controversial killings of black males by the city’s police from 1995 to 2001 — set off three days and nights of rioting before a citywide curfew was established. The fallout was more than 800 arrests and over \$1 million in damage. As in Los Angeles in 1992, the actions and perceived racism of the Cincinnati police both sparked and was central to the black rage and violence it ignited.

## **A Larger Picture**

Streicher, the Cincinnati chief, was the first to be questioned by the panel’s moderator, Montiel. Streicher, the son of a cop, is a fit, blow-dried, square-jawed man.

“The focus of the press when the actions of the police are in question is always on, ‘Whose fault is this? Who’s right and who’s wrong, and why did this start?’ Everybody looks for the specific incident as the cause of it all,” Streicher said.

“But the truth is that, throughout American cities, there are much, much larger issues [surrounding] the police and [their relation] to the public — the health, education and economic systems — all those systems that are supposedly set up to provide equality in the quality of life often don’t deliver [in poor, black and brown neighborhoods]. And when those systems break down, the police have to intervene.”

Recent history is perhaps the best example of Streicher’s point. Throughout much of the 1980s and 1990s, the unwillingness of the American people to sustain, support and fund smart, effective social, educational and rehabilitative programs — and

the failure of politicians to lead, as opposed to just doing the knee-jerk law-and-order thing – had indeed left the police to deal with America’s social ills – a job they’ve traditionally been ill-equipped to perform.

Los Angeles Chief of Police Bernard Parks, an African American, underlined Streicher’s complaint. “The police deal with the failures of every social system. No one does a great deal of investigative reporting to find out why minority kids don’t get educated. Why minority kids do not have good mental and physical health systems ... and why minority kids have a high rate of child abuse – all the things that drive them into the criminal justice system. But [the press] will do an investigative report about why the prison systems have a bunch of minority people in them and then blame the police for racist investigative processes.

“We have a tendency to zero in on the obvious issues. But the hard issue of having healthy, educated people is too tough, and people don’t want to deal with it.... It’s easy to point [at the police] and say they shot so many black people in [a] city. What’s hard to [explain] is why did all those black people have guns that are creating crime and why are the police confronting them daily.

“Twelve percent of the city of Los Angeles is black,” continued Parks. “Forty percent is Hispanic. Eighty-five percent of the people who die on city streets in homicides are black and brown males. Ninety-four percent of the people who kill people in the city of L.A. are black and brown males. Sixty percent of the people who kill people in the city are 14 to 24, and happen to be black and brown males. That’s not the fault of the police. Most of the people that we confront that kill police officers are black and brown males. But [the press] reports this as though the police created that phenomena. [As if] the police made sure [these people] were uneducated, or abused in their family. [As if] the police are responsible for the cycle of violence in a family.

“My concern is how [all this] is reported. The real tough issues are too difficult to deal with, so we deal with the spontaneous response. We deal with the isolated issue. [The press] deals with what it thinks the community will react to. The fact that the press puts in the race of an officer and a victim is done intentionally to highlight anger in a community. If I shoot you because you did something in a robbery, it makes no difference if you’re black and I’m white. But the fact that [the press] puts that in a news

story is done to inflame. We've seen this for years. Why is it more important to report that a black man raped a white woman than that a person was raped?"

"The thing [the press has] to realize is that the very stereotypes that people accuse law enforcement officers of [holding], many reporters also carry within them."

It was refreshing to hear Parks and Streicher make the connections that they did, tying crime and pathology to wider social problems (even though Parks' reference to rape coverage runs counter to modern journalistic standards). By contrast, former Police Chief Daryl Gates seemed contemptuous of making such links, saying that Los Angeles would have to write off an entire generation, demonstrating that he not only did not care but also did not comprehend the complex relationship between crime and childhood abuse, unconscious psychological scars, economic, social and cultural poverty, the pull of the streets, and drug and alcohol addiction.

Many people believe that child abuse and abandonment, children being born out of wedlock to teenage, crack-addicted mothers and convict fathers with no capacity to rear them was no excuse for how kids turned out. The logic of such kids then finding family and status in gangs, thrills in a thrill-seeking culture, violence in a culture that glorified violence, and solace in drugs and the values of the street, has simply been alien to their consciousness. As was the fact that there might be something other than "moral weakness" or an inherent criminal character to account for the fact that *one in three* of California's black males ages 20 to 29 are either in jail, in prison, on probation or parole. But these points have rarely been made from the bully pulpits police chiefs have used for decades to denounce social activists trying to bring this common-sensical message to the forefront.

The failure of reporters to weave in social, class, economic and racial context, disparate voices and local, historically relevant police-community relations is to miss an important part of the story, but often, the story itself. And to miss it, or tell only half the story, is, as Zachary Carter and Bernard Parks point out, to inflame instead of inform.

But reporters have to look *beyond* social conditions as well. They have to report on badly run police departments and incidents involving abusive officers. To not faithfully record those facts as part of their reporting, to fail to report on a public

institution's ineptitude, mistakes, and willful wrongdoing, would be to negate their responsibility.

Later in the panel, Gil Kerlikowske, the Seattle police chief and a man who seemed to have a very sophisticated understanding of both the problems of the police *and* of the media, touched on another criticism of the press. "I know you've got a deadline," Kerlikowske told the journalists, "and that you're going to have to put out that information hurriedly ... but it's the story after the story that deserves the time, print, ink and context to help people understand what happened. Those 41 shots, and their relationship to all the other things that are going on in that community and in that police department are important to the story.

"In the police field, there is this huge amount of research, these incredibly good pieces of empirical review of things like officer-involved shootings and use of force. But [reporters] have to be willing to spend the time and effort to do the research on them and have them in their databank."

Streicher provided a good example of Kerlikowske's point. "Cincinnati has a very strong police union, and the union president really knows how to use the media. [For example], a story erupted that a man jumped through a plate-glass window ... that the man had AIDS, that he was infecting everyone with his blood-borne pathogens and that the police officers [arriving at the scene] had been covered with blood [as a result of] a horrible fight with him in the street.

"If the police officers had just had taser guns," said Streicher, repeating the version given by the union president, they "could have controlled the guy and all these people would not have been affected by this dreaded disease."

"But the *real* story," Streicher said, "was that people at the scene had actually subdued the man before the police had even arrived, that the officers [who responded] were wearing rubber gloves and that the only blood they got on themselves was on their shirts when they'd handcuffed him after [a very minor] struggle.

"Then there was the *inside* story, concerning a vendor in town who had partnered with the union to get the department to buy taser guns for every one of its officers. [Local talk radio] then used very inaccurate information to get everything boiling. But if the press had just come into our police agency and asked us about what really occurred

– instead of depending on what a union person was saying – a lot of controversy could have been avoided. It was a crisis that we had to manage that took about 30 days to go away.”

Parks was the most critical of the press among the three chiefs and the least willing to concede that the press, too, had a hard job to do.

Parks came from a tradition of LAPD chiefs who believed that those who criticized the LAPD – those who criticized *their* department – were either “anti-police” enemies or interfering, know-nothing dilettantes who should keep their mouths shut and leave the running of the department to those who knew best.

### **‘A Storied History’**

Tension between the police, the press, reform-minded politicians and civil libertarians has existed at least since the social revolutions of the mid-1960s. But in few places has it existed more strongly than in Los Angeles, and perhaps no where else has the relationship between the cops and the press taken a sharper turn into hostility.

“The LAPD and the Los Angeles Times have a storied history together,” Janet Clayton pointed out later in the discussion. “Both had perhaps more power in the past than they should have. The Los Angeles Times used to have a reporter who covered City Hall. He’d literally sit there [at City Council meetings] and give the thumbs up or down, depending on how the Times wanted the vote to go. I never realized this, and after I became a reporter and I was [covering] City Hall, I’d be sitting there and some of the older council members would nervously look over at me right before a vote. And I’d think, ‘What’s this guy’s *problem?*’”

By the 1960s, however, things had changed. The Times was still a powerful force in the city, but it was no longer a monolithic, reactionary power, directly selecting and electing public officials. And the LAPD, which had once been a brutal police force that kowtowed to the Times and its big-business interests, had become remarkably independent. Too independent, as history would show, not just of the Times (which was a good thing) but also of the political process and the checks and balances of city government.

Beginning in the early 1950s, the LAPD became an institution led by chiefs using iron-clad civil service job protection and blunt intimidation of local officials to wield nearly absolute power in their sphere and ultimately become accountable to no one but themselves.

Among those failing spectacularly to hold the LAPD accountable was the local news media and, most conspicuously, the city's behemoth newspaper of record, the Los Angeles Times, whose coverage set the city's news agenda. The vacuum was there, and the LAPD's sophisticated press relations unit quickly filled it, feeding the Hollywood fantasy machine, as shows like "Dragnet" and "Adam-12" (which depended entirely upon the department's cooperation during production) created the image of the LAPD as the paragon of all that was good and right in American policing.

By 1979, the situation had grown so unbalanced, the reporting on the LAPD so timid and unchallenging that the city's Police Commission president, Stephen Reinhardt, (now a federal appeals judge) called the local press a "patsy for the police."

That year, however, constant and unprecedented coverage by the city's second daily newspaper, the now-defunct Herald-Examiner, of a string of highly questionable LAPD shootings embarrassed the Times into covering the LAPD critically. The department, facing sustained negative coverage, reacted with rage, incomprehension and defensiveness that remained undimmed at the time of the "Covering Police" symposium more than 20 years later.

The LAPD continued to believe it deserved positive stories for all the everyday tasks it was doing right. Instead, it received a deluge of critical coverage of trigger-happy police shootings, the choking deaths of scores of unarmed people and its refusal to consider a change in the command-and-confront policing style that was causing much of that controversy.

The LAPD "couldn't seem to understand," as Janet Clayton put it, that "in some cases they had the power of life and death" over people and that they "*should* get more scrutiny than the local housing agency. One of our jobs is to try and look at the long perspective .... Coverage isn't about antidotes. Coverage is about trying to change systems and trying to figure what went wrong in [a particular] scenario, so that something can be done to ensure that it doesn't happen again."

But that wasn't how Bernard Parks saw it.

"When I think of the LAPD," Montiel told Parks, "I don't just think of any one crisis but of a whole series of crises over the years." Montiel then listed them: "Going back 40 years: the Zoot Suit riots, the Watts riot, the Rodney King beating, the '92 riot, O.J. Simpson.... With all that contextual history and ensuing controversy," how did Parks think policing had evolved in L.A. and how did he see the role of journalism in its relationship to the police?

"I think we've evolved in a variety of ways," Parks replied. "What's unfortunate [is] when you mentioned those highlights [Rodney King etc.], many of those are 10 or 20 years apart.... [The press] doesn't view them in context. In between, there's been the day-to-day activities ... of providing a service that the public appreciates."

Less than a year after the symposium, Parks was ousted as chief, partly as a result of the Rampart Division scandal. Parks had failed to build up a reservoir of trust and good will in the press and among political elites that otherwise might have let him ride out the scandal.

Samuel E. Walker, professor of criminal justice at the University of Nebraska, talked about the importance of a police chief not falling into that situation and of building respectful relationships with the public and the press.

"Following the Cincinnati riots, the chief of police of Cleveland told me that they shoot more black guys than the Cincinnati Police Department does," said Walker. "I thought about that, because there had not been any rioting in Cleveland, there hadn't been this continuing uproar that Cincinnati had experienced. And it looks like that was because they've had a number of activities there, in terms of community meetings where [people] go and get to express their concerns or outrage, and the officers who are there actually act on those concerns. And apparently something happens. So, assuming that what the chief told is true, and I suspect it is, they have taken positive steps to build up a reservoir of trust so people are willing to give the department a break when a shooting occurs. Whereas in Cincinnati, the attitude has been, 'Go away, drop dead, get out of here,' so there's a reservoir of distrust and anger," and people assume the worst.

## Change in Chiefs, Change in Style

Parks was replaced by a man with a very different attitude toward the press: William J. Bratton. As Connie Rice, a prominent Los Angeles civil rights attorney, once observed: “The interesting thing about Chief Parks was that he didn’t see black, white or anything; he saw *blue*. Everything he saw was through that blue prism. What Bratton has over Parks is that he’s able to see things through *your* prism, be it journalist, cop, politician or ordinary citizen. He knows how to play most everyone.”

When Bratton took over the LAPD in 2002, he immediately embraced the media, both local and national, just as he’d done as New York’s police commissioner. From 1994 to 1996, Bratton presided over a 37 percent drop in serious crimes and a 50 percent dip in homicides in New York and was hailed as the city’s savior by a largely adoring media, winding up on a 1996 cover of Time magazine.

But crime had been dropping precipitously throughout America since 1994, and Parks, along with his predecessor, Willie Williams, had also presided over a historic decline in crime, with homicides in 1999, under Chief Parks, reaching a 30-year low.

Nevertheless, both Williams and Parks received bad press. Williams did little or nothing to create and sustain a favorable image, instead letting his enemies in and out of the department fill the vacuum. They branded him, with some truth, as disinterested and incompetent. And Parks so openly displayed his contempt for the press that he rarely got the benefit of the doubt or was effective in publicizing the positive things he did.

“Community confidence and trust in the police is influenced by the media,” pointed out Karen L. Amendola of the Police Foundation Institute for Integrity and Leadership, during a later panel. “And many police agencies don’t trust the media. So they don’t provide the information that [the press] needs. But reporters have to get it from somewhere. So they get whatever information they can. Reporters give them an opportunity to give out information. If they don’t give out information, what can reporters do? So, it’s a two-way street. Often when there are negative police actions, you don’t get a response from the person in charge or you don’t get it soon enough, or you get the pat public information officer response, such as, ‘that’s under investigation,’ ‘we’re

looking into it' or "it's ongoing." So that's more mistrust because police are seen as hiding stuff.

"Police agencies have to recognize that positive relationships with the press and the outside community are important. One of the things that I think is a story behind a story now is the need for transparency. I've always heard the term "internal affairs." And it's always bothered me. Because I think the thing that gets done in internal affairs is really about external affairs. It's not about internal affairs. When you're talking about people's complaints, about the services that are provided, or lack thereof, that isn't an internal affair, and by golly that's why citizens get upset. They want a little bit more transparency just to know what's going on."

"In Richmond, Va., Chief Oliver, who's a really progressive chief, has done a lot of things in the community, and his central tenet is information. That if you're forthright and you provide information to the community – you don't always give them their way – but if you explain things to them, that will go a long way."

Bratton understood this. And when he came to L.A. he embraced the press, cooperated with it and helped reporters get their stories. As soon as he was sworn in as L.A.'s new chief, in fact, Bratton began a media blitz to garner support for the department and the reforms he wanted to make, and to get the press on his side. "It's all about marketing," he said a little more than a month after his swearing in. "I don't have a marketing budget, but I have the media."

The local press quickly bit at Bratton's strategy, playing seemingly every Bratton utterance as front-page news. The national press did the same: Ed Bradley did a piece for "60 Minutes," Peter Jennings for ABC's "World News Tonight," the New York Times gave the Bratton-in-L.A. story regular play, NPR did several segments and U.S. News & World Report, USA Today and the New York Post all did Bratton stories. By the end of his first full month in office, he had received 59 requests for press interviews. Bratton was on his way to confirming the truth he established in New York: that not since J. Edgar Hoover and the LAPD's own Chief William H. Parker, has anyone in law enforcement so skillfully used the media.

Hoover did it by manipulating Hollywood and the press into portraying the FBI's gang-busters as clean-cut professionals defending the American Way and himself as

the nation's ever-vigilant law man; Chief Parker, the architect and builder of the modern-day LAPD, did it by intimidation and having his press relations boys read and sign off on Jack Webb's "Dragnet" scripts before Webb was allowed to put them into production. In the process, Parker made himself a local icon and his police department world famous.

Like them, Bratton has understood the art of public relations, of image making and of massaging the press. But Bratton has taken it even further. He's learned to disarm the press by not being defensive and misunderstood, by being accessible and even helpful, and by flattering reporters' intelligence by being absolutely candid – or at least appearing to be so. Instead of trying to hide his intentions from the press, he *broadcasts* them. Bratton has discovered the obvious: that people *want* to support their police and will understand and forgive honest mistakes, and that transparency with the press is a police department's best defense.



# Oversight

## Who's Watching the Police?

By **Joe Domanick**  
Senior Fellow for Criminal Justice  
USC Annenberg's Institute for Justice and Journalism

*This is an excerpt from the "Covering Police in Times of Crisis" symposium, sponsored by USC Annenberg's Institute for Justice and Journalism, Western Knight Center for Specialized Journalism and the Vera Institute's Police Assessment Resource Center. The symposium was held December 2001 in the USC Davidson Conference Center.*



### Panelists

The panelists are people whose job it is to look at, monitor and report on the inner workings of police agencies and, in some cases, provide and even dictate the model for change

**Karen L. Amendola**, chief operating officer of the Police Foundation Institute for Integrity and Leadership.

**Merrick Bobb**, director of the L.A.-based Police Assessment Resource Center and special counsel to the Los Angeles County Sheriff's Department for the county's Board of Supervisors. Bobb has been monitoring the LACSD since 1992, issuing semi-annual public reports on the sheriff's department. Bobb moderated the panel.

**Jeffrey Eglash**, inspector general for the Los Angeles Police Commission.

**Steve Rosenbaum**, chief of the special litigation section of the U.S. Justice Department's Civil Rights Division, which section forces police agencies to make specified changes in their "patterns and practices" of policing.

**Samuel E. Walker**, professor of criminal justice at the University of Nebraska. He is a leading expert on methods for civilians and elected officials to oversee the police.



This extraordinary panel turned out to be an invaluable experience for the criminal justice journalists present, a crash course — a guidebook — on *how* to watch the police.

The message of the panel was as unequivocal as it was emphatic: Don't just look to the bad cop, the bad police shooting or the individual incident as the sum total of your story. Instead, view a particular incident as a clue, an indicator, an arrow that's pointing to the wider, real story behind the story.

And *that* story, said the panelists, usually lies within a police agency's inner workings: systems, policies, procedures, training and/or organizational culture. It is there that reporters will find patterns of police abuse or police failures.

In fact, they said, to focus on an individual cop or an individual incident is often to misidentify the real problem, which is often systemic, and as a consequence fail to produce a story that could lead to substantial, long-lasting change in a police organization.

"The challenge for reporters," as panelist Walker put it, "is to figure out ways to get that story and report it so that people will read it, it will stick and it will make a difference. You want to put a focus on people, put a human face on the story, because these are very technical, detailed, organizational types of issues. They're undramatic, but I think they potentially have long-term dramatic results."

"There are now court-appointed police monitors pursuant to [federal] consent decrees or memoranda of understanding in a number of places," said Bobb. "Washington, D.C., right now is in the process of having a monitor selected. Hartford [Conn.] has a monitor. Pittsburgh has a monitor. Steubenville, Ohio, has a monitor. Los Angeles has a monitor. The state of New Jersey is under a monitor with respect to racial-profiling issues. Montgomery County [Md.] has a consultant which functions like a monitor. In Philadelphia, there is a group that functions as a monitor of the Philadelphia Police Department. There are state attorneys general who are bringing suit around the country and asking, among the other pieces of relief, for the appointment of monitors. So the attorney general in California, Bill Lockyer, recently asked for the appointment of a monitor for Riverside, Calif., which has had a troubled police department, involved, as you may know, with the Tyisha Miller shooting.

"Monitors produce reports. I produce a public report every six months. Ellen Ceisler, who functions as a monitor in the Philadelphia situation, produces frequent reports. Jeff Eglash ... produces frequent reports. And there is beginning to become a

body of knowledge, a body of reports, techniques, ways of looking at police departments that I think is important for you all to know about, for us to share with you.”

“The reports that Jeff puts out, the reports that I put out and that other auditors and monitors put out are all, in some sense, scorecards. So what do we — should you — measure, and how do you go about measuring it? And I think, as we’ve talked over the last couple of days, it’s about context.”

## **Questions to Consider**

Then Bobb turned to a set of questions for the reporters to consider, questions that illustrated the kinds of things that police monitors and, by extension, the reporters themselves, should be looking for.

“How do you go about determining whether the police are doing a good job or a bad job of managing the risk of police misconduct?” he asked. “What do you look at? What do you measure? How do you compare departments, one against the other? How do you assess whether Prince George’s County outside Washington, D.C., has more officer-involved shootings than other similarly situated departments? And if so, what does that mean?”

“What does it mean if one particular police department has a canine program and the bite ratio — the numbers of bites that the police dogs give out — are at 20 percent, and in another police department at 8 percent? How do you go about benchmarking?”

“How do you go about looking at a police department from the point of view of holding them accountable for use of force and both lethal and non-lethal force?”

“What do statistics mean? What does it mean that the Los Angeles Police Department uses force in approximately 1 to 2 percent of its arrests? What does that statistic mean as compared to your department or the department in your particular city? Force may be used in 5 percent of arrests; how do you break that down geographically? How does it break down within the city? If in Los Angeles, force is used in 1.4 percent of arrests, does that mean citywide or does that mean in particular areas of the city — there are substantial variations. Those are some of the kinds of questions that we look at [as police monitors], and these are some of the kinds of questions that I hope you will be looking at.”

“What I’d like to do first with this panel is to introduce Steven Rosenbaum and let Steven talk about the work that he does as the chief of the special litigation section of the Civil Rights Division of the Justice Department.

“As you may know, the Justice Department in Washington, D.C., got new powers in the mid-’90s, as he will describe. And that power was to be able to investigate patterns and practices of police misconduct across the country. And Steve had to figure out what that meant. What is a pattern? What is a practice of misconduct? How do you identify it? How do you measure it?”

### **‘Pattern or Practice’**

“I’ll start,” said Rosenbaum, a slight, soft-spoken man who, as Bobb put it, “had played an extraordinary role” in giving the federal statute real enforcement teeth, “by just telling you what I think the key is on the ‘pattern or practice’ statute. When Congress passed it, it decided that police management matters. That the policies, procedures, training and systems of accountability in a police department can reduce the amount of excessive force and constitutional violations. And that management policies can make a difference.”

Rosenbaum gave some background as to why the federal pattern or practice statute had been necessary. “In the 1960s, we saw a prohibition against the use of evidence that was obtained through unconstitutional means in criminal trials. Unreasonable searches, coerced confessions, and then, following the Miranda decision, in-custody interrogations that were conducted without notice of a right to counsel – were all precluded.

“But what happened if no arrest was made? What happened if after an arrest was made the charges were dropped or if the evidence was excluded? I would submit that there are not a lot of consequences for individual police officers if they engage in unconstitutional conduct – not if charges are not being brought by a prosecutor or the evidence is being thrown out.

“And what about the areas that have been the predominant concerns of ours since the pattern or practice statute was passed: excessive force, unconstitutional arrests and searches or racial profiling. Officers can beat somebody up and use

excessive force and that's not going to affect the criminal trial. The evidence that was obtained after the excessive force was used – unless it was through a coerced confession – can still be used.

“And criminal defendants aren't likely to raise excessive force issues while they're facing those charges for a variety of reasons.

“So what other options does the law provide?

“One is civil lawsuits against officers. Individuals who've been victims of misconduct can file civil lawsuits. Those lawsuits, however, have some limitations. It's exceedingly difficult to use the basic statute that gives individuals the right to sue police officers for anything other than money damages for unconstitutional conduct. And in most departments money damages [don't really matter because officers] are reimbursed by the city or police department, so there's often no monetary cost to the officer involved. And it's very difficult [for a victim] to say, 'I was a victim of excessive force and you should reform the practices of the police department.' Courts just don't let that [happen].

“The third other area that has existed is criminal prosecutions of [abusive] police officers ... but they are very, very rare. They are very difficult cases to prove to juries because prosecutors have a higher burden of proof in criminal trials – they've got to meet a standard of 'beyond a reasonable doubt,' ” which is particularly difficult to do when you're dealing with a police officer.

“So there was a lot of misconduct or conduct that violated constitutional rights that wasn't being captured through any of these mechanisms. In the early 1990s, following the Rodney King beating, Congress started taking a look at this issue of what other remedy should be available ... and, in 1994, it created what gets the shorthand name of the pattern or practice statute. And what changed was that with that statute police departments themselves were held accountable for a pattern of excessive force. Instead of civil liability or criminal prosecutions being focused on an individual officer, our work focused on systemic breakdowns in the management of the police departments that result in unconstitutional conduct occurring on a regular basis.”

## Following the Courthouse Trail

“Let me just pick up on a couple of the things that Steve said,” Bobb told the reporters. “Because as he was talking, I was jotting down things that, if I were a journalist, I would be interested in writing a story about, based upon the kinds of things that he was talking about.

“I’d like to know, in my particular city, how often the prosecutor rejects cases based upon police misconduct. How many cases are rejected because the prosecutor believes there has been a constitutional violation of search or seizure laws?

“I’d want to know if there was any way to track which officers have presented cases that have been rejected and why have they been rejected. Are there any kinds of patterns with respect to police officers? How many officers have had cases rejected because they violated constitutional rights and the prosecutor won’t go forward? How often are officers disbelieved?

“How often is evidence suppressed in cases because of a constitutional violation? Go check with the judges. Go check with the prosecutors. Go check with the public defenders.

“Then, find out how successful your police department is as contrasted to other police departments in terms of getting the convictions or having evidence suppressed. Which officers in your particular departments bring what are called ‘contempt of cop charges’ and what happens with them? Who are the police officers who are frequently charging resistance to arrest? Are they correlated at all with the officers who have the most citizens’ complaints against them? See if you can find that out.

“Does the police department in a particular jurisdiction track rejected prosecutions? Do the police themselves know? Is there a feedback loop so that the chief of police knows that evidence was suppressed because of what X or Y does? If they don’t track it, why don’t they track it, and shouldn’t they be tracking it?

“What about judgments and settlements from private litigation? How much is it costing in your particular jurisdiction? How many cases are pending? How many cases were pending two years ago? How much money is your municipality spending now [to settle police abuse lawsuits]? Is it going up? Is it going down? What are the contents of those cases? What are the allegations in those particular cases? Are the allegations

getting more or less shocking, and if so, why? Where are the cases coming from? Are they coming from particular precincts? What are their demographics? What does it tell you about how the department is functioning?

“With respect to excessive force, have you gone and talked to the doctors and nurses at your emergency rooms around the city? What do they tell you when they see people who are brought in by the cops? Are these people roughed up? What kinds of injuries have they suffered? What is the attitude of the police officers who bring those people in? These are just some suggestions that I think would be interesting story ideas to follow up on.”

### **The Reporters Weigh In**

Bobb called for questions from the reporters. Nora Lopez of the San Antonio Express-News said: “We have an ongoing lawsuit with our police department. Any time an officer uses excessive force, they have to fill out some kind of a little internal document, and we’ve requested these documents, and it’s been denied. Do you have any suggestions about where else we could look to get at this kind of information?”

“Civil litigation [against police officers] is one way,” Rosenbaum replied. “Almost all the time the discovery in civil litigation is a matter of public record, so it can’t be shielded from you. You’ll have to get it from the lawyers or from the court [records]. Sometimes jurisdictions are savvy, and when there’s a settlement, one of the obligations the plaintiff makes is not to talk about the case or not to release the discovery, so you have to be careful of that. That’s one of the vehicles.

“Talking to officers is another way to get it, but the documents that you’re talking about are critical to begin to understand what’s going on in the department. And when we’re looking at an excessive-force investigation, we’re always asking for those documents.”

“In the media, there’s a lot of attention paid to how many misconduct complaints are filed and what the responses to those misconduct complaints are. But if you focus only on those misconduct complaints, you may not be looking at lots of other occasions where the force that was used was excessive. So, if you want to get a good picture of what’s going on in the department, you have to look at how *often* force is being used,

what types of force are being used, how frequently is it being used and under what circumstances is it being used.

“And you won’t get that by only looking at excessive-force complaints. You also want to look at what the management response is to the uses of force. Are there investigations of routine uses of force? Is there a feedback loop to the officers based upon those investigations? Is there an information feedback loop up the chain of command to the chief? Are there referrals to internal affairs based on routine uses of force that don’t result in misconduct complaints by people outside the department?”

“One other thing you also might want to explore,” said Bobb, following up on Rosenbaum’s reply, “is whether the police in your particular jurisdiction are required to report when they use force. If so, can you get ahold of the reports through a Freedom of Information Act or other process? If you look at those, you’ll be able to do some of the kinds of tests that Steve suggested.”

## **Understanding Internal Discipline**

Eglash, the LAPD inspector general, said: “One of the keys to understanding a police department is understanding how a police agency’s internal discipline system works – what it focuses on and what it quietly condones.” (It was, in fact, problems with the internal discipline system of the LAPD that led to the creation of Eglash’s Inspector General’s Office.)

“The big chunk of our responsibility is auditing, investigating and overseeing the internal discipline system in the LAPD. And one of the things that surprised me when I came to the department was just how big a part of the department the internal discipline system is. I really don’t think I fully understood the importance of the discipline system and defining the operative culture or subculture of the police department.

“It is the discipline system which sets the tone for what level of force is acceptable, for what kinds of searches or warrantless searches are acceptable, for what kinds of remarks can be made, and it just really defines the organization in so many different ways.

“So, to outsiders, I think the internal discipline system is one interesting little component of a huge department, but I’ve gained a new appreciation for just how

important it is in really setting the tone for the police department and how it interacts with the public.”

During a later question-and-answer period, Rosenbaum elaborated on the importance of the discipline system on a department’s actions on the street. “You can’t only look at the individual officer’s actions. You have to look at trends more generally within the department, because word gets out in the department about what kind of explanation will be accepted and result in finding, for example, that shooting is justified.

“If a particular police department keeps accepting a particular excuse for police shootings, such as ‘the suspect appeared to reaching for a gun in the waistband,’ then that’s the excuse officers are going to use, even though no guns are being found. But if word goes out in that department from on high that they’re not going to accept the gun-in-the-waistband as a justification, surprise! The percentage of time officers claim there was a gun in the waistband goes down. So, there are ways of sending messages in the department.”

Tina Brown, a reporter at the Hartford Courant, said: “I live in a unique town that has an ongoing federal program in which seven officers are being convicted of civil rights violations. “It’s increasingly difficult to get information on an incremental basis, but if someone is going to plead out, an officer for example, we don’t get that information until the [last minute]. I’m just wondering if you could suggest ways for reporters to kind of keep the pulse on those investigations.”

“In these federal cases involving indicted police officers,” answered Eglash, “you just need to look at the court filings and at docket sheets, because oftentimes the AUSAs [assistant U.S. attorneys] will file informations and they’ll file them days or weeks ahead of a plea. If you see an information being filed as opposed to an indictment, that ought to tell you something, because for felony charges defendants have a right to be indicted by a grand jury. If it’s a felony, and they’re proceeding by way of information, they’ve given up that right, which means there’s probably a plea agreement in the works and that officer has probably agreed to plead guilty and to cooperate and testify.

“And informations are often filed, they’re sometimes filed under seal, but more often than not they’re filed publicly. So you just have to go to the clerk’s office and start

looking at the new criminal filings. And if you see an information, that ought to tell you something. And then look at docket sheets because they're posted the day before, and they'll tell you about the appearances that are scheduled. Then if you see that case, it'll say on there, "Arrestment and Guilty Plea," and that'll tell you that it's going to go down. And although AUSAs generally [don't talk] to the press, there are other sources of information that you can find. You can talk to defense attorneys, you can talk to the [federal] agents. Sometimes agents will speak with you when the AUSAs won't. And look for other sources. Court clerks, perhaps."

"Before I was in San Antonio," Lopez said, "I covered cops in Dallas, where they have a citizen review board. And one of the complaints that the chief of police always had was that more than half of his firings were overturned by the citizen review board. And I'm wondering, how common is that?"

"It's huge, a huge problem," replied Walker. "And it's a great story. In Cincinnati, the last 15 terminations that went to appeals – the city has lost all 15. They are zero for 15."

"The explanation for that is the quality of legal representation. It's simply a matter of firepower. The officer is represented by a privately retained attorney who is experienced in labor law, by lawyers who are key players who've been there before and know that their retainer depends upon their success rate. Meanwhile, you've got the city represented by somebody from the city attorney's office, [who often doesn't have] much experience in this area or in his job; and if he loses, he's going to keep his job anyway – he can lose them all, right? And so, that's the story. Again, it's a particular part of the process."

"When I was in Cincinnati a couple of weeks ago, I recommended that they seriously consider privatizing those appeals. Just contract out. Let's find an aggressive labor lawyer who will handle it and come in so it'll be an equal ... you know ... you can't have the Cincinnati Bengals playing some high school team. It's a huge, huge issue."

## Best Practices

“The story today, as I understand it,” said Walker, “is that there’s an astonishingly important thing happening in terms of new forms of accountability for police departments. And the ‘what is new’ is that there’s now a convergence of internal/external mechanisms of accountability. Historically, they have been seen in terms of either/or: mutually exclusive alternatives.”

“But what we have now is an emerging consensus on a set of best practices. Now, your text for this – and it’s a reference point every [journalist] should have – is the Justice Department document “Principles for Promoting Police Accountability.” You should have that document. That should, in effect, serve as your checklist.”

“There’s good news and bad news in policing. All of my liberal friends who know nothing about policing can sum up what’s happening in three words: Rampart, Diallo and Cincinnati. And in their minds, things are bad, all police are bad, and nothing has changed since the ‘60s.

“My message here is that that is not true. That there are some police departments across the country that have, in fact, adopted those best practices that are in that Justice Department document.

He suggested that the best practices include these four things:

A comprehensive use-of-force reporting system. “You should be aware of that. You should use that as a checklist to evaluate and to report on your police department.”

An open complaint system.

An early warning system. “Do they/do they not have it or have *some* system to identify officers with recurring problems? Are they or are they not making some effort on traffic stop data collection or to get a handle on possible racial bias in traffic stops?”

A good citizen complaint or citizen review system. “In brief, there are really two models of citizen oversight: You have the classic civilian review board, such as exist in San Francisco, Berkeley, Minneapolis, then you have what has emerged as this auditor model [that Bobb and Eglash are using in Los Angeles]. I have a Web site, [www.policeaccountability.org](http://www.policeaccountability.org), and everything I know is soon going to be on there – all the basic questions that I get from reporters. What is citizen oversight? Does it work?”

Does it not work? What are the models? Where can I find an example of this? Is there an ordinance? What about subpoena power? It will all be there.”



# **A Case Study From the Los Angeles Times**

## **A Dialogue With the Reporters Who Broke the LAPD Rampart Scandal**

**By Joe Domanick**  
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*This is an excerpt from the "Covering Police in Times of Crisis" symposium, sponsored by USC Annenberg's Institute for Justice and Journalism, Western Knight Center for Specialized Journalism and the Vera Institute's Police Assessment Resource Center. The symposium was held December 2001 in the USC Davidson Conference Center.*



Los Angeles Times reporters Matt Lait and Scott Glover broke the Los Angeles Police Department's Rampart scandal. In the symposium's final panel, "Roundtable Discussion With Case Studies of How Some Reporters Have Cracked the Blue Wall," Lait and Glover gave a blow-by-blow, story-behind-the-story account of how they got the scoop on one of the biggest police scandals in the history of the LAPD.

*In 1998, LAPD anti-gang officer Rafael Perez stole three kilos of cocaine from the LAPD's cavernous downtown evidence locker. Six months later, he was arrested. In exchange for a five-year plea-bargained sentence, he gave investigators more than 3,200 pages of testimony so wild, so damning, so out there that the LAPD emerged looking like the Jeffrey Dahmer of big-city policing.*

*Individually, none of Perez's revelations was worse, say, than the 1997 brutalizing of Abner Louima by New York Police Department officers. But in their depiction of systemic, methodical brutality and lawlessness, they were even more troubling. Perez told investigators that fully half of the many hundreds of arrests he had made had been illegal.*

And, like him, as many as 70 of his fellow officers had witnessed, heard about or participated in on-the-job murder, attempted murder and their cover-ups; the deliberate shootings of unarmed people; savage, regularly administered beatings; the matter-of-fact falsifying of reports and committing of perjury in court; and the routine planting of guns, drugs and other evidence on innocent people.

*The officers all belonged to Perez’s Rampart Division anti-gang unit, a closed, secretive, inbred group known by the acronym CRASH (Community Resources Against Street Crime). They operated on the impoverished immigrant streets of L.A.’s Pico Union district, where the city’s power-broker skyscrapers glistened down on an eight-square-mile area housing the densest population west of the Mississippi: dirt-poor Central American residents jammed into dilapidated apartments housing 12 but built for four.*

*CRASH’s working assumption was that they could prone people out as a form of greeting, and beat and shoot them at will, knowing that nobody — nobody — would say a word. Their success was measured by numbers: the number of bodies carted in to be locked up, and the totals of cash and drugs seized that could be put in monthly reports. “How you got them,” as Perez would later point out, “was your business.”*



### **Matt Lait’s and Scott Glover’s edited remarks:**

**Lait:** I got a tip that [about] six pounds of cocaine were missing from an LAPD evidence facility and that they suspected it was an inside job, and beyond that, they suspected it was a cop who did it.

I got ready to write the story. When I met with the top LAPD brass, they asked me not to write the story. They said their concern was that [Perez] didn’t know he’s under surveillance, and if I wrote the story, I’d wreck the department’s investigation. That wasn’t a decision I could make on my own, I told them.

I went back to my editor, who went to his bosses and so on, up the chain of command. [The Times] then reached an agreement with the LAPD that we would hold off at least temporarily, provided we got the exclusive during the arrest of Perez.

At this point, we just thought it was Perez stealing cocaine. At first, [the deal] worked out pretty well. Not only did we get exclusives on the search warrants that they served, [we found out] that they suspected that other officers may have been stealing dope from drug dealers.

It was about this time, by the way, that I was covering the LAPD from downtown and Scott was covering it from the [San Fernando] Valley, [a suburban section of Los Angeles]. As I was writing these stories, Scott was catching wind of separate elements of the scandal.

**Glover:** I was out in the Valley, watching Matt break open these great stories, when I got in touch with a source, one of the few I had out there. I found out that not only were the police looking at this Perez thing but they were looking at it in conjunction with a few other high-profile incidents where it was believed police officers were involved.

One was a robbery at a Bank of America. And another was this strange shootout, a midday shootout involving an on-duty, plainclothes narcotics detective and an off-duty North Hollywood officer who happened to be dating Sharitha Knight, Suge Knight's estranged wife. [Suge Knight is the founder of the popular and lucrative gansta rap label Death Row Records.]

The LAPD had started looking at all these things as potentially related. Some of the officers had known each other – that sort of thing. That would have been a great story for us at the time, but no one wanted to confirm. So, we didn't go with it.

What we decided to do instead was to start backgrounding all of these guys in much the same way the department had been doing: Who are they? Where do they work? Who are their partners? What kind of discipline have they [received]? What kind of shootings have they been involved in? That sort of thing.

We started doing this for several months over the summer – in mornings and after work at night. It was certainly nothing [our editors] could cut us loose to work on. And the first story that we wrote just sort of raised questions about the relationship between Rafael Perez and David Mack, [the LAPD officer] who by this time had already been convicted of robbing [a branch of] the Bank of America. We learned that those guys were good friends, had worked in the department together and they had been involved in a shooting that we spent a lot of time looking at, that had a lot of questions about it. ...

A big thing that was raising eyebrows in the department was that a couple of days after the bank robbery, Perez, Mack, another officer and Perez's drug-dealing

girlfriend went on this party trip to Las Vegas where they spent thousands of dollars. So that was kind of the story that we wrote – there’s a lot of smoke here, investigators are looking at it, there are no clear ties, but isn’t this an interesting story?

Very soon after that story was published, Rafael Perez entered a plea deal in the drug theft. The plea was sealed, which to us was a pretty good indicator that maybe Perez was cooperating [in the investigation]. ...

By this time, we had already pulled all of his shooting reports and knew quite a bit about his discipline record and who his friends were. And we managed to get wind of a name: Javier [Francisco] Ovando. And Javier Ovando was a name that we recognized from one of the shooting reports we’d already pulled and put aside as sounding weird.

**Lait:** We essentially still had this quasi-deal with the department where we’re getting these exclusives and we’re working with the department. But we soon started crossing paths with the investigators. We’d go out to meet somebody and they’d say, “Oh yeah, the police were already here.” Or they’d go out to interview somebody and be told “The L.A. Times has just been here.” So they knew we were really actively investigating.

We were already aware that Perez was cooperating, and then, from our sources, we learned that Perez had identified the Ovando shooting [as being dirty]. Ovando, it turned out, was an unarmed gang member Perez and his partner had shot and then planted a gun on. So we knew much of this information. But we still had this deal with the LAPD, and it was really awkward. It got to the point where the department was essentially freaking out. They [erroneously] thought we were going to write the story, break the deal.

So, the chief [Bernard Parks] convinced we’re going to come out the next day with the story, holds a press conference at 7:30 at night and talks about Perez being identified with a bad shooting and identifying other officers [under investigation]. And that was essentially it.

But since we’d done a lot of background, we knew a lot more about the shooting. Parks didn’t really release any of the details, but this was where our background investigative work really helped. We had pulled shooting reports of what Perez originally

said had happened and were able to compare it to what the department was now saying had happened. ...

Parks' press conference ended our deal. So when our story came out the next day it said not only was there one [dirty] shooting but that there were two – involving seven other officers.

Then we heard from some of our sources that nobody in the LAPD involved in the investigation was allowed to talk to us.

**Glover:** About a week after that, we got a tip that there was going to be a big meeting out in the San Fernando Valley, a briefing of the anti-gang officers, [to let them know] about what was going on....

The meeting was being held at a church because they didn't have a big enough facility for these 200 police officers.... At this church there was no "LAPD only, check your guns at the door" [sign] or anything like that. So one of us sat down along with these 200 other officers. [The reporters wouldn't reveal who attended.]

Soon enough, a guy in a Hawaiian shirt and blue jeans got up and ... greeted the troops. At this time we knew that the department was looking at two shootings – the two bad shootings that we reported on.

But the [speaker] says no, that there had been *seven* shootings that they were looking at. He said that there was a sergeant who'd been quarterbacking all this stuff and that [Perez and the other CRASH officers] had a crash pad and that they were using it to bring in prostitutes and drugs, which fit very nicely with the interview we had done two days before with a woman who told us, "Well, yeah, I had sex in this crash pad all the time."

So the guy's spilling out all these things, and obviously this is not a note-taking situation. So [the reporter in the church] is trying to memorize what the guy is saying in bullet points – and during the break he runs out to the parking lot, gets on his cell phone and calls his partner – you know, "OK, here's what we got."

Afterwards we had a debate: How do we handle this? Our plan had been cleared by our editors as far as, "If anyone asks who you are, you say who you are; if there's a sign-in, deal with it." But none of that happened. We got the information, now how do we handle it? So we wrote a big story the next day, [even though] there was no official

contact with the LAPD to confirm all of this [because everyone had been ordered] not to talk with us.

**Glover:** So we wrote the story that a reporter was present at the meeting and that that had not been disclosed to the speaker, that what we'd written was what we had heard and that we didn't know if it was true or not.

**Lait:** Following that story, the biggest story that we wrote was after we [at first exclusively] got the [confidential] transcripts of the interviews with Rafael Perez – over 3,000 pages.

**Question from audience:** Did you get those legitimately?

**Glover:** They definitely were *not* obtained through public records acts. Nor would we have been able to [obtain them in that way]. But we got them. And they really revealed the scope of just what had been taking place – or at least what Perez was alleging had been taking place....

After that, we did [about] 150 stories [on Rampart] over a period of more than two years. There was just a lot of stuff in the transcripts. Essentially, you had Perez coming out and implicating about 60, 70 officers who committed these types of offenses. Anything from fabricating probable cause to planting dope or whatever, there were about 30 of those and another 30 who were aware of these types of things and didn't do anything about it....

More than a dozen officer have [since] either resigned or been fired; nine who have been criminally charged; four went to trial in one case – one was acquitted, three were convicted, that conviction was overturned by the judge, it is under appeal....

Perez's partner – who Perez implicated in all sorts of things from this covered-up shooting [of Ovando] to stealing from drug dealers – has since pled guilty and is going to be sentenced to seven years in federal prison. Just a couple weeks ago, it was disclosed that Perez is going to enter [another] plea deal, [this one with the U.S. Justice Department], where he's going to go to federal prison for two years for allegedly violating the civil rights of Ovando. [Perez was sentenced in May 2002 to two years in prison.]

**Glover then spoke about some of the sources he and Lait had used:**

We were able to talk to a lot of Rampart cops, for background and off the record – a couple on the record – and with prosecutors, defense attorneys, public defenders and civil attorneys .... We also did several Freedom of Information Acts to get access to the shooting reports, discipline records – a number of things to try to crack the blue wall.”

**Question from audience:** I’m interested in the support you got from the Times.

**Lait:** We were almost immediately insulated from anything and everything. We were working 15-16 hours a day, six-day weeks for months. And the play our stories got for a very long time was really good. There was just a tremendous commitment from the paper.

**Lait, in response to a question about a large number of unindicted Rampart CRASH officers:** [In late 2001], the district attorney came out and said, “This is it for Rampart. We’re closing the book on Rampart,” which struck us as a big surprise.

But there was also a silver lining because we began to look at what [in law] are called defamation memos, which deputy D.A.s here in L.A. fill out when they reject a case for prosecution. The prosecutor who considers the case will write a detailed memo on what the evidence was, a legal analysis of the evidence, and why they’re not filing charges. These are fascinating documents – and they’re public. We were able to do a series [of stories] on cases that get sent over to the D.A.’s office against police officers and didn’t result in prosecutions. And we were able to find cases with confessions, videotaped evidence, I mean, extremely strong cases that they reject for myriad reasons. So this is something, with the Rampart case, we were particularly interested in seeing, especially the few cases that we’ve written about.

**Lait, in response to a question about how much credit the LAPD deserves for unearthing the scandal:** We should give the LAPD some credit. I mean, we were finding out what *they* were doing, more or less. They, after all, were investigating it.

But we certainly have our views on how hard they were investigating it. We sure think that they left cracks open. We did a story about two of the shootings, two of the seven shootings that Perez said were bad. They [the LAPD] did nothing to investigate those shootings. They didn’t talk to the victim, they didn’t talk to the cops, they didn’t pull

the court records, they didn't do anything to investigate those shootings. And when we asked them about it, they said, "Oh, you, know, it's not that important."

Well, what do you mean it's a low priority? We would think it would be top priority.

"Well, yes, they are, but, you know...." That was their answer.

But the really interesting thing to ask is this: Would there have been a press conference [called by Chief Parks] at all [if we had not been on the story]? For two years, and we're continuing to write stories – I don't even know, 150 or something like that. And I assure you that the number of press releases from the LAPD regarding the Rampart scandals I can probably count on one hand.



# Epilogue

## Covering Police in Times of Crisis: A Postscript

By Joe Domanick  
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Los Angeles — June 2003

Since the terrorist attacks of Sept. 11, 2001, the U.S. Justice Department has draped the American flag over its secret policing, secret courts, secret evidence, secret deportations and secret, indefinite detentions — all in the name of national security. In the process, it has acquired astounding and unprecedented powers. Today, 20,000 INS prisoners languish in “entrepreneurial” private prisons and county jails, awaiting charges to be filed, trials to be held or deportation orders to be issued.

In early June 2003, the Justice Department's own inspector general released what a New York Times editorial called a “frank and blistering” report. It confirmed that most of the more than 762 people it had rounded up in its terrorist investigations had been denied due process, had been denied access to a lawyer, could not notify their families of their whereabouts, had been held in 23-hour-a-day lockdowns and had been abused both physically and mentally.

As a reporter covering the Los Angeles Police Department, I wanted to find out if the LAPD's counter-terrorism bureau had been operating in a similar manner since 9/11. Had the bureau been abusing L.A. residents? Were people being targeted, harassed or detained inappropriately? Were the public's money and resources being used appropriately?

To get a complete picture, other questions also had to be explored. How many arrests, for example, had the bureau made? What were the charges against those arrested? What rights, if any, had they been denied? What restrictions had been placed on the bureau's operations? Who was doing the oversight? Was the oversight adequate? How could the oversight be improved? And perhaps most important for local criminal justice journalists, what effect has the war on terrorism had on reform of the LAPD — a decade-long process that was entering its most crucial phase.

Since the early 1990s, reform of the nation's police departments had been a major theme of law enforcement. ***Transparency, accountability, civilian control over the actions of police departments, openness to the press and community organizations, and working with the public through community policing had all been cornerstones of that reform*** – cornerstones that are vital to a reporter's ability to fully report on a department's actions. If police departments were going to use 9/11 as an excuse to shut down or curtail information, it would be a huge step backward.

As Loyola Marymount University law professor Laurie Levenson put it, “When public officials start indiscriminately talking about 'terrorism,' they're really talking about the 'ghosts of terrorism' — law enforcement saying, 'We never know who's a terrorist and where or when they're going to strike, so we need all this extraordinary power and secrecy. We're the experts; you don't need to know what we're doing. Trust us.’ “

Refusing to accept that kind of attitude is critical for journalists. The potential for intelligence units to abuse their power is enormous. Who can ever forget all those secret prisoners with black sackcloths over their heads being wheeled around on gurneys at Guantanamo Bay? They illustrate why hard questions about police intelligence organizations, such as the LAPD's counter-terrorism bureau (CTB), must be asked and answered.

My interest in the counter-terrorism bureau began in May, when Los Angeles Police Chief William J. Bratton lobbied hard but unsuccessfully to get the City Council to fund the hiring of 320 ***new police officers***, in addition to the 400 the council had agreed to fund already. Fifty-five of the additional officers, Bratton told budget-strapped council members, would be assigned to the department's counter-terrorism bureau. Failing to hire them, the chief declared, would be akin to placing a telephone call to Osama bin Laden and telling him, “Osama, hold off for nine months until we get out act together.” Bratton had a point. Given the vulnerability of L.A. to terrorist attack, the city needs a strong, smart CTB.

Nevertheless, I was aware of the LAPD's notorious history of intelligence gathering. One of the counter-terrorism bureau's predecessors, the Public Disorder Intelligence Division (PDID), for example, had amassed almost 2 million dossiers on 55,000 individuals before most of the files were finally destroyed in 1975. In the course

of a lawsuit filed in 1981, it was learned that PDID had continued to illegally spy on more than 200 individuals and organizations. Among those targeted over the years were two California governors, a state attorney general, the mayor of Los Angeles, a future LAPD chief, City Council members, the National Organization for Women, the PTA and the World Council of Churches.

There was no outside oversight of the PDID. After William H. Parker became chief in 1950, he declared all intelligence files the “property of the chief of police,” shielded from subpoena and outside perusal. But as part of the settlement of the 1981 suit, the police department was forced to enter into a consent decree that required the dismantling of PDID.

When guidelines were finally put in place during the early 1980s as a result of the agreement, intelligence officers scooped up boxes of files that could no longer be kept under the new guidelines and hid them in their homes and garages.

Over the past decade, members of the LAPD's Rampart Division anti-gang unit frequently turned over witnesses or victims of their misconduct to the INS so they could not testify against the officers. One officer was accused of selling information on Hollywood stars to the National Enquirer. Another officer is under investigation for passing on data to a private eye.

\* \* \* \* \*

After doing my research, I met with John Miller, the former TV journalist who is now civilian chief of the CTB. He responded forcefully to my concerns.

“We are not spying on political organizations,” he said. “We’re not gathering information on movie stars or following City Council people. There are no secret charges, no secret courts, nobody's been denied counsel and no one's been held incommunicado. Any suspect in any of [our terrorist] investigations who feels their civil rights were violated can come forward and make his case either to an organization or to the press. I haven't seen that happen.

“These people weren't arrested in one fell swoop. These were separate criminal cases, occurring over almost two years, involving straight criminal violations committed by people whose names came up in terrorist investigations.... They were entitled to all

rights, including Miranda warnings, bail, representation by counsel and due process in open court, where we had to prove each case.”

The CTB, says Miller, has participated in 180 arrests since 9/11, a large majority in joint task forces with federal agents. Of the 74 arrests made by the LAPD alone, 51 “involved cases connected to international terrorism” and 21 involved other suspects: skinheads, the Aryan Brotherhood and other white supremacists; the Jewish Defense League; an arsonist; and mental incompetents making terrorist threats.

“The charges,” continued Miller, “range from murder to gun possession, parole violations, narcotics, marriage and social security fraud, forgery and perjury. Four of the cases filed were rejected by the Los Angeles district attorney for prosecution, 12 pled guilty, 11 cases the DA accepted were turned over to the INS for immigration violations, five other cases filed were for parole violations, two were turned over to federal authorities and local charges were dropped, the disposition was unknown in seven cases and 21 others are either pending trial or ‘DA filed.’ “The rest, says Miller, “didn't fit into any of the above categories” but were “miscellaneous,” such as awaiting extradition or sentencing to state prison. No one thus far has been charged with international terrorism.

“The theory [behind] the investigations is that when we develop information about connections to terrorist groups or terrorist fund-raising, we can develop that information by finding local criminal statutes that these [suspects] are violating and arrest them with that,” he said. “It's a window into the larger picture.”

I wasn't surprised by Miller's response. The LAPD, I'd found out, doesn't have the extraordinary powers granted to federal agents by the USA Patriot Act. It must follow California state law. So, in that sense, Miller had nothing to hide. nor was stonewalling a viable option. As a former investigative journalist, Miller knew that, sooner or later, lies and incriminating information have a way of coming to the surface. He also understood that his boss, Bratton, had come into office as a *reformer*.

Nevertheless, Miller refused to reveal the names of those arrested. Without those names, the media and civil liberties groups could not seek out the people who'd been arrested or find out how they'd been treated and what had happened to them.

Miller could not answer another essential question with certainty: What had happened to the suspects that the LAPD had helped federal agents arrest? Were they being held incognito and/or indefinitely? Miller said that it was “highly unlikely” that LAPD officers had participated in any secret federal arrests or that anyone was being held on secret charges. But he could not say with certainty.

I had no reason to believe that Miller was hiding something. Protecting the people of Los Angeles from a terrorist attack while safeguarding the civil liberties of those suspected of plotting to bring one about is a difficult challenge. Many Angelenos' deep-seated fears of terrorist violence leave little or no room for the rights of the accused. Others anxiously recall the PDID's abuse of its powers.

In an article for the Los Angeles Times' Sunday Opinion section, I suggested a number of reforms:

“He could make the counter-terrorism bureau a national model,” I wrote. A first step would be for law enforcement and local politicians to limit the use of the word ‘terrorist.’ Timothy McVeigh was a terrorist. Osama bin Laden is one. But those caught up in terrorist investigations who are guilty of nothing more than immigration violations, credit-card fraud or similar crimes are not terrorists. Distinguishing terrorism from ordinary crime, as Miller's categories do, puts the terrorist menace in a more realistic perspective.

“More than 100 communities around the nation have protested the all-encompassing nature of the anti-terrorism provisions of the USA Patriot Act. The LAPD counter-terrorism bureau could be a check on federal abuse if, in exchange for its help in tracking down terrorist suspects, it demanded that it be kept apprised of the suspects' fate. That way the residents of Los Angeles would know what their local tax dollars were supporting.

“Miller is confident that he's an effective personal check on abuse. ‘I know everything we're doing,’ he said. ‘I'm very comfortable none of it is over any lines that would set up alarm bells for me. . . . I didn't come out of a police culture where the ends *justify the* means. . . . I have no illusions about the excesses and wrong turns made by the LAPD, right up through reasonably recent history. But that's not what's going on

here. And as long as I'm here, and this chief is here, [abuse is] never going to go on here.'

"But granting Miller his integrity, he's not going to lead the counter-terrorism bureau forever." Then I spelled out what I thought were the oversight problems and what should be done to rectify them: "Currently, the only oversight of the unit is a designated police commissioner, whom Miller 'reports to almost weekly in terms of current activities and threats' and from whom Miller must receive approval before launching an undercover investigation. That person is commission President Rick Caruso, a developer with limited experience in constitutional issues, policing or nationally accepted police investigative norms and procedures. In addition, the bureau is audited just once a year by a commission staff member.

"To be sure, the counter-terrorism bureau must be able to withhold information whose release would jeopardize continuing investigations, alert a suspect or risk public safety. But that doesn't exempt it from a more permanent and rigorous oversight system than it currently has. A key element of such a system should be semiannual audits, conducted, written and made public by the LAPD's independent inspector general. In addition, the authority to monitor and approve the bureau's operations should be placed in the hands of independent, knowledgeable and experienced civilians. City Councilman Jack Weiss has suggested a panel of three retired judges. They should be selected by the Police Commission and approved by the City Council.

"What we've learned about the LAPD is that its culture trumps all. No one can seriously suggest that Bratton has changed that culture yet. The job of protecting Los Angeles from both terrorism and rogue cops is far too serious to accept a system of accountability in which a small, intertwined group, acting in secrecy, tells us to trust them."

But it's important to remember that Los Angeles is only one of many big city police departments with extremely active intelligence units. For example, there is now a massive police spying scandal in Denver. Which brings me back full circle to the beginning of this report.

I had never ended a piece with the same quote with which I began. Nevertheless, I can't think of any words better than those of Janet Clayton: "In this post-9/11 world ...

the pressure's [on us] to get in line, sit down, shut up, say what everybody wants us to say and not make waves. I'd like to suggest that it's more important than ever that we remember that our primary responsibility is to the public and nobody else.”

