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# £UNITED STATES OF AMERICA @Torture, Ill-Treatment and Excessive Force by Police in Los Angeles, California

## INTRODUCTION

An unarmed man wanted for a traffic violation is blinded in one eye after a beating by three police officers. Another man - unarmed, handcuffed and mentally disturbed - dies after being "subdued" by some 20 officers who beat and jolted him repeatedly with a "taser" gun that fires two darts which give an electric charge on contact. Following a car chase, a 21-year-old is shot dead in his car. And a police dog mauls two bystanders at different places, one of them a highway patrol officer, in the space of half an hour.

All of these incidents took place in the Los Angeles area, where the debate about police brutality has intensified since March 1991 when a video camera captured the police beating a black driver, Rodney King, more than 50 times following a car chase.

That videotape drew national and international attention and led to charges by civil liberties and other organizations that police brutality within the Los Angeles Police Department (LAPD) was widespread -- the only difference in the King case being that someone had captured it on tape.

Amnesty International's investigation into police brutality in Los Angeles over the past year -- part of its ongoing monitoring of police ill-treatment throughout the country -- focused on police brutality in both the LAPD which polices the city of Los Angeles and the Los Angeles Sheriff's Department (LASD) which polices a wider area of Los Angeles County.

The investigation which included a fact-finding trip to Los Angeles showed there is a serious problem of excessive force by police -- a problem which has gone unchecked for many years. Officers in the LAPD and LASD seem to regularly use higher levels of force than set out in their guidelines, frequently out of all proportion with the threat posed by the victims. All too often this force has led to serious injury or death; at times it has even amounted to torture or cruel, inhuman or degrading treatment when people have been beaten, "tasered", shot or attacked by police dogs. And more often than not, officers and deputies have acted with impunity, receiving little or no disciplinary action even in serious cases; in virtually none of the cases detailed in

this report had any criminal prosecutions taken place.

In many cases police violated their own guidelines as well as international standards which require that law enforcement officers should use force and firearms only as a last resort where non-violent measures have failed or would be clearly inappropriate.

The type of force used includes hitting people on the head with heavy metal flashlights or lead-filled straps known as "saps", even though hitting suspects on the head is generally prohibited. It involves police dogs attacking people who have surrendered or pose no threat, and not calling the dogs off when they should. And sometimes it means using "tasers", described as having the stopping power of a small gun.

The Independent Commission on the Los Angeles Police Department (known as the Christopher Commission)<sup>1</sup>, which was set up following the Rodney King beating, also found that a significant number of officers in the LAPD repeatedly used excessive force and ignored departmental guidelines. It also found that the problem was "aggravated by racism and bias" within the department, that measures taken to investigate complaints and discipline officers were inadequate and that the department lacked the public accountability of other police forces in the USA. The commission made detailed recommendations for improving the complaints and disciplinary process, training, recruitment and police accountability.

The extent to which police resort to excessive force in Los Angeles is difficult to assess. Indeed, this report is not an exhaustive one. It examines cases where civil damages have been paid to alleged victims of police abuse. Although the police have said that civil actions do not necessarily prove police misconduct, Amnesty International has found a disturbing number of cases where police officers and Sheriff's deputies have used unjustified force. Many of the allegations were of abuses by patrol officers during confrontations in which the police themselves have claimed that force was justified. Police officials acknowledged that there were officers who used unjustified force but denied that this was officially tolerated. Both departments told Amnesty International that strenuous efforts were made to root out rogue officers and that further steps were being taken in line with some of the Christopher Commission recommendations. Officials also pointed to the difficulties and dangers of policing in Los Angeles, particularly in areas controlled by neighbourhood street gangs where there was a high rate of violent crime (There were nearly 2,000 murders in Los Angeles County in 1990, 690 of which were "gang related" according to figures published

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<sup>1</sup>The commission was chaired by Warren Christopher, a lawyer and a former US Deputy Attorney General and Deputy Secretary of State

by the Sheriff's department).<sup>2</sup> They also pointed to the stringent rules and regulations governing the use of force within both departments.

Civil liberties groups on the other hand said that the police regularly used unjustified force, particularly in the black and latino communities, and that youths in neighbourhoods where gangs were prevalent were targeted for abusive treatment regardless of whether or not they were involved in crimes. They said the police saw themselves fighting a "war" against crime which inevitably places them in hostile and confrontational situations with people living in Los Angeles' poorer areas, rather than trying to improve relations with the local communities. Some of this criticism was echoed in the Christopher Commission's report which recommended, among other things, adopting a more "community-based policing".

This report looks at three main areas: physical brutality, police shootings and the use of police dogs. The report reviews measures taken to investigate alleged abuses, including the complaints and disciplinary process, prosecutions and civil lawsuits as a remedy for abuse, and discusses the role of the federal government in investigating abuses by state law enforcement agencies. It also draws attention to international standards on the use of force, including the United Nations Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms.

In this report, Amnesty International makes several recommendations for tackling the problem of excessive force by police. Although both the LAPD and LASD have taken important steps in recent months to address this problem, further measures are still needed. The organization recommends that police leaders make clear in their guidelines that torture and ill-treatment will not be tolerated and back that up with strong disciplinary measures and criminal prosecutions where appropriate. It also recommends that the Sheriff's department tighten up its guidelines on the use of firearms to bring them into line with international standards, and that the canine units of both departments be thoroughly investigated to make sure that the use of police dogs doesn't amount to unwarranted force. Amnesty International further recommends that the federal government should take a more active role in monitoring complaints of ill-treatment by state law enforcement agents, in preventing such abuses and in bringing those responsible to justice.

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<sup>2</sup>A 1991 LASD report states that there are some 99,000 gang members in Los Angeles. However, a report published by the District Attorney's office in May 1992 estimates there are as many as 150,000 gang members: this would amount to almost half of all young black males in the county. Civil rights groups allege that this is a grossly inflated estimate, based on police tendencies to wrongly categorize many minority males as gang members in certain areas. The DA's report noted that while the LAPD took a uniformly confrontational stand with gangs some Sheriff;s units interacted more with local community groups and emphasized developing a rapport with gang members (p.144 of *Gangs, Crime and Violence in Los Angeles: Findings and Proposals from the District Attorney's Office. May 1992*).

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## BACKGROUND

### *Background on Los Angeles County and the LAPD and LASD*

Los Angeles County has a total population of nine million which makes up 45% of the population of California. The county includes the City of Los Angeles and 87 smaller cities and a number of unincorporated areas. It has 43 separate police departments of which the LAPD and the LASD are the two largest.

The **LAPD** has some 8,300 officers and polices the City of Los Angeles - the second largest city in the USA with a population of 3.4 million. According to 1990 census data cited in the Christopher Commission report, the city's white population constitutes 37% of the total; latinos (people of Latin American origin) 40%; blacks (also referred to as African-Americans) 13%; and Asian/Pacific islanders and others 10%.

The Christopher Commission noted that the racial composition of the LAPD was still predominantly white and that, although there had been some progress in hiring minorities, these were generally concentrated in lower positions. In 1986 (the last figure available) 68.7% of officers were white; blacks constituted 12.4%, now 13.6%; and latinos 16.5%

The LAPD is under the control and management of the Police Commission, a board of five civilians appointed by the mayor. However, the Christopher Commission found that, in practice, the Police Commission lacked the resources to effectively monitor or control police practices or policy. Real power lay with the Chief of Police who, unlike in other US cities, was appointed by a Civil Service Commission and had virtual life tenure. The Christopher Commission found that the Chief was therefore unaccountable either to the Police Commission or the city authorities.

One of the Christopher Commission's main recommendations was to amend the City Charter to limit the tenure of the Chief of the LAPD to a maximum of two five-year terms and strengthen the Police Commission. The electors voted in June 1991 to limit the Chief's term of office and create shared responsibility between the Mayor, Police Commission and City Council for the Chief's selection and removal.

The **LASD** has some 8,000 sworn officers and polices all the unincorporated areas of Los Angeles County as well as, by contract, 42 cities in the county, serving a total population of some 2.2 million. LASD officers also operate the county jail system. Like the LAPD, the force is predominantly white, although efforts were reportedly being taken to increase the number of minority officers.

LASD deputies serve their first two years in the custody division at the county jails before going out on patrol. This is often their first contact with people from ethnic minorities, particularly blacks and latinos, who make up a disproportionate number of jail inmates. There has been some criticism of this policy on the ground that it may encourage deputies to view members of these minorities as predominantly criminals and adversely influence their attitude toward the population at large. The Sheriff was recently reported to be reviewing this policy.

Unlike the Chief of the LAPD, the Sheriff is directly elected by the population every four years. Once elected, the Sheriff has sole charge of policy and operations. A five-member Board of Supervisors is the elected governing body of the County and has some oversight powers in providing the budget for the LASD. The Board is also responsible for authorizing the payment of civil damages awarded against Sheriff's deputies. However, it has no supervisory powers over the operation of the LASD.

### *The Rodney King Case*

It is worth summarizing what happened in the Rodney King case as it was this incident which set in motion the current debate and inquiries into police brutality in Los Angeles.

King and his two passengers were ordered out of their vehicle following a car chase on 3 March 1991. King was struck twice with an electric taser gun (allegedly for refusing to lie flat on the ground as ordered).<sup>3</sup> The video-tape showed that he was then subjected to 56 baton blows and kicked and punched by three uniformed officers while 21 other officers stood by. Ten, including an LAPD sergeant, directly witnessed the beating at close hand. King was then "hogtied" (handcuffed and bound by the arms and legs) and left at the side of the road until an ambulance arrived to take him to hospital. King sustained multiple injuries as a result of the beating and required 20 stitches to his face and mouth. His injuries included a broken cheekbone, broken ankle and skull fractures. On 4 March (while King was held in the jail ward of a county hospital) King's brother tried to file a complaint about the incident with the Foothill LAPD station, the area where the beating had occurred. The station sergeant took a statement after some delay but failed to fill out the proper personnel complaint form; he later reported in the station log that no investigation was necessary. George Holliday, the man who had video-taped the beating, also tried to register a formal complaint and again the station failed to complete the

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3A taser gun is a hand-held electronic gun which shoots darts which discharge an electrical shock on contact with a person's skin or clothing. The darts remain attached to the taser gun and the electrical shocks last as long as the switch is depressed by the operator.

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necessary form or pass on the complaint. The arrest form filled out by one of the officers who had participated in the beating was later found to be inconsistent with the video evidence.

The Christopher Commission found that the King beating suggested tolerance of the use of excessive force within the LAPD, noting that none of the other officers at the scene had reported any wrongdoing. The Commission also found that computer and radio messages transmitted on police Mobile Digital Terminals (MDTs) immediately after the beating raised concern that the beating was part of a "larger pattern of abuse". The officers involved openly joked about the incident, one commenting that "I haven't beaten anyone this bad in a long time". There were earlier alleged racial references by some officers. A later analysis by the Christopher Commission of LAPD MDTs found recurrent racist remarks during police exchanges which, despite being a violation of LAPD policy, had gone unchecked.

The LAPD took action only after the incident was publicized through the video-tape. Four officers (three who had carried out the beatings and the sergeant in charge of supervising the incident) were charged with criminal offences, including assault under colour of authority; two were also charged with filing false reports. One of the officers was a probationary officer who was instantly dismissed. Dismissal proceedings were also reported to be instituted against the other three officers. The Chief of the LAPD also ordered several personnel changes in the division where the beating occurred and asked senior officers to examine the LAPD's use-of-force policies, training and the profiles of officers involved in sustained complaints or civil damages awards. It later became known that three of the charged officers had been named in prior complaints and one had been suspended for 66 days in 1987 for kicking and hitting a latino suspect with a baton.

On 29 April 1992 the four officers were acquitted in a controversial jury decision which sparked off serious rioting in Los Angeles in which more than 50 people died. The trial had been moved from racially mixed Los Angeles to neighbouring Ventura County with a predominantly white population and the jury had no blacks on it. Three of the officers were acquitted on all charges; however, the jury failed to agree on one assault charge against the fourth officer. In May 1992, the judge in the case ordered the fourth officer to be retried on this charge. The trial (which the judge also ordered should take place in Los Angeles) was still pending at the time of writing. The US Justice Department was also reviewing the cases to see whether there was evidence to bring criminal civil rights charges against the four officers.

## CASE DATA EXAMINED BY AMNESTY INTERNATIONAL

As noted above, many of Amnesty International's findings are based on cases in which damages have been paid in civil lawsuits against the police and the city or county authorities. Such cases are usually brought under federal civil rights legislation which allows individuals to sue state officials in state or federal courts (The chapter on **Investigation of Complaints: Remedies for Police Abuses** gives a more detailed description of this procedure).

### *General Statistical Data on Lawsuits*

A March 1991 report to the Los Angeles City Council showed that there were 103 cases between 1986 and 1989 in which judgment or settlement in excess of \$15,000 had been awarded to victims of alleged LAPD misconduct or negligence. The large majority of these cases were for alleged excessive force, including assaults, wrongful deaths and shootings.<sup>4</sup> The report noted that there were many other cases which resulted in awards of less than \$15,000. Indeed, statistics provided by the City Attorney's office show that, over the last decade, damages have been awarded for LAPD misconduct or negligence in some 70-140 cases annually as a result of court judgments, jury awards or out-of-court settlements.

Similar records for lawsuits filed against the County for actions by Sheriff's deputies were not made available, despite a request to the County Counsel from Amnesty International.

However, the Los Angeles Times has reported that the County paid damages in excess of \$20,000

in 95 cases between 1985 and 1989, the majority alleging excessive force.<sup>5</sup> A total of 131 cases were reportedly settled for varying amounts in 1990. Some 869 lawsuits against the LASD were pending as of September 1991.<sup>6</sup>

The LAPD has stated that settled cases do not necessarily reflect the continuing level of abuse. They provided statistics showing that the number of lawsuits filed against the LAPD have actually fallen in recent years - from 367 in 1986 to 212 in 1990 (although they rose again in 1991). However, the overall number still appears to be unacceptably high. Complaints against the Sheriff's Department have reportedly risen in recent years.

Civil lawsuits do not in any event provide a complete picture of police abuses. Such cases represent only a small proportion of the total number of complaints filed against the police each year, most of which do not result in litigation. However, as police internal investigations are not usually made public, civil lawsuits are significant in that they are often the only cases in which there has been some independent evaluation of the evidence given on both sides. These issues are discussed more fully elsewhere in the report.

### *Information collected by Amnesty International*

Amnesty International's report is based on a year-long investigation which included case studies and other information collected during and after a three-person fact-finding visit to Los Angeles in September 1991. Amnesty International's representatives on this visit were Rod Morgan, Professor of Criminal Justice at Bristol University, England, and an expert adviser to the Council of Europe Committee for the Prevention of Torture, and two staff members of the International Secretariat. The delegates met senior police officials (including the heads of both departments, Chief Gates and Sheriff Block), city and county officials, lawyers and civil rights groups.

Amnesty International has reviewed summaries of more than 60 cases prepared by the City Council's Budget and Finance Committee between January 1990 and February 1992, in which the City Attorney recommended payment of damages in lawsuits brought against the LAPD. Most concern incidents which took place during the mid to late 1980s. About two-thirds of these cases alleged use of excessive force. Amnesty International has also reviewed similar reports prepared by the county to resolve suits brought against Sheriff's deputies. Lawyers representing alleged victims of abuse have provided further information on both settled and pending cases.

The data examined reveals that police and Sheriff's deputies have used excessive force in a disturbing number of cases in recent years, often resulting in serious injury or death. Some of the cases reflect what happened in the Rodney King incident, with several involving extreme use of force at the end of a pursuit. In many of the cases police accounts of what happened were

<sup>4</sup>Report of the Chief Legislative Analyst to the Budget and Finance Committee of the City Council dated 25 March 1991. The 103 cases exclude traffic accident/liability cases.

<sup>5</sup>Los Angeles Times 27 May 1990

<sup>6</sup>Los Angeles Times 10 December 1991



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inconsistent with independent witness testimony or medical evidence.

Although most cases concern incidents which took place several years in the past, Amnesty International has also received information on a number of more recent cases, including lawsuits alleging a continuing pattern or practice of abuses in certain areas.

The victims in the cases examined included whites, blacks, latinos and other races, with blacks and latinos together accounting for some two-thirds of the total. The officers were usually, but not always, white. It appears, however, that civil lawsuits may not reflect the true level of abusive and discriminatory treatment of blacks and latinos. Amnesty International received reports that black and latino males were regularly harassed and humiliated by police as well as subjected to unjustified stops and searches purely on account of their race. This routinely happened, Amnesty International was told, during police sweeps of certain neighbourhoods, or if a black male, for example, was seen outside his "area", in a white middle class neighbourhood. The Christopher Commission reported similar findings. Although some lawsuits illustrated such treatment, Amnesty International was told that such cases were difficult to litigate and rarely resulted in court action or damages awards.

Amnesty International wrote to the LAPD and LASD in a number of cases in which damages had been awarded, asking for comments and information on whether disciplinary action had been taken. The Sheriff's Department declined to comment on any cases. Although the LAPD provided some information, neither department would give information on disciplinary action, citing confidentiality of records.<sup>7</sup> However, information from other sources suggested that police and deputies often acted with impunity, receiving little or no disciplinary sanctions as a result of the force used, including in some very serious cases. In virtually none of the cases cited below had any state criminal prosecutions taken place.<sup>8</sup>

The cases examined by AI fall into three main areas: physical brutality such as beatings; police shootings; and the use of canine units. Amnesty International's findings and illustrative cases are summarized below.

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<sup>7</sup>The police authorities declined to give this information on the ground that Section 832.7 of the California Penal Code requires that police officer personnel records remain confidential.

<sup>8</sup>The only case where there was a state criminal prosecution was the Dalton Avenue case where one LAPD officer pleaded no contest to, and three others were acquitted of, misdemeanour vandalism charges.

## ALLEGATIONS OF PHYSICAL BRUTALITY

The large majority of the cases reviewed by Amnesty International involved alleged excessive physical force, such as unjustified beatings. Most of the alleged abuse took place during the course of arrests, traffic stops, searches or other incidents which patrol officers were called to investigate. Damages were also paid in several cases of alleged ill-treatment of suspects held in police or county jails.<sup>9</sup>

LAPD guidelines provide that officers may use physical force only where "other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances" and that they may use force which is "reasonable and necessary to protect others or themselves from bodily harm". The guidelines issued by the Sheriff's Department state that "members shall use force only when necessary and fully justified by circumstances".<sup>10</sup> LAPD guidelines further set out degrees of force on a scale of 1-5 which officers must use in accordance with the threat or degree of resistance posed by the suspect. These are (1) verbal persuasion (2) firm grip (3) compliance holds (4) intermediate force, including batons, kicks and taser guns and (5) deadly force, including firearms. Anything from a firm grip upwards must be reported.

In many of the cases reviewed, it appeared that officers used a degree of force out of all proportion to the threat posed by the suspect, in violation of the above guidelines. The most common forms of ill-treatment alleged were repeated kicks, punches or beatings with batons. Other cases included beatings with metal flashlights and use of "taser" guns. Sheriff's deputies also used an instrument known as the sap - a lead-filled leather strap which, like the other weapons referred to above, is capable of causing severe injury. In several cases people were reportedly beaten after only minor altercations with police or deputies; some were not involved in any criminal activity at the time or were suspected of only minor offences. Some suspects alleged that they were beaten despite offering no resistance or after they were already handcuffed or otherwise restrained.

The LAPD prohibits head strikes (blows to the head) except as a last resort where deadly resistance is encountered. The LASD also provides that head strikes should be avoided. However, many of the cases involved alleged head strikes, where this level of force appeared unwarranted.

In several of the cases examined, the alleged victims were charged with offences arising from the incident which were later dismissed. Lawyers alleged that this was a common practice to cover up abuses. A study of 95 misconduct cases against Sheriff's deputies carried out by the *Los Angeles Times* in 1990 found that most of the victims had been charged with offences on the basis of initial deputy reports and that many of these were later dropped after further evidence emerged.<sup>11</sup>

Descriptions of some of the cases in which damages have been awarded during the past three years are given below.

### **LAPD**

#### **John Jenkins**

John Jenkins, white, was allegedly beaten by LAPD officers in May 1985 after attending a punk rock concert to celebrate his 18th birthday. During a civil disturbance at the end of the concert (in which Jenkins and his companions were apparently not involved) police conducted a sweep of a nearby parking lot. About ten LAPD officers in riot gear allegedly smashed the windows of Jenkins' car, dragged him from the car and beat him about the head and lower body with their batons. Jenkins alleged that, after being beaten to the ground several times he managed to reach a friend's car and was driven to hospital. He was treated for head lacerations, bruises on his left side and back, abrasions on both knees and a possible punctured eardrum. He missed five to six weeks work as a result of his injuries and is alleged to suffer a permanent hearing deficiency in one ear. Jenkins filed a lawsuit claiming violation of his civil rights and the case was tried before a jury in 17 October 1990. At the trial two independent witnesses testified that their vehicles were also vandalized by police and that they saw people beaten by officers in the same parking lot. The jury unanimously found the City to be liable for \$200,000 compensatory damages and also awarded \$21,000 punitive damages against each of six police officers.

According to a court report on the case, a police internal affairs investigation failed to identify the officers involved in the beating, although the investigation was given the names of the officers who were in the parking lot at the time.

Although the City Attorney's office filed Notice of Appeal against the judgment, the city eventually agreed to settle the case for

<sup>9</sup>Several lawyers alleged that jail inmates were ill-treated more frequently than civil lawsuits might suggest but that individual complaints were difficult to litigate, through lack of independent witnesses or lack of credibility of alleged victims in such cases. There had been several lawsuits concerning general conditions in jails which do not form part of this report.

<sup>10</sup>Section 240.10 of the 1991 Manual of the LAPD and Section 3-01/030.20 of the Manual of Policy and Procedures issued by the Sheriff's Department.

<sup>11</sup>Los Angeles Times 27 May 1990

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\$265,000 (including attorney fees) in May 1991.

### **Caleb Quinn and Mara Fox**

Caleb Quinn and Mara Fox, both white, were two rock musicians from San Francisco who, after performing at a concert in Los Angeles in November 1988, went to spend the night at Quinn's mother's apartment. While they were there, LAPD officers went to the apartment after arresting a youth who was staying there. Caleb Quinn alleged that, when he went to see what was going on, three officers knocked him to the floor of the kitchen and beat him. He was then handcuffed and taken outside. Quinn alleged that, while he was sitting on the curb, with his hands cuffed behind his back, an officer struck him several times across the back of the head with a hard object. When Quinn started calling out that he was being brutalized, the officer took out his baton, knocked him to the ground and struck him several times on the head and body. He was then "hog-tied", with cord-cuffs joining his wrists and ankles even though, Quinn alleged, he told them that his leg was broken. Two officers then allegedly picked him up and threw him face-down on the ground (police records confirm that he was hogtied). Quinn sustained a multiple fracture of his left leg near the ankle and contusions and abrasions to his chin, shoulders, legs, face and back.

Mara Fox alleged that she was struck with a baton and kicked in the face and head several times after trying to intervene during the earlier police assault on Quinn in the apartment.

Fox sustained bruises to her ear and head.

Quinn was arrested and initially charged with battery of a police officer. However, this charge was not pursued and Quinn pleaded no contest to a charge of disturbing the peace.

Quinn and Fox filed a lawsuit alleging assault and battery, false arrest and violation of their constitutional rights. The police denied misconduct, contending that Quinn and Fox had interfered with them and that Quinn had tried to kick the sergeant who struck him on the legs. However, the case was settled on the day of trial, in June 1991, with the plaintiffs being awarded damages of \$225,000. According to the lawyer for Quinn and Fox, one of the reasons for settlement were photographs of Quinn's back reflecting several baton welts, although the officers had denied hitting him there. A neighbour had also witnessed the officer beating Quinn while he was handcuffed on the ground.

A police Use of Force report dated 26 November 1988 found the force used "was reasonable and in policy".

Amnesty International wrote to the LAPD asking for their comments on the case and to know if any disciplinary action had been taken. However, no information was provided.

### **Luis Milton Murrales**

Luis Milton Murrales, a latino man, lost the sight in one eye after being beaten by LAPD officers at the end of a car chase in April 1988. Murrales was a passenger in a vehicle which police tried to stop for a traffic violation. During the chase, the car collided with a police vehicle and the occupants fled on foot. Three LAPD officers located Murrales hiding under a stairwell. Murrales contended that he obeyed commands to come out of his hiding place and that, on doing so, was kicked and beaten with batons on the face and body. The officers contended that Murrales failed to obey their commands to drop an object he was carrying, which turned out to be a gym bag. Some 28 officers altogether were involved in the incident.

A report on the case prepared by the city's Budget and Finance Committee in November 1990 stated that "All three officers admit to striking the plaintiff with batons on his arms and upper body, but deny any blows to his face". However, it went on to note that: "The City-secured ophthalmologist confirmed that plaintiff had experienced severe eye injury which has left him legally blind in the eye. The doctor concluded that the damage was caused by blunt trauma to the eye". At a settlement conference, the magistrate recommended that the City settle out of court for \$400,000. After negotiations a settlement of \$177,500 was reached.

The above case was cited in the Christopher Commission's report. The report commented that: "... the commanding officer acknowledged that a 'lynch-mob' mentality appeared to have existed once Murrales fled the scene on foot. However, after an LAPD investigation, no allegations were sustained against the officers involved. Four officers who used force on Murrales had similar prior incidents." (*Report of the Independent Commission on the Los Angeles Police Department*, at p.57).

### **Jesus Martinez Vidales**

Jesus Vidales, a latino teenager, sustained a fractured skull after being hit by a police officer in August 1986. Vidales, then aged 17, was one of several youths whom two police officers observed driving a suspected stolen vehicle into an apartment complex. The car was not found, but Vidales and another 15 year old boy were spotted during a police search of the area. One officer admitted striking Vidales at least eleven times with his baton on the back, shoulders, head and legs as he attempted to pull him from beneath a parked truck, maintaining that Vidales was

kicking at him.<sup>12</sup> Shortly after being taken into custody, Vidales collapsed and began convulsing. He was hospitalized for three

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<sup>12</sup>According to a 1992 Budget and Finance Committee report on the case, the officer alleged he had used force after believing  
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weeks and treated for a depressed skull fracture. Vidales was charged with battery of a police officer, a charge which was later dropped.

The District Attorney (DA) decided not to file criminal charges against the officer involved, despite photographic evidence of "baton-caused" bruises and numerous kick marks to Vidales' body and clothing, on the ground that there was "insufficient evidence to prove a crime occurred". The DA's report apparently noted inconsistencies in some witness testimony and the fact that the officer maintained that the blow to Vidales' head had been accidental. The officer was later suspended for 15 days without pay following internal police disciplinary action.

However, in March 1992 the officer was convicted in a federal court on two charges of using excessive force and falsely arresting the victim to cover up the incident. He was sentenced to one year and seven days' imprisonment. The charges were brought under federal criminal civil rights legislation after the US Justice Department reopened the case in 1991 (following the King beating).

Had the officer's actions taken place after 1988, he would have been liable to a maximum ten year sentence as the federal legislation was amended that year to increase the penalty for civil rights violations causing bodily injury. At the time of the officer's action, this

was only a misdemeanour offence carrying a maximum penalty of one year on each count.

In February 1992 the city agreed to settle a civil lawsuit brought by Vidales and the second youth (who had also alleged he was beaten) for \$42,500.

### Calvin Morgan Stevens

Calvin Stevens, white, was allegedly beaten at the West Los Angeles (LAPD) Jail in August 1989 after his arrest for a minor driving offence. In a sworn statement, Stevens testified that, when he failed to fold his t-shirt and hand it to the station officer during a strip search, the officer hit him in the face several times with his fist, and that a second officer grabbed him by the neck and threw him against the wall of the cell. He claimed that he was again punched in the face as he was putting on his trousers. He was treated in hospital for multiple injuries to his face, including several fractures, a broken nose, a scarred eye retina and nerve damage on the left side of his face. He subsequently underwent a cheek implant and plastic surgery.

Both officers denied striking Stevens. One testified in a deposition that he observed Stevens falling in his cell and that his face hit the corner of a bench and his head hit a wall. He stated that he rushed into his cell too late to break the fall. The second officer testified that he observed the first officer run into Stevens' cell to help him from the floor.

In September 1991 the city agreed to pay damages of \$400,000 in settlement of a civil lawsuit filed by Stevens. Stevens claimed that he had been unable to continue his work as an actor and writer since the incident. In recommending settlement, the Budget and Finance Committee noted the City Attorney's recommendation that there would be a "substantial risk of liability should this matter proceed to trial".

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that the two youths would at one point overpower a fellow officer. However, the District Attorney's report is alleged to have noted that, while both officers were 6 feet 5 inches tall and weighed 215 pounds each, Vidales was only 5 feet 8 inches, and 170 pounds, and the 15 year old was 5 feet tall and weighed only 90 pounds.

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### **Robert Cervantes**

Robert Cervantes, a homosexual latino male, was beaten by two LAPD officers in an adult cinema in December 1986, during an arrest on suspicion of lewd conduct. Cervantes alleged that the police pounced on him before he reached his seat, striking him in the face with their metal badges and generally assaulting him. He also alleged that he was hit on the head with a sap while handcuffed in the back of the officers' vehicle. Cervantes was later acquitted on criminal charges of lewd conduct, battery on police officers and resisting arrest.

Although the two officers denied any wrongdoing - continuing to claim that Cervantes had resisted arrest - a jury awarded punitive damages (of \$29,000 and \$55,000) against them in October 1991. The jurors found that the officers had used excessive force and that there was a "code of silence" by police officers tolerated within the LAPD that had caused harm to the plaintiff. Medical records showed that Cervantes had received stitches for a head injury following his arrest, although the officers denied striking him in the car. The records also showed bruising to his forehead, back, ribs and other injuries. The city failed to file a timely appeal and their motion against execution of the judgment was therefore denied.

### **Stuart Vigil**

Stuart Vigil, white, died following his arrest in December 1987. A civil lawsuit filed by his family is still pending and Amnesty International does not have access to a full account of what happened in this case. However, it is concerned that a large number of officers were involved in what appears to be an extreme level of violence used in subduing an unarmed, handcuffed, mentally disturbed man.

Stuart Vigil was taken into custody after the LAPD received a complaint about his bizarre behaviour. Apparently believing that he was high on the drug PCP, LAPD officers handcuffed him and took him to a hospital. More than 20 officers were allegedly involved in subduing Vigil in the hospital carpark after he resisted being taken inside. Although handcuffed, he was allegedly beaten repeatedly with batons, first when he refused to get out of the car and later as he ran towards a trailer. He was also struck multiple times with a "taser". He died shortly after being taken into the hospital's emergency room. The autopsy report (which found some illegal drugs but not PCP in his system) described 128 separate injuries, including abrasions to the head, neck and chest, fractures, multiple lacerations and contusions and internal haemorrhaging. The report also noted that some of the injuries "could be considered defensive in that the deceased was warding off blows".

As far as the plaintiffs' lawyers were aware, no officers had been disciplined as a result of the incident. Trial in the civil case was still pending in June 1992.

### **Dalton Avenue**

In August 1988 more than 70 LAPD officers, including supervisors, engaged in a massive display of force and vandalism during a raid on four apartments in a black neighbourhood on Dalton Avenue. The officers had a warrant to search for alleged drug-dealing gang members. However, few drugs were found and the force appeared far in excess of what was necessary to conduct a narcotics search.

The police reportedly used axes and battering rams to completely destroy the apartments, breaking apart walls and plaster, ripping away a staircase, smashing furniture, bathroom and kitchen fittings, pouring bleach onto the occupants' clothes and destroying TVs and other personal possessions. The residents of the apartments also alleged that they were detained without probable cause, were beaten, strip searched and otherwise humiliated and were forced to "run a gauntlet of police batons".

According to a court summary of the civil action later taken by the residents, 35 people were detained as a result of the raid, ten from the searched houses, one passer-by on a moped and 24 who were outside in the neighbourhood. Four of the occupants were charged with narcotics offences, charges which were later dropped (two others were charged in connection with outstanding arrest warrants).

The 55 residents sued the police for civil rights violations, destruction of property and false arrest. In February 1990 a jury awarded them \$3 million in damages, which the City paid.

In June 1991 three LAPD officers were acquitted on misdemeanour charges of vandalism and conspiracy arising from the raid (it was alleged that there had been a previously agreed plan to destroy the homes). Jury members were afterwards reported to have said they believed officers were guilty of vandalism but not those on trial. A fourth officer pleaded "no contest" to vandalism and was sentenced to two years' probation.

No other officers were charged. After an outcry at the raid, a police investigation found that 38 officers had broken departmental rules. Twenty-two officers were suspended for up to 22 days without pay and two others resigned.

### **Other cases: Use of Prone-Out**

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Amnesty International received a number of general allegations of harassment and abusive treatment of minorities by police officers, particularly black and latino males. It was alleged, for example, that blacks and latinos stopped by police were routinely made to "prone out", a control technique in which suspects are required to kneel and then lie face down with their arms spread out or their hands behind their backs. The Christopher Commission reported receiving numerous accounts of minorities being unnecessarily subjected to "prone-out" and recommended that "greater discretion should be exercised in its application". There were also many complaints relating to unjustified stops and searches.<sup>13</sup> Although many cases do not result in litigation, several of the cases reviewed by Amnesty International illustrate such treatment, including the following.

**Abel Romero**, a middle-aged Latino man with no criminal history, was stopped in his van in September 1984, after the LAPD put out a call to look out for a van used in a homicide. He was ordered in English to kneel and prone himself out on the sidewalk but as his English was poor he had difficulty understanding the instructions. He alleged that, after he sat down on the sidewalk, an officer kicked him, pushed him face down and kneed him between the shoulder blades, handcuffed him and lifted him to his feet. He was released at the scene when it was determined that his van was not the one being sought. According to a Budget and Finance Committee report, his injuries "included a strained wrist, bruised ribs and upper back, facial abrasions and cuts". The City Attorney's Office recommended a \$30,000 settlement in November 1990.

In October 1991, the Budget and Finance Committee recommended that damages be awarded in the case of **Claude Brown** who in August 1988 sustained a fractured thumb, broken tooth and injuries to his face, neck and back, after being ordered into a prone position by an LAPD officer who mistakenly thought he was a murder suspect.

The committee also recommended damages in October 1991 in the case of **Jasper Harrison**, a black male who was ordered to kneel in the street after parking his car in front of his home in May 1986. He alleged that one of four officers pushed him violently face down onto the street; his arms were forced behind him and he was handcuffed and placed in a patrol vehicle. The police officers said that they had been looking for a man with a knife when Harrison was stopped. The actual suspect was in fact arrested by the same officers shortly after Harrison was stopped. Harrison was nevertheless arrested for resisting arrest and held in jail for 23 hours (where he alleged he was also assaulted) before being released on bail. No criminal charges were filed against him.

## *LASD*

### **(Fred) Scott Mace, Russel Trice and Leigh Mace**

Scott Mace and Russel Trice received serious injuries following an altercation with Sheriff's deputies in September 1989. The incident occurred when deputies were called to the Mace's apartment complex to investigate a noisy party. Scott Mace, who was in the driveway of the complex and had not been at the party, claimed he "cheeked" one of the deputies (making an uncomplimentary remark about his weight) as they went past. He claimed that, after he had gone indoors, a deputy banged on the door and tried to pull him from his apartment. As a result of being kneed in the groin, Scott Mace sustained a fractured left testicle which had to be surgically removed. He also alleged that three deputies repeatedly beat him with objects which could have been flashlights, batons or saps. As well as the testicle injury, Scott Mace sustained numerous bruises and a severe laceration to the leg which required stitches. The two deputies who were first on the scene claimed they attempted to arrest Scott Mace for being drunk in a public place when he refused to go into his apartment. However, independent witnesses said they awoke to sounds of screaming and saw two deputies pulling Scott from inside his apartment.

Russel Trice, who was staying at the Mace apartment, claimed he awoke to hear Scott screaming for help and saw two deputies beating him in the doorway. He tried to hold one of the deputies off and was struck in the face with a blunt object, causing an injury which required stitches. When seven other deputies arrived, Trice claims he tried to hide in a bedroom. However, deputies broke open the door, threw him on the bed and kicked and beat him with batons. He was then made to "run the gauntlet" between deputies who repeatedly hit and kicked him. The deputies maintained that Trice backed up against the bedroom wall after they entered, challenging them to a fight. However, the injuries support Trice's account. Trice sustained a serious back injury, for which surgery was still required two years later, as well as contusions and abrasions across his back, buttocks and the back of his legs.

Leigh Mace was Scott's father, then aged 59, who claims he was pushed naked into the bathroom after getting up to see what was going on. When he went back into the bedroom and saw deputies beating Russel Trice, he was pushed back into the bathroom

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<sup>13</sup>Large numbers of people were also reportedly subjected to unnecessary stops and arrests during a series of police sweeps of certain areas in response to an escalation of gang violence. Known as "Operation Hammer", the sweeps started in February 1988 in South-Central LA and thousands of black youths were arrested, most of whom, according to reports, had no contact with gangs but were picked up purely on the basis of their race. The police sweeps continued over a two year period, with some 25,000 youths arrested in this way in 1990 alone. More than 90% of those arrested during Operation Hammer were subsequently released without charge.

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with such force that his body bent a metal towel rail on the far side wall. He was arrested for interfering with an officer - a charge which was later dropped. He alleges that he was again assaulted at the Temple Sheriff's station.

Despite their injuries, over an hour elapsed between the arrest of Scott Mace and Russel Trice and their arrival at a hospital three miles away (a fact confirmed by hospital admission records and police radio transmissions). They claim that two deputies drove aimlessly around the area during this period, taunting them. Although all three were arrested, none was eventually charged.

The three filed a lawsuit against the county and the deputies involved. In December 1991 the county agreed to settle the case out of court for \$925,000.

No criminal prosecutions were brought against any of the deputies. The Sheriff's Department declined to provide Amnesty International with information as to whether any deputies had been subjected to police disciplinary proceedings.

### **William Sisoyev**

William Sisoyev, aged 55, died as a result of injuries sustained in October 1984 during an altercation at his home with a Sheriff's deputy. The deputy had visited his home to advise him about an outstanding traffic warrant. According to a report on the case prepared by county

attorneys in 1989, the deputy testified that Sisoyev opened the door but then turned and walked back into his apartment; the deputy followed him in uninvited, Sisoyev turned on him and a fight ensued.

According to press accounts of the District Attorney's report on the case, Sisoyev died after being struck with a sap which broke his skull. The deputy was reportedly uninjured.

The county agreed to settle the civil lawsuit brought by Mr Sisoyev's family for \$150,000 in July 1989. In recommending settlement, the county attorney's report noted that witnesses for the plaintiffs would testify that the deputy did not use accepted police policies and tactics. The report noted: "In our opinion there is a substantial risk that a jury would find in favour of the plaintiffs ..." and that the Sheriff's Department agrees that this settlement is "fair and just".

The deputy was not prosecuted as a result of the incident. The LASD declined to comment on the case or provide information on whether or not the deputy was disciplined. Amnesty International received no response to inquiries with the District Attorney's office.

### **Jesus Chavez**

In March 1992 a federal jury awarded \$170,000 damages to a latino man who suffered mild brain injury after being hit on the head by a Sheriff's deputy in April 1985.

Chavez and his companions had been queuing to enter a party when everybody was ordered by police to leave the area. While Chavez was trying to get into his car (having lost the key) a deputy ordered him to move on. The deputy said that Chavez and a friend started to move on as ordered but suddenly turned and charged at him; he said that he then drew his baton and struck Chavez six times, causing him to fall bleeding to the ground, before turning to strike his companion. Chavez alleged that the deputy dragged him from a friend's car after he had made a cheeky remark and beat him while he was standing with his hands on the car roof. Photographs of the car roof, entered in evidence, showed several depressions where the deputy's baton had allegedly missed Chavez. Photographs of blood on the street where the car had been parked also supported Chavez' version. An independent eye-witness also supported Chavez' account of what had happened. A police baton instructor testified that it would have been impossible for the deputy to have struck Chavez six times as he sprinted towards him, as he had claimed.

### **James Dunn**

During the exercise of a narcotics search warrant at a house in March 1985, James Dunn was struck on the head several times by two deputies with their flashlights. The two were among five or six officers who had entered the house through the unlocked front door after hearing voices inside indicating that evidence was about to be destroyed. There were no reports of Dunn having attacked the deputies. Dunn claimed to have been handcuffed when he sustained the injuries, which the deputies denied.

According to a report on the case prepared by county attorneys in February 1990, Dunn sustained broken ribs and various head injuries as a result of the beating, with medical experts expected to testify to some permanent residual brain damage. The report noted that, in addition to the plaintiff and deputies, there were other witnesses to the incident including neighbours. In January 1990, a judge recommended settlement of a claim filed by Dunn against the county of \$275,000, to which the county agreed.

### **Benjamin Chacon**

Benjamin Chacon sustained two hairline skull fractures and brain contusion after being struck by a deputy in April 1984. Chacon had failed to stop his car when requested to do so by deputies and a pursuit at moderate speeds had taken place. Chacon admitted  
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driving under the influence of the drug PCP but alleged that excessive force was used during his arrest. The deputy claimed that he struck Chacon several times on the legs and back with his baton after Chacon took a fighting stance while being placed under arrest. However, an independent witness (as well as two passengers in the car) testified that the deputy struck Chacon repeatedly over the head in an unprovoked attack.

In July 1989 a jury awarded Chacon \$106,000 damages in a civil rights lawsuit brought against the county, which included \$6,000 punitive damages against the deputy. The jury also found that there had been a cover-up within the Sheriff's Department. An internal Sheriff's investigation - the reports of which were obtained only during the civil litigation - had cleared the deputy of any wrongdoing but had given an apparently distorted account of what the independent witness had claimed. It was also revealed that the deputy denied hitting Chacon on the head in his arrest report but told departmental investigators that the head strike had been accidental.

Another witness for the plaintiff alleged that he had been assaulted by the same officer on a previous occasion. The officer was also one of several deputies involved in a prior civil lawsuit in which the county had paid damages to an alleged victim of assault. The verdict was upheld on appeal in October 1991. Under California law, punitive damages against a public official may only be paid by the employer (in this case the county) if the official was found to have acted in good faith. Otherwise the individual officer must pay the damages out of his own pocket. In January 1992, the county attorney recommended that the Board of Supervisors authorize payment of the punitive damages awarded against the deputy in this case as they did not consider that he had acted improperly.



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### August Brown

August Brown, black, was allegedly beaten repeatedly about the head, face and body by five deputies after he had surrendered following a car chase in February 1991.

Brown alleged that he obeyed instructions to get out of the car with his hands in view as five or six deputies had the car surrounded, with their guns drawn. He claims that the beating took place after he was ordered to lie face down on the ground; as he was kneeling with his hands on his head, he told them that he had recently had major back surgery and was unable to lie down completely on the ground. He alleges that a deputy then hit him on the back of the head and struck him repeatedly across the face with a billy club and that four other deputies stood on his legs, kicking and beating him. According to his attorneys, Brown sustained a bruised liver, a punctured lung and his face was broken in three different places.

There were no independent witnesses to the incident. However, photographs taken shortly afterwards show severe bruising to Brown's back and face, a black eye, face lacerations, injuries to his shoulders and a wound to the back of his head.

A civil lawsuit in the case was pending in June 1992.

### *Pending case against Sheriff's deputies from the Lynwood Station*

In 1991 the NAACP<sup>14</sup> Legal and Educational Defense Fund (LDF) Inc. filed a class action civil rights lawsuit against the Sheriff's Department, alleging that deputies from the Lynwood substation engaged in systematic unwarranted beatings, racial abuse, destruction of property and unjustified shootings. The lawsuit (known as the **Thomas** suit after the first-named plaintiff Darren Thomas) was filed on behalf of more than 100 mainly black or latino residents of Lynwood, a neighbourhood near South-Central Los Angeles. The suit cited numerous incidents of alleged ill-treatment in 1990 and 1991, including abusive behaviour during house searches, beatings with flashlights and other instruments, physical abuse of alleged gang members in the police station or "gang trailers" and several questionable shootings (the latter included at least two shootings of unarmed men, one of whom died after being shot 30 times by deputies). In many cases, there were photographs or medical evidence of injuries sustained.

The LASD has contested the lawsuit, denying that the treatment alleged took place or otherwise claiming that the use of force was justified. In a reply-brief filed with the court, the department pointed out that Lynwood has one of the highest rates of gang-related violence in Los Angeles County, with more than 107 homicides and several thousand other reported serious crimes in a 20 month period from 1989 to 1991. The department claimed that many of the plaintiffs named in the suit had been engaged in acts of violence and were charged with serious offences arising out of the incidents cited.

However, in September 1991, a federal district judge granted a preliminary injunction sought by the plaintiffs. This placed restrictions on certain LASD practices and called on the department to abide by its policies and guidelines on the use of force.

The injunction also required

the department to photograph suspects taken into custody and to provide the court with monthly records of reports of alleged excessive force. The LASD appealed against this ruling on the ground that it would seriously hamper their law enforcement abilities. The injunction was stayed pending an appeal which had not yet been heard in June 1992.

Although the injunction was stayed, the district judge's written reasons for granting it were highly critical of the LASD and Lynwood deputies in particular. The judge found that many deputies working at the Lynwood station were "motivated by racial hostility" and "regularly disregard the civil rights of individuals". The judge also noted that criminal charges against a number of plaintiffs had been dismissed "because of the unreasonable force used in effectuating their arrests" and found there was an unwritten departmental policy of charging people injured during the course of a routine stop. The judge further found that many of the incidents cited in the lawsuit involved deputies who were members of a white supremacist gang known as the Vikings, alleged to operate from within the Lynwood station.<sup>15</sup>

Two of the deputies named in the **Thomas** suit were defendants in an earlier unrelated case in which substantial damages were awarded to relatives of an unarmed man shot dead in 1987. Another officer named in the suit, who was later transferred from Lynwood allegedly for belonging to the Vikings, was involved in the fatal shooting of an unarmed teenager in August 1991 (see chapter on **Shootings** below), which is the subject of another pending lawsuit.

Amnesty International is unable to comment in detail on the **Thomas** case, the facts of which are still in dispute. However, it is

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<sup>14</sup>National Association for the Advancement of Colored People

<sup>15</sup>The Vikings were alleged to have engaged in racial abuse and other misconduct within the Lynwood area. The LASD maintains that the club of this name within the Lynwood station was essentially a sports and social club and denies the existence of a "white supremacist" or neo-nazi group. However, there is documentary evidence that the Commander of Lynwood station, concerned by reports about the Vikings, arranged the transfer of a number of alleged members in late 1990, including several of the defendants named in the Thomas suit.

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concerned by the allegations, many of which are accompanied by photographic or medical evidence, and by the fact that some deputies have been involved in prior lawsuits in which excessive force was alleged. The allegations suggest that deputies may have engaged in a pattern of abuse which requires serious investigation.

## POLICE SHOOTINGS

The Christopher Commission found that 22 per cent of major claims against the LAPD settled between 1986 and 1990 involved wrongful injury or death from police shootings. The Commission also found that the LAPD shot dead or wounded more people in relation to the size of the police force than in any other of the six largest US cities.<sup>16</sup> A significant proportion of claims against the Sheriff's Department also involve death or injury from shootings. In 1990, the LAPD are reported to have shot dead 18 people and wounded 44; Sheriff's deputies in the same year fatally shot 26 people and wounded 32.

Both departments acknowledged in meeting with Amnesty International that officers sometimes made mistakes, but denied there was any officially tolerated practice of unjustified shootings. They said that the large majority of shootings were fully justified by the circumstances, pointing to the daily confrontations between police and armed suspects and the requirement of police to resort to lethal force when necessary to protect themselves or others.

They also stated that there were stringent procedures applying to the investigation of shootings and that LAPD and LASD officers are required to make a report whenever they discharged their firearms, whether or not anyone is hit. (Police investigation of officer-involved shootings is discussed in more detail below.)

Some of the cases reviewed by Amnesty International, including a few in which substantial damages have been awarded against the police, appear to involve genuine mistakes or poor tactics rather than deliberate use of unjustified force; in others the circumstances remain in dispute.

However, Amnesty International has received information on a number of disturbing cases in which suspects were shot - in some cases multiple times - who appeared to offer no immediate threat of deadly resistance. They include some cases where officers continued to fire after the suspect was apparently disabled. Police action in these cases appeared to violate international standards on the use of deadly force as well as departmental guidelines (see below). Disciplinary action against the officers concerned was either slight or nonexistent. In none of the cases were officers criminally prosecuted.

### *LAPD and LASD guidelines on use of firearms*

**LAPD** policy on the use of firearms is set out under Section 1/556 of the LAPD Manual. This provides that an officer may use deadly force only when it reasonably appears necessary to protect himself or others against the "immediate threat of death or serious bodily injury" or to apprehend a fleeing felon who has committed a violent crime and whose escape presents a substantial risk of death or serious bodily injury to others.<sup>17</sup>

Section 556.40 states inter alia that: "Firing at or from moving vehicles is generally prohibited..." and that "Deadly force shall only be exercised when all reasonable alternatives have been exhausted or appear impracticable".

Section 556.35 (headed Minimising The Risk of Death) states inter alia that: "An officer does not shoot with the intent to kill..." and that "...even in the rare cases where the use of firearms reasonably appears necessary, the risk of death to any person should be minimized".

Section 556.70 provides that officers shall not use deadly force to effect the arrest or prevent the escape of a person whose only offence is a misdemeanour.

**LASD** policy on use of firearms is set out under Section 3-01/030.30 of the Manual of Policy and Procedures. These are less detailed than those laid down by the LAPD, but similarly provide that deadly force shall not be used to arrest any person solely for a misdemeanour. The policy provides that deputies shall not fire at a fleeing felony suspect unless the officer "has probable cause to believe that the suspect poses a significant threat of death or serious injury to the officer or others"; that there is no justification under most circumstances to fire at a fleeing vehicle and that firearms should be used "only when absolutely necessary and fully justified by the circumstances". The policy also states that deputies "... have the positive duty to use firearms whenever the necessity exists in the protection of their lives, or the lives of others."

Unlike the LAPD, the Sheriff's Department appears to have no written policy regarding minimizing the risk of death or serious injury when firearms have to be used. This is contrary to international standards (see Chapter on International Standards).

### *Some cases reviewed by Amnesty International*

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<sup>16</sup>The Commission cited figures published by the Police Foundation on the six largest US cities (*The Big Six: Policing America's Largest Cities, 1991*). These showed that, in 1986, LAPD officers killed 3.0 persons per 1,000 sworn officers and wounded 8.1. In Detroit, with the second highest violent crime rate, the comparable numbers were 1.2 and 5.0 respectively (p. 24 of Christopher Commission Report).

<sup>17</sup>See 556.25 and 556.40 of the LAPD Manual.

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### **Hong Pyo Lee**

Hong Pyo Lee, a 21 year old Korean, died in March 1988 from nine gun shot wounds to his back and the back of his neck. He was shot simultaneously by four Sheriff's deputies who opened fire at the end of a pursuit. He was unarmed at the time.

According to a county attorney's report on the case, Lee was pursued by Sheriff's deputies at "relatively moderate speeds" after he failed to stop after almost colliding with a Sheriff's vehicle "in an area of high drug trafficking activity". The pursuit ended when Lee drove into a

railroad siding and his exit was blocked by a number of deputy vehicles as well as the car of two Long Beach police officers who had joined in the pursuit.

Lee's parents filed a lawsuit against the county and deputies involved, claiming that the deputies acted in reckless disregard of Lee's constitutional rights by "knowingly and deliberately using unreasonable and deadly force without lawful justification or necessity, and out of anger at decedent for leading them on a chase". According to the plaintiffs' claim, one deputy tried to open the car door which was locked, and rapped on the window with his gun. The car then jerked forward in first gear and four other deputies fired their service revolvers, the shots hitting and killing Lee as he was still seated in his car.

The deputies claimed that they fired in self defense when Lee reversed his car at them at high speed. However, according to the lawyer for Lee's parents, Lee's car was found in first gear not reverse; Lee's position in the car was inconsistent with the deputies' claims and the deputies had him driving backwards at a speed which would have made contact with them inescapable yet no contact was made. A Long Beach Officer who watched the shooting gave a sworn statement in which he said that Lee's car had not moved its position when the deputies opened fire and that it moved slowly forward after he had been shot. He also stated that he turned to his partner afterwards and said "We just observed the sheriffs execute somebody".

In May 1990, the county agreed to pay Lee's parents \$1,000,000 in an out-of-court settlement, without admitting any wrongdoing on the part of the officers concerned.

According to reports, none of the officers involved was disciplined for their actions. No criminal prosecutions were brought. Amnesty International wrote to both the LASD and the District Attorney asking for comments on this case but none were received.

One of the deputies involved in the shooting had damages awarded against him in another (non-shooting) case in February 1992: according to the lawyer in this second case, the Lee incident does not even appear in this officer's personnel records.

### **James Earl Bailey**

James Earl Bailey, an unarmed black man, was shot dead in September 1988 by a deputy from Lynwood station. Two deputies had observed him in the street engaged in what they suspected was a "drug-related transaction". He fled, with the deputies chasing him on foot. The pursuit ended on the porch of his father's house nearby. His father reportedly tried to talk the deputies into letting him reason with his son and persuade him to surrender. However, seconds later, one of the deputies fired his weapon once at James, striking him in the heart and killing him.

The deputy said that James Bailey threw a chair at him, which he was able to block with his arm, and that he fired in self defence as James tried to pick up a table on the porch. James' father said his son merely knocked a chair off the porch and only slightly touched the table when he was shot.

The family filed a lawsuit against the county claiming that at no time had the deceased posed a threat sufficient to justify the use of deadly force. The case went to trial in October 1991 and the judge awarded damages of \$525,000 to James' parents plus fees and costs. The verdict was not contested by the county who said that it would not appeal.

### **Pascual Solis**

Pascual Solis, a latino man, was shot dead in March 1987, after Lynwood deputies had been called to his home regarding a family disturbance. According to a brief summary prepared by the county in settlement of the case, Solis' common-law wife answered the door in a hysterical state and said that he had fled the house; while in pursuit, a deputy encountered him in the backyard of a neighbouring residence, an altercation ensued and the deputy "in fear of his safety shot the suspect".

According to other reports on the case, the deputy fired all six rounds from his gun, reloaded it and fired four more times at Solis, killing him. The autopsy report found that Solis had been hit by nine bullets. The deputy alleged that, before he fired, Solis had ripped his baton from him and shown great strength as if he was under the influence of the drug PCP. However, the neighbour in whose yard the shooting occurred said in a sworn statement that there had not been a struggle and the deputy had not had his baton out. The neighbour also testified that the deputy had fired the last four shots at Solis as he was lying on the ground after telling another officer that he was still moving. (The autopsy found that Solis was not under the influence of PCP.)

According to press accounts of the investigation into the case, the paths of the bullets suggested that Solis had been on the ground or bent low to it and not standing and fighting.

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However, the District Attorney's Office found insufficient evidence to prosecute the deputy.

A civil rights lawsuit was brought against the county by relatives of Solis and in June 1990 the county agreed to settle the case before trial for \$520,000.

Amnesty International wrote to the District Attorney's office and the LASD asking for their comments and whether any disciplinary action had been taken. No information was provided.

The deputy in the Solis case was involved in another controversial shooting in May 1990 in which he fired 23 shots at a fleeing (black) suspected gang member (again allegedly pausing to reload his gun) hitting him six times and causing serious injuries. Although the deputy alleged that the suspect turned and confronted him with a gun, independent eye witnesses claimed that the suspect had no gun and had not turned on the officer and the suspect was later acquitted on a charge of possession of a firearm arising out of the incident. This case forms part of the class action lawsuit pending against Lynwood deputies (see above).

### **Eddie Ropati**

Eddie Ropati was shot dead in his home in August 1987 after several deputies fired on him. He was reportedly hit by four to six bullets in the back and legs.

The shooting took place after Sheriff's deputies entered the home with a warrant to arrest Ropati's stepson on a drugs charge.

According to press reports of the case, deputies claimed they fired at Ropati after a struggle in which they thought (mistakenly) that he had taken a deputy's gun. However, a report from the county attorney to the Board of Supervisors in October 1991 states that deputies encountered Ropati in the living room and "A brief struggle ensued involving Eddie and deputies. The decedent, possibly not realizing the deputies were police officers, attempted to run and was shot".

In December 1991, the county settled the case with a payment of \$700,000 to Ropati's family. In recommending settlement, the county attorney stated that there was a "question of the appropriateness of the force used in the instant of time the deputies had to act".

None of deputies involved was criminally charged. Amnesty International wrote to the DA's office and the Sheriff's Department for comments on the case and to know whether any disciplinary action had been taken against any of the deputies. However, no information was provided.

### **Robert Ruiz**

Robert Ruiz, aged 17, was shot in the head by an off-duty LAPD officer in January 1989. Ruiz and a companion had stolen beer from a store and the officer tried to block their car with his own. When Ruiz's companion started to drive away the officer fired a shot through the passenger window, hitting Ruiz in the head and causing permanent severe brain damage. (Although the officer said he shouted a warning, Ruiz's companion said they did not hear any warning and did not know he was a police officer.) There was no information to suggest that either of the youths was armed.

The officer's original account to police investigators was that he shot intentionally. This was found to be out of policy on the ground that there was no justification for an intentional shooting as the officer had no reason to believe that deadly force was required. A year later, the officer changed his story, giving a sworn statement that the shooting was accidental, and that his gun fired when the fleeing vehicle moved forward colliding with his own and knocking him back into his car. At the end of a lengthy police investigation, the officer's conduct was again found out-of-policy as he had unnecessarily placed himself in a precarious position and had "failed to exhaust all available options prior to the use of deadly force". (No finding was apparently made regarding the officer having fired at a moving vehicle, which is also contrary to LAPD policy.)

The officer had been involved in five other shootings during his 20 years with the LAPD, at least four of which had been found out-of-policy. He received a warning, minor discipline or a use-of-firearms retraining session after the five prior incidents but was still assigned to normal armed duty. In July 1989, a psychological evaluation made in light of the Ruiz shooting found no indication of stress requiring removal from normal duties. However, less than two months later the officer reported being under extreme stress and was recommended for "removal from uniform and isolation from the public".

In April 1991 the city agreed to settle a civil rights lawsuit brought by Ruiz for \$998,000. The LAPD was unable to provide details of whether any disciplinary action had been taken in this case but told Amnesty International in March 1992 that the officer

was no longer in the force.

### **Danny Smith**

Danny Smith, black, a bus driver, was shot dead in his back yard by LAPD officers in October 1985. The officers were searching for a felony suspect they believed to be armed whom they thought was hiding at Smith's house. While in Smith's backyard, one officer fired two to three rounds from her shotgun after claiming that she heard the sound of a weapon being cocked and that

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Smith failed to obey orders to freeze. Immediately afterwards four other officers opened fire, killing Smith. Smith was unarmed at the time. All entry wounds were to his back.

In August 1990 the city agreed to settle the case with a payment of \$625,000 to his children, aged 11 and 9.

### **Jaime Guardado**

Jaime Guardado was shot and wounded in the arm by an LAPD officer in June 1988 as he was walking a few blocks from his home. According to an August 1990 Budget and Finance Committee report on the case, two officers from CRASH ("Community Resources Against Street Hoodlums") saw him and, believing him to be a gang member who had possibly broken into a car, ordered him to stop (the report notes that no theft from a car had been reported and none was subsequently reported). The officers testified in a statement that, although Guardado did stop, he failed to obey their repeated commands to turn round and raise his hands. Guardado was shot as he was turning to face the officers and they observed him holding something under his jacket which turned out to be two bottles of beer. Guardado testified that he was in the process of obeying the officer's commands when he was shot. The Budget and Finance committee report notes that this was supported by at least two independent witnesses who were driving by.

A Board of Rights hearing was held in which it was found that the shooting was out of policy. The Board found that the officer had fired prematurely and there was no danger to anyone's life. The officer was suspended without pay for four days.

In 1990 the city agreed to settle the case for \$95,000, including attorney fees.

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### *Other reports on police shootings*

While the few cases cited above may not show a pattern of unjustified shootings, other studies have suggested that such incidents may occur regularly and that discipline in such cases is frequently inadequate.

An October 1990 Daily News study reviewed all 202 on-duty shootings by Sheriff's deputies between 1 January 1985 and August 1990 and found 56 of them to be "questionable" in that they did not appear to warrant the use of deadly force.<sup>18</sup> 26 of the 56 shootings (46%) were fatal. 31 of the victims were unarmed. In only four cases did the victim have a gun and no shots were fired in any case (There were only four other cases in which there was undisputed evidence of the victim having some other type of weapon). The victims included several people who were mentally ill, drunk or drugged at the time; several who were shot while fleeing from an alleged misdemeanour (in violation of police shooting policy) and some in which several deputies simultaneously opened fire with multiple shots, several following a car chase. In more than 87 per cent of the cases, the victims were black, Hispanic (latino), Asian or Pacific-Islander.

The Daily News was unable to discover whether disciplinary action had been taken against any of the officers involved. None of the shootings had resulted in any criminal prosecutions at the time of the report.

A May 1991 Daily News study of LAPD shootings found that 35 officers had been disciplined for out-of-policy shootings since 1985.<sup>19</sup> Only 12 of these had gone to a Board of Rights hearing and four had been exonerated. Five officers had been suspended without pay for between three and 129 days and only two had been dismissed. The article stated that, since 1985, LAPD officers had been involved in 387 shootings (163 of them fatal). No officers were criminally charged, according to district attorney records.

At the time of its visit in September 1991, Amnesty International was told that no officer in LA county had been successfully prosecuted for an on-duty shooting since 1982 (when a Sheriff's deputy received a one-year prison sentence for shooting a pregnant woman, killing the fetus). Very few officers have ever been sentenced to a prison term.

### *Four controversial shootings by Sheriff's deputies in August and September 1991*

Shootings by Sheriff's deputies aroused public concern when two black and two latino males were shot dead in controversial circumstances during four weeks in August and early September 1991. In all four cases witnesses said the killings were unprovoked or unnecessary. One was a 15-year-old latino boy who was shot in the back of the neck as he was running away from a stolen car; deputies claimed they thought he was reaching for a gun but he was found to be unarmed. There were complaints that he was handcuffed and left bleeding before an ambulance was called.

Another was a mentally-ill man who, during a struggle with deputies, was "tasered" twice and then shot nine times in the back, allegedly while lying on the ground: several of the bullets were still inside his body, suggesting that they had ricocheted back after striking a solid surface such as a pavement. The other two were a suspected gang member who was shot dead by a former Lynwood deputy after he had allegedly attacked his partner (an account strongly disputed by neighbours), and a man shot dead in a park whom some witnesses said had his hands in the air at the time.

In at least three of the cases there were complaints that deputies had delayed calling for medical assistance. The mother of the reputed gang member claimed deputies would not allow her to see her son and refused to tell her where he had been taken, and that she and another son spent two hours driving to hospitals looking for him.

An investigation into the four shootings was conducted by the Sheriff's Homicide Division which submitted its findings to the District Attorney's Office. The cases were then examined by a Grand Jury which in December 1991 decided not to bring criminal charges against any of the officers involved.

The County Board of Supervisors held hearings on 10 September 1991 following concern about the above shootings. In December 1991 the Board appointed retired judge James Kolts to look into charges of excessive force by the LASD. His report was still pending in June 1992.

### *Procedures for investigating police shootings*

Although both the LAPD and the LASD said they had stringent procedures for investigating officer involved shootings, there has been some criticism of how these investigations are conducted in practice.

The **LAPD** (at the instigation of the Police Commission) introduced revised procedures in the late 1970s following concern over the fatal police shooting of an unarmed black woman, Eulia Love, during a dispute over an unpaid gas bill. Since then, a special Officer Involved Shooting (OIS) team has investigated all LAPD shootings where someone is hit, whether or not misconduct is alleged, to determine whether the shooting conforms to departmental policy. The written

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<sup>18</sup>Los Angeles Daily News 7 October 1990

<sup>19</sup>Daily News 12 May 1991

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report of the OIS investigation is sent to a Use of Force Review Board composed of senior officers which in turn submits a report to the Chief of Police. A report on the shooting is also sent to the Police Commission: the independent civilian body which oversees the LAPD. (If at any point in this administrative review there is evidence of a criminal offence the case is passed to the homicide team.)

Guidelines issued by the Police Commission in the early 1980s provide that officers should be questioned separately by the OIS team and the interviews tape-recorded and conducted in a manner consistent with a normal investigation. Before this, officers involved in a shooting - unlike civilian witnesses - were interviewed as a group with no tape, providing a less than impartial version of events.

However, it appears that these guidelines are still not followed in full. Although the LAPD said that officers were isolated from the scene and interviewed separately following a shooting, these initial interviews are not tape-recorded. It appears that tapes are made only of brief prepared statements by the officers concerned, at the end of an interview session. The Christopher Commission found this practice to be flawed and recommended there should be "no "pre-interviews" of officers before taking their statements."<sup>20</sup>

All **LASD** shootings in which someone is hit are investigated by detectives from the department's Homicide Bureau. According to the department, there are no group interviews of deputies who are involved in shootings and, since 1990, all interviews conducted during the investigations are tape-recorded. Amnesty International was told that the department's Internal Affairs Bureau reviews all shootings where someone is hit to determine whether there are policy violations or tactical errors and that consideration was being given to expanding this review to all shootings, including non-hit shootings. However, there is no procedure within the Sheriff's Department for an independent civilian review of shootings, such as that provided by the Police Commission. The Board of Supervisors, for example, has no direct role in overseeing the department's policy or practices. Unlike in the LAPD, most shooting reports are not reviewed by the head of the department, the Sheriff.

Since the Eulia Love incident, the Los Angeles District Attorney's Office has also been involved in the investigation of both LAPD and deputy involved shootings through a process known as "Operation Roll-out". Under this procedure, the DA's office is notified whenever there is a shooting. Often (but not always), a deputy DA and a DA's investigator will go to the scene. However, Amnesty International was told that, while the DA's office may observe the initial on-the-scene investigation, they tended to rely on police reports rather than conducting their own independent investigation. Even if they did decide to interview witnesses, this would not be done until after the police investigation had been completed.

### *Shootings by officers from other Los Angeles police departments*

Although this report covers alleged abuses by the LAPD and LASD, there have been a number of complaints of excessive force involving officers from other police departments in Los Angeles. One of the rare prosecutions for an on-duty shooting in recent years arose from the fatal shooting of two Samoan brothers.

Italia and Pouvi Taulauleilei were shot dead in February 1991 by an officer from the Compton Police Department who had responded to a call about a family disturbance. One of the brothers was struck by 12 bullets from the officer's gun, eight of them in the back; the other was hit by eight bullets, five in the back. Neither had been armed. The police officer said that he fired in self-defence after the brothers attacked him. However, eye-witnesses said the brothers were shot after they had been ordered to kneel. The District Attorney's office is reported to have said that there was evidence that some of the shots had been fired after the brothers had fallen to the ground.

The officer was charged with voluntary manslaughter. However, a jury failed to agree on a verdict in the trial in May 1992 and the judge dismissed the charges. The decision prompted calls for a federal investigation into the case. Amnesty International does not know if any such investigation has been undertaken.

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<sup>20</sup>The Commission also recommended that the practice of group interviews of officers in both OIS investigations or other misconduct investigations be terminated. However, the LAPD insisted to Amnesty International that there were no group interviews of officers following a shooting and had not been for some years.



## LAPD AND SHERIFF'S DEPARTMENT CANINE UNITS

Amnesty International received disturbing allegations from lawyers and civil rights groups that police dogs are used unnecessarily to inflict bites and severe injuries on suspects, particularly in minority neighbourhoods. In some instances it was alleged that suspects deliberately had dogs set on them after they were in custody. It was also alleged that dogs were inadequately controlled with the result that non-suspects and other bystanders were often also bitten. It was alleged that, contrary to police guidelines, many of those bitten were unarmed or suspected of only minor offences and some were juveniles. Based on settled cases and other information summarized below, AI believes use of canine units should be urgently reviewed by both departments.

### *Background on LAPD and LASD Canine Units*

The LAPD and LASD Canine Units (known as K-9) have been in operation since 1980. According to departmental directives, a primary function of the K-9 units is to conduct searches for felony suspects or armed misdemeanants.<sup>21</sup> Both departments denied there were widespread abuses, claiming that dogs are carefully trained and that criminal suspects often cause injury through their own actions in fighting the dogs. However, the Sheriff's Department acknowledged that they operate a "find and hold" policy (as opposed to "find and bark") in which the dog is required to bite a suspect once found and to release its hold only when instructed to, usually when the suspect is subdued. This policy has been criticized as leading to unnecessary injuries (see below). LAPD policy is less clear: although the LAPD told Amnesty International that a dog will merely bark if a suspect is passive, other people have alleged that there is a de facto "find and bite" policy similar to that operating in the Sheriff's Department. Amnesty International was told that there were 17 dogs in the LAPD's Canine Unit in September 1991 and 15 in the Sheriff's Department, each assigned to its own handler. Most dogs were German Shepherds, although some were Rottweilers.

### *Concerns about LAPD use of canines*

In a report to the Police Commission in January 1992, the ACLU and other civil rights groups called for a moratorium on the use of the LAPD's canine unit in the search for or apprehension of suspects, pending a thorough review of departmental policy and practice.

The report cited records showing that more than 900 people had been bitten by LAPD dogs during a three-year period ending in early 1991: a far higher bite ratio in relation to dogs deployed than other major US cities where comparable data was available. The report also cited research showing that dogs were deployed predominantly in areas of LA with a large minority population, even though a larger percentage of crimes in which the dogs were most commonly used - burglary and car theft - were committed in other areas. According to LAPD dog-bite reports where race was given, more than 70 per cent of dog-bite victims were latino, 20 per cent were black and less than 2 per cent were white. The report further alleged that, although the police maintained that dogs were used primarily to apprehend dangerous criminals, research based on police records indicated that only a minority of K-9 arrests were of armed suspects. The bite ratios of individual handlers bore no relation to the number of armed arrests: indeed the research showed that handlers with the highest rate of bites per dog deployed (as high as 82% in one case) had among the lowest rates of armed arrests.<sup>22</sup> The report went on to cite examples of cases where dogs had attacked unarmed suspects without provocation, in some cases after they were allegedly handcuffed. Although the Police Commission was considering the report, it had taken no action at the time of writing.

A number of civil lawsuits have been filed against the LAPD in relation to its K-9 policy, including a class-action civil rights suit filed in June 1991: *Lawson v Gates*. The *Lawson* suit sought an injunction to prevent the LAPD from continuing its "policy, custom or practice" of allowing its dogs to indiscriminately maul individuals who posed no threat of death or serious injury. It also claimed that the disproportionate use of police dogs against latinos and blacks was a violation of the constitutional right to equal protection of the law. The suit, which was still pending as of June 1992, is being contested by the LAPD.

### *Lawsuits filed against the LASD*

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<sup>21</sup>The LAPD Canine Unit Manual specifies that, in suspect searches, K-9 units will be deployed for felony suspects only. A directive issued by the Sheriff's Department in July 1991 states that canine deployments shall be limited to "searches for felony suspects, or armed misdemeanour suspects, who are wanted for **serious** crimes". Both departments may also use dogs in searches for lost persons and for narcotics or explosives.

<sup>22</sup>The findings were based on a study of Canine Search Data reports (K-9 unit reports) from March 1984 through March 1990, provided by the City in another lawsuit (*Wimbrey v. City of Los Angeles*).  
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Several major lawsuits have also been filed against the Los Angeles Sheriff's Department.

In the case of **Jackson v County of LA et al** a former handler with the department testified that Sheriff's dogs were trained to bite regardless of the risk posed by the suspect and that this policy had "frequently resulted in excessive force". He also testified that it is "frequently unnecessary for a police dog to bite a suspect in order to take the suspect into custody".<sup>23</sup> It was also alleged that dogs were permitted to bite anywhere on a suspect's body, including the arms, legs, torso, shoulders, head and genitals. A canine trainer for another police department testified that LASD policy "encourages the infliction of needless serious injuries". The witness observed that a person will rarely remain still while being bitten, as dog bites are "very frightening and painful". He stated that the practice of letting canines "continue to attack and bite as long as the person is struggling (or "fighting with the dog")" is likely "to result in multiple bites and very severe injuries".<sup>24</sup>

The **Jackson** suit also included testimony suggesting there was inadequate monitoring of the use of canines within the department and no proper tracking of bites or the severity of injuries caused. A senior administrator responsible for monitoring the K-9 unit admitted that he had never seen fresh dog bite injuries, but relied on reports prepared by handlers themselves to monitor use of bites and possible excessive force. A former handler also testified that photographs of dog bite injuries were routinely taken when the K-9 program began but that handlers were instructed to stop taking photographs in 1983 as this might increase the risk of liability of the department in civil actions.<sup>25</sup> (However, a Sheriff's Department report on the Christopher Commission recommendations dated September 1991 states that "dog bite injuries are photographed", suggesting that this practice has either resumed or was continued.)

The lawsuit alleged that, despite requests during past litigation, the Sheriff's Department had failed to provide records of its Canine Activation Request (CAR) forms: forms filled out by handlers in which reports of dog bites are recorded. However, it quoted from a number of reports obtained, including one in which a 16-year-old latino boy was located hiding under foliage. The report noted that the dog got a "Good full mouthbite on the head and rebite on the neck" (CAR report dated 21 March 1983). Another, dated 20 June 1988, noted that the dog "did an excellent job of finding the susp" but that he would not bite and "Still reverts on"<sup>26</sup> motionless

susp." The report added that "We have to work on this problem by training exercises".

The plaintiff in the above lawsuit, **Derrick Jackson**, was bitten during his arrest in January 1990 on a felony charge (of which he was later convicted), as a result of which he reportedly spent four weeks in the jail ward of a county hospital. Jackson alleged that he was first bitten while he was standing still and that the dog was again allowed to bite his leg and other parts of his body while he was lying prone on the ground, while another deputy hit him - an account reportedly disputed by Sheriff's deputies. When the lawsuit was filed in April 1991, the dog handler in this case had 11 other lawsuits pending against him by plaintiffs who claim that they were unnecessarily bitten during an arrest.

The **Jackson** suit cites other pending cases, including two cases of juveniles who were bitten and badly injured: one was bitten after being found sleeping in his car; the other was arrested for being a passenger in a car used for "joy-riding".

The outcome of the above lawsuit, which is contested by the Sheriff's Department, was still pending at the time of writing.

In October 1991 a class action civil rights lawsuit was filed against the Sheriff's Department similar to the **Lawson** case filed against the LAPD. This was also still pending at the time of writing.

### *Settled Cases*

At the time of writing, relatively few dog-bite lawsuits had been settled compared to the numbers of people reportedly bitten. Lawyers representing plaintiffs have said that it is difficult for many suspects to prove negligence or unprovoked attacks, particularly as incidents involving dog searches often take place at night, in deserted locations, where there are no witnesses other than the suspect and police. However, Amnesty International has reviewed a number of cases in which damages have been awarded, some involving non-suspects or people who were mistaken for criminal suspects. Some of these cases are summarized below. They indicate that there is a problem involving negligence, inadequate supervision or possibly deliberate abuse by some officers in the use of canine units in Los Angeles.

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<sup>23</sup>Testimony of Van Bogardus 111, exhibit D. Former canine handler for the department from 1980 to 1986.

<sup>24</sup>Testimony of Charles Brugnola, former dog handler and trainer with Hawthorne Police Department, California and former dog trainer with US Air Force.

<sup>25</sup>Testimony of Van Bogardus 111, *ibid*.

<sup>26</sup>stands over

## Police Brutality in Los Angeles

### Hortencio Torres

In June 1988 an LAPD K-9 unit assisted in the search for five suspects in a shooting incident. The unit was directed to a tool shed where a police dog named Volker located Torres, a latino man, and forcibly took him outside. Unknown to the officers at the time, Torres had been living in the shed and had nothing to do with the shooting. Torres alleged that he was struck by several police officers who placed him under arrest and permitted the dog to continue to bite his arm. He alleged that the dog was allowed to attack him again after he had been searched and was kneeling. He was afterwards eliminated as a suspect by witnesses at the scene.

According to a Budget and Finance Committee report on the case Torres suffered "extensive damage to his right forearm and multiple bites on other parts of his body. The forearm was ripped open with damage to the right median nerve. Plaintiff required surgery and several skin grafts". The report also notes that in addition to "major scars", Torres suffered from "chronic median nerve damage resulting in permanent loss of strength in the right arm, numbness and chronic pain" and a loss of strength in his right hand grip which would permanently diminish his earning capacity as a manual labourer. Based on the city attorney's evaluation of the case, the report noted "It seems clear that the dog either failed to respond quickly when called off, or was not called off soon enough".

Due to the substantial liability that might be occurred by going to trial, the city agreed to settle the case out-of-court for \$65,000 in October 1990.

### Thane Carl Chew

Chew (white) was bitten by the same police dog, Volker, in September 1988. Chew had run away into a junkyard after his car had been stopped for a traffic violation; K-9 units were called in because there were outstanding felony warrants against him. According to police, they lost sight of Volker who found and seized Chew; they afterwards saw Chew attacking the dog with a pole, the handler kicked Chew in an attempt to disarm him, Chew gave up and was taken into custody. Chew himself testified that he tried to surrender after he realized the dog had found him but that the officer ordered the dog to attack him. He also alleged that the dog dragged him into open space where officers kicked him and hit him on the head with batons.

A Budget and Finance Committee report states that Chew sustained serious injuries as a result of the struggle with the dog, particularly to his left forearm which required surgery. According to Chew's lawyer, medical reports also showed injuries to his head caused by blunt force trauma.

Chew sued the city for violation of his civil rights and the jury returned a verdict in his favour in April 1991, awarding damages of \$13,000. The city attorney recommended payment of this award, plus costs, on the ground that "there is sufficient evidence to support the verdict ..."

### Willian Pinzon and Greg Landis

In January 1989 California Highway Patrol Officer William Pinzon had joined the pursuit of robbery suspects who abandoned their car and fled into a wooded area off the Ventura freeway. One suspect was located in a tree by an LAPD dog named Dolf. According to a Budget and Finance Committee report, as Dolf was called back to allow the suspect to descend, he excitedly circled his trainer and then suddenly bit Pinzon about the face "inflicting a tear in his earlobe and several gashes in his cheek" (Pinzon testified in a deposition that his ear was almost torn in half, and that he required some 60 stitches to his face plus reconstruction surgery).

Some 30 minutes later, according to the above report, Dolf and his handler were called to another location. As the handler's partner was exiting his vehicle, he saw Dolf race past him and seize an individual who was running close to a hovering helicopter. The victim in this instance was Greg Landis, a tow truck operator who had been summoned to remove one of the vehicles involved in the car chase. He too required medical treatment and was left with scars as a result of Dolf's bite.

In June 1991 the city agreed to pay damages and costs of \$40,000 and \$18,000 respectively to Pinzon and Landis without their cases going to trial.<sup>27</sup>

Some five months later, in June 1989, Dolf was involved in the accidental mauling of a student, **Jose Rivera**, aged 18, who was studying in a secluded area of a city park. Dolf and his handler were among a team hunting for robbery suspects. Rivera was reportedly bitten on the penis and scrotum and also had bites on his upper and lower torso. (A negligence suit was believed to be still pending in this case at the time of writing.)

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<sup>27</sup>One of the suspects in the case has also alleged he was bitten by Dolf after being brought down from the tree and is suing the City. This allegation appears to be supported by a deposition taken from Pinzon in which he states that, after he was bitten, he saw the dog "biting and hovering over the suspect" who was on the ground. This action, which is contested by the police, is still pending.

## Police Brutality in Los Angeles

Amnesty International wrote to the LAPD asking whether any aspects of the use of the K-9 units in the above cases were found to be out of policy and whether any disciplinary actions had resulted. The LAPD replied stating that it was unable to supply details as police internal disciplinary actions were confidential unless they became public through an open hearing, which had not happened in these cases.<sup>28</sup> However, they said that one of the officers involved in the Chew and Torres cases was no longer employed by the department.

### **Patricia Muhammad**

In October 1991 the city agreed to pay \$50,000 in settlement of a lawsuit brought by Patricia Muhammad (black) who was bitten by a police dog in September 1989.

Ms Muhammad was being questioned in her apartment by two LAPD officers after her boyfriend had been arrested near the building. She was sitting on a sofa when a police dog named Keno entered the apartment without his handler and bit her on the arm. A police report said the dog bit her after she became frightened and jumped up off the sofa. Ms Muhammad alleged that the dog seized her while she was sitting motionless and pulled her from the sofa. The dog handler said he had allowed the dog to enter the apartment building in the belief that there were only criminal suspects inside (Ms Muhammad was not suspected of, or charged with, any offence).

Ms Muhammad required emergency hospital treatment and multiple stitches for the injury to her left arm. A Budget and Finance Committee report noted that she had permanent scars from the dog bite for which she claimed plastic surgery was necessary.

According to reports, the police dog in this case had bitten at least 33 people in 1989, 40% of whom needed hospital treatment.<sup>29</sup>

Amnesty International has received information on at least two other cases involving

Keno. One was **Thurston Price** (black), a suspected burglar who reportedly suffered massive tissue and muscle damage to his right forearm when bitten in September 1988. Price alleged that he obeyed orders to freeze when he was discovered hiding in a storage room as police had their guns trained on him, and that officers had to use a stick to pry off the dog. Police records confirm that he was taken to the jail ward of a county hospital for treatment for bites to his arm and leg. No civil action was taken as lawyers became aware of the case only after the statute of limitations had expired.

### **Christopher Braezell**

In February 1992 the city agreed to pay \$95,000 damages to Christopher Braezell (black) in an out-of-court settlement for dog bite injuries received in September 1989.

Police were searching for grand auto-theft suspects and located Braezell hiding in bushes. He alleged that he complied with orders to come out and to lay face-down on the sidewalk and that an officer then told him the dog would be set on him as a "reward .. for finding you". It was after this that the dog allegedly bit him, causing injuries resulting in permanent scarring.

Braezell was subsequently convicted on "minor joyriding charges" according to reports.<sup>30</sup>

### **Luis Rendon**

Luis Rendon (latino) received an out-of-court settlement of \$90,000 in 1990 as a result of being bitten by a Sheriff's Department dog in November 1988. Rendon alleged that he surrendered after fleeing from deputies on his motorcycle and that a deputy ordered the dog to attack him after he was handcuffed, something deputies denied. According to Rendon's lawyer, the county agreed to settle as the case showed negligence at least and that there were conflicts between two deputy reports of the incident.

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<sup>28</sup>Cases only go automatically to a police Board of Rights hearing if the disciplinary action recommended is more than 22 days' suspension or dismissal.

<sup>29</sup>This was mentioned in the report to the Police Commission, cited above

<sup>30</sup>The Budget and Finance Committee report gave no details except the amount of settlement. The case is also referred to in the report to the Police Commission.

## INTERNATIONAL STANDARDS

The prohibition against torture and other cruel, inhuman or degrading treatment or punishment is a fundamental norm of international law. It is enshrined in Article 5 of the United Nations (UN) Universal Declaration of Human Rights as well as Article 7 of the International Covenant on Civil and Political Rights (ICCPR) which the USA ratified on 8 June 1992 and is therefore legally bound to observe.

The UN *Code of Conduct for Law Enforcement Officials*, adopted by UN General Assembly in 1979, emphasizes the exceptional nature of the use of force, providing that force may be used "only when strictly necessary and to the extent required for the performance of their duty" (Article 3).

More detailed guidelines are set out in the *Basic Principles on the Use of Force and Firearms By Law Enforcement Officials* (the *Basic Principles*) adopted by the Eighth UN Congress on the Prevention of Crime and Treatment of Offenders on 7 September 1990. These provide that law enforcement officials "shall, as far as possible, apply non-violent means before resorting to the use of force and firearms" (Article 4). The *Basic Principles* expand on the principle that the amount of force used must be proportionate to the threat encountered. Article 5 provides that when use of force is unavoidable, law enforcement officials shall:

"(a) Exercise restraint in such use and act in proportion to the seriousness of the offence ...

(b) Minimize damage and injury ...

(c) Ensure that assistance and medical aid are rendered to any injured or affected persons *at the earliest possible moment* (emphasis added)

(d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment."

Article 6 provides that officials shall promptly report any use of force or firearms that results in injury or death. Article 7 provides that governments shall ensure that "arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law."

The *Basic Principles* also set out special provisions relating to the use of firearms.

Article 9 provides that firearms may be used only in self defence or the defence of others against the "imminent threat of death or serious injury" or to prevent a serious crime involving "grave threat to life" or to arrest a person presenting such a threat and "only when less extreme measures are insufficient to achieve these objectives". "In any event", the article continues, "intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life."

Article 10 provides that law enforcement officials should identify themselves as such and give a clear warning of their intent to use firearms (unless to do so would create a risk of death or serious harm to others or be clearly inappropriate in the circumstances).

Article 11(b) states that the rules on use of firearms should include guidelines that

"ensure that firearms are used only in appropriate circumstances and *in a manner likely to decrease the risk of unnecessary harm* (emphasis added)."

Both the LAPD and the Sheriff's Department have rules which comply broadly with the general international standards on use of force. The LAPD also has detailed guidelines which comply with those sections of the *Basic Principles* on the use of firearms. However, the Sheriff's Department guidelines on use of firearms appear to fall short of the above standards in certain respects, most notably Article 11 (b) (See chapter on **Shootings**).

In practice, law enforcement officers from both departments appear to have fallen short of the standards in many of the cases reviewed by Amnesty International.

Governments were asked to consider incorporating the provisions of the *Code of Conduct for Law Enforcement Officials* in national legislation or guidelines for law enforcement agencies.

Amnesty International urges that the US state and federal governments take steps to comply with this request if they have not already done so.

The Eighth UN Crime Congress invited member states to bring the *Basic Principles* to the attention of law enforcement officials and other members of the executive branch of government, judges, lawyers, the legislature and the public and to inform the UN Secretary-General every five years of the progress achieved in their implementation.

The US Government has signed the *UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. This provides, among other things, that education and information regarding the prohibition against torture or other cruel, inhuman or degrading treatment or punishment shall be fully included in the training of law enforcement personnel and others (Articles 10 and 16). The *Convention* also provides that each State Party shall ensure that there is a prompt and impartial investigation whenever there is reasonable ground to believe that an act of torture or other cruel, inhuman or degrading treatment

## Police Brutality in Los Angeles

has been committed in any territory under its jurisdiction (Articles 12 and 16).

The U.S. Senate gave its assent to the ratification of the *Torture Convention* in June 1991. However, as of June 1992, enabling legislation had not yet been adopted and the formal instruments of ratification had not been deposited with the United Nations.

Nevertheless, as a

signatory nation, the US Government has an obligation not to defeat the fundamental objectives of this treaty.<sup>31</sup>

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<sup>31</sup>The necessary legislation was incorporated into a major crime bill that was considered by Congress in 1991. However, the bill (which contained other, more controversial, provisions) failed to become law. Further legislation was before Congress as of June 1992.

## INVESTIGATION OF COMPLAINTS: REMEDIES FOR POLICE ABUSES

### 1. Complaints and disciplinary proceedings

#### LAPD

Complaints against LAPD officers, whether initiated by the public or internally, are reviewed by the department's Internal Affairs Division (IAD) which decides whether the IAD will investigate the complaint or refer it to the accused officer's division for investigation (an exception to this is police shootings which are investigated by a separate OIS team: see chapter on **Shootings**). The Christopher Commission found that, in practice, most complaints were investigated by the accused officer's division. If a complaint is sustained, various disciplinary actions may be taken ranging from a warning through to suspension or removal from the force. If suspension or removal is recommended, the case is passed to the Chief of Police who will determine the penalty. If the Chief decides on a penalty of more than 22 days' suspension, the case automatically proceeds to a Board of Rights hearing, adjudicated by three police officers, at which the accused officer may be represented by counsel and/or another officer.<sup>32</sup> The Chief of Police may accept or reduce the Board of Right's recommendation on penalty but may not increase it. There has been criticism of the secrecy surrounding the internal investigation of complaints. Only if a case goes to a Board of Rights hearing will the details be made public. Otherwise complainants are informed only of the outcome of an investigation (whether a complaint is "sustained", "not sustained", "unfounded" or the officer "exonerated"). Although the Police Commission receives brief summaries of disciplinary actions against police officers, it cannot itself impose discipline nor does it have the resources to investigate complaints.

The Christopher Commission noted that, of 2152 citizen allegations of excessive force made against LAPD officers between 1986 and 1990, only 42 - or 2% - were "sustained". It found serious deficiencies in the complaints process from the initial filing of complaints onwards. It found, for example, that local police officers often actively discouraged members of the public from filing complaints, through intimidation or failing to fill out the necessary form (something which happened initially in the Rodney King case). The Commission reviewed the LAPD's investigation and discipline of officers involved in all 83 civil lawsuits alleging excessive force for the period 1986-1990 that had resulted in settlement or judgment of more than \$15,000. It found that most of these civil lawsuits revealed "clear and often egregious misconduct" but that discipline against the officers involved was frequently light or non-existent and that police investigations of the allegations were often deficient. Based on a review of a larger body of complaints investigations, the Commission found that very few sustained complaints resulted in suspensions of more than 22 days (requiring a Board of Rights hearing) and the penalties were frequently much lighter, even in serious cases.

The Commission noted that most excessive force allegations during the period 1986 to 1990 were concentrated against a relatively small group of officers - 183 having four or more allegations against them and 44 officers six or more. However, the Commission found there was a failure of management to act on repeated complaints of excessive force and that officers with a history of allegations, including sustained complaints, were frequently promoted or placed in supervisory positions. The officers' complaint records, were rarely included in career evaluation reports.

#### **Recommendations by the Christopher Commission for Improving the Complaints Process**

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<sup>32</sup>An officer may also appeal to the Board of Rights against any discipline imposed.  
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The Christopher Commission made a number of detailed recommendations for improving the LAPD complaints procedure. One of the most important of these was to introduce an effective civilian oversight of complaints through creation of an Office of Inspector General (OIG) within the Police Commission. The Commission recommended that, while the police themselves should continue to investigate complaints, the responsibility for the receipt of complaints should rest with the Police Commission and the OIG should keep a record of all complaints and actively monitor their investigation. The Commission further recommended that the City Charter be amended so that a civilian from the OIG would sit as one of the three members on a Board of Rights hearing and that the Board should be able to override the Chief's power to reduce a recommended penalty. The Commission made a number of other proposals, including a recommendation that the

IAD should investigate all complaints of excessive force or improper tactics; that complaints currently classified as "not sustained" be changed to "not resolved" and that these be recorded for future investigations or evaluations of the officer concerned; and that civil litigation for alleged excessive force be actively monitored from an early stage (see **civil lawsuits** below).

The Committee found that "perhaps the greatest single barrier" to the effective investigation of complaints was the unwritten "code of silence" which discouraged officers from reporting on the use of excessive force or misconduct by other officers, despite police rules requiring officers to report such incidents (this was clearly evident in the Rodney King case in which none of the 21 officers present at the scene reported any misconduct and the officers directly concerned initially filed reports which were inconsistent with the evidence later shown on tape). The Commission urged that police management make it a priority to obtain effective enforcement of the policy against a code of silence.

### Implementation of the Christopher Commission Recommendations

One of the Christopher Commission's main recommendations was to amend the City Charter to limit the tenure of the Chief of Police who had an unlimited term of office under a civil service agreement and was unaccountable to either the Police Commission or the city authorities. A Charter Amendment to limit the term of office to a maximum of two five-year terms, together with the creation of a civilian executive officer to head the staff of the Police Commission, was passed overwhelmingly by the electorate in a vote on 2 June 1992. Other important recommendations were also passed in the Charter Amendment vote, despite opposition from police groups: these included changes in the composition of the Board of Rights to include a civilian member and some modification of the statute of limitations on disciplinary sanctions (this extended the statute to three years for misdemeanour offences but retained the one-year statute of limitations for disciplinary actions leading to suspension or removal from the force).

In a report issued in January 1992, the Christopher Commission noted that the LAPD had taken important steps to implement other recommendations. These included support for the proposal that the IAD should investigate all serious complaints; a review of the files of officers against whom there were repeated complaints of excessive force; steps to improve the system for receiving complaints; and some improvements in the hiring of minorities. The City Council had also directed the Police Commission to work with the LAPD to develop decentralized pilot programs on community policing. However, it noted that there was some delay on a number of other issues, some of which were the subject of negotiation with the Police Protective League (the police employees union): these included proposals to extend the statute of limitations for disciplinary actions, and to include records of "unsustained" or "unresolved" complaints for career evaluation purposes. The



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Commission noted that there was agreement that the Police Commission should assume responsibility for the intake and oversight of complaints through the OIG. However, although plans for this had been developed, the system had not yet been implemented due to lack of funding for the necessary staff appointments.

The OIG had still not been set up as of June 1992, although the appointment of a civilian executive officer for the Police Commission contained in the Charter Amendment is expected to facilitate this process.

## Los Angeles Sheriff's Department

The Sheriff's Department has not made available information on internal disciplinary sanctions. However, it has published statistics showing that there were 146 "disciplinary separations" from the force between 1988 and 1991 (for a range of offences). Although no figures have been published on disciplinary measures taken for excessive force, information provided to Amnesty International indicates that less than 10% of the disciplinary separations cited above were for use of excessive force.

The Sheriff's Department has an Internal Affairs Bureau (IAB) which oversees or investigates complaints. However, it appears that most complaints are investigated by the accused officer's own unit, with the unit's Watch Commander making the initial determination of whether the investigation will be passed to the IAB or not. A Unit Commander makes the initial classification of the findings of a complaint (the deputy being found guilty, innocent or the complaint "unsubstantiated"), which is then reviewed by the Division Chief. The findings and recommended discipline are then looked at by a Case Review Board, composed of the Undersheriff (second-in-command to the Sheriff) and two Assistant Sheriffs (senior officers within the Sheriff's Department). The Board has the authority to increase or decrease the discipline recommended by the Division Chief.

There is no Board of Rights hearing where serious disciplinary recommendations are adjudicated in a public hearing. However, a Sheriff's employee found guilty of serious misconduct may appeal against this decision to the County Civil Service Commission. Amnesty International does not know how many cases are reviewed by the Civil Service Commission. In one case, however, the Commission ordered the reinstatement of two deputies whom the department had dismissed after an IAB investigation found them guilty of serious assault against a Mexican suspect in 1986 (reported in the Los Angeles Times, 27 August 1991).

In March 1991 an Office of Professional and Ethical Standards (OPES), staffed and headed by Sheriff's officers, was established within the department to centralize and provide better oversight of the internal disciplinary process. The IAB is now one of three units falling within the OPES. The Sheriff's Department reported in September 1991 that the OPES was in the process of compiling a centralized system to monitor complaints more effectively within the department and identify officers and units where there may be repeated complaints of excessive force. However, although the IAB investigates some serious allegations of misconduct, Sheriff's advisers specifically rejected a Christopher Commission recommendation that all complaints of excessive force be investigated by a central division, such as IAB, preferring to retain the option of investigations by the officer's own unit.<sup>33</sup>

Unlike the LAPD the Sheriff's Department has no independent civilian institution equivalent to the Police Commission with even partial oversight of complaints or policy.

The Sheriff's Department has stated that the Civil Service Commission provides "an important civilian

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<sup>33</sup>Response by Executive Planning Council to Sheriff Sherman Block on the Christopher Commission Report, published 6 September 1991, at p. 23. The report stated that unit-level supervisors had an important role in the investigation of complaints but added that recent policy now required immediate IAB investigation if use of force results in hospitalization. Amnesty International AI Index:AMR 51/76/92

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oversight"<sup>34</sup>. However, it appears that this reviews only those cases in which an officer appeals against a serious sanction already imposed for misconduct. There is no provision for any independent body to oversee and monitor the routine investigation of complaints of excessive force, such as has been recommended for the LAPD in the Office of Inspector General. Although some measures have been taken to improve the internal disciplinary process, Amnesty International believes that the lack of any independent scrutiny of complaints outside the department remains a serious shortcoming.

## LASD response to the Christopher Commission

The LASD issued its own response to the Christopher Commission recommendations in a report published in September 1991.<sup>35</sup> It endorsed a number of the recommendations, including monitoring deputies' complaints history and stated that it already implemented some others, for example, tape-recording of officers' statements in shooting cases. However, as noted above, it opposed some important recommendations such as the proposal that all excessive force complaints be investigated by IAD (or its equivalent within the LASD). The LASD supported in principle a number of recommendations which were, however, opposed by its employee unions and required negotiation. These included the proposal that a candidate's use of force history and record of past allegations be included in career evaluations. The LASD report also noted that, unlike the LAPD, it had no statute of limitations for imposing disciplinary sanctions but that, against its opposition, deputy employee groups were trying to pass legislation imposing such limits.

## Independent Inquiry into the LASD

As noted above, a retired judge, James Kolts, was appointed in December 1991 as a Special Counsel to examine allegations of excessive force within the LASD following concern about four fatal deputy-involved shootings earlier that year. Amnesty International is unaware of the scope of this inquiry. However, Judge Kolts has held several hearings in which people have testified. He is reported to have a staff of some six advisers, including former prosecutors and lawyers. This is far less than the staff attached to the Christopher Commission (which included some 70 attorneys and other staff). Judge Kolts' findings are due to be submitted to the County Board of Supervisors by mid July 1992.

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<sup>34</sup>Ibid at p. 30

<sup>35</sup>Response to Sherman Block by Executive Planning Council, *ibid*.

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## 2. Prosecutions

Relatively few cases of police use of excessive force have resulted in criminal charges, even though "assault under color of authority" (the charges made against officers in the Rodney King case) is a specific offence under the California Penal Code.

A July 1991 Los Angeles Times study based on records from 1980 found that the District Attorney's Office had declined to prosecute at least 278 officers and deputies accused of assaults whose cases were passed to it for review. Although 41 other officers were prosecuted for assault during this period, only about half were convicted.<sup>36</sup> Amnesty International was told that the last prosecution of a Sheriff's deputy for an on-duty shooting was in 1982 and few LAPD officers have ever been prosecuted for a shooting.

The District Attorney's office maintains that cases involving the police are judged according to the same standards as other cases and that the only reason for failing to prosecute is lack of sufficient evidence of a criminal offence or lack of sufficient evidence against a particular officer. The "code of silence" among officers is likely to account for many difficulties in bringing prosecutions. Police have also pointed out that misconduct for which disciplinary measures may be imposed - such as improper tactics - does not always amount to a criminal offence. Although these factors may be true, there appear to be some serious cases in which evidence of criminal misconduct by identifiable officers has not resulted in indictments. In one case an LAPD officer whom the District Attorney declined to prosecute was later convicted under federal law (see the **Vidales** case above). Even where officers have been prosecuted, juries often fail to convict. This was clearly shown in the Rodney King case and also in the case of the Compton police officer who was charged with manslaughter for the fatal shooting of two Samoan brothers (see chapter on **shootings**). Amnesty International was told that juries tend to give police officers the benefit of the doubt, particularly if there are no independent witnesses and the alleged victim of an assault or other misconduct has a criminal background.

The US Department of Justice may also bring federal criminal civil rights charges against state officials, including local police. This is provided under sections 241 and 242 of Title 18 of the U.S.Code (a civil rights statute enacted during the Reconstruction era following the civil war).<sup>37</sup> Since 1988 these statutes have carried a maximum of ten years' imprisonment for any act causing bodily injury and up to life imprisonment if the victim dies. However, federal prosecutions are uncommon and in practice federal prosecutors usually await the outcome of state investigations and then often rely on local police reports in decisions whether or not to pursue a case independently. Federal officials have prosecuted only one law enforcement officer in Los Angeles for civil rights violations in recent years: the LAPD officer convicted in March 1992 of assaulting latino teenager Jesus Vidales (cited above). The last federal prosecution of a Los Angeles officer before the Vidales case was in 1984, when a highway patrol officer was convicted of rape and murder. Federal prosecutors are also investigating the Rodney King case for possible federal criminal civil rights violations.

According to reports, the Justice Department receives about 8,000 complaints of police abuses nationwide each year and investigates about 2,500. However, only a small proportion result in prosecutions. The US Attorney General reported in May 1992 that 123 police officers in the USA had been charged by the

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<sup>36</sup>LA Times 7 July 1991

<sup>37</sup>These statutes were designed to give effect to the equal protection rights under the 14th amendment and make it unlawful for any persons to conspire or act under color of law to deprive an individual of rights protected by the US Constitution or federal laws.

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Justice Department in the past three and a half years with civil rights violations for excessive force (the conviction rate by juries was some 75 per cent).

### 3. Civil Lawsuits

The most common remedy for alleged police abuse is for the victim to bring a civil lawsuit for damages against the officer or authority responsible. Such suits are usually brought under Title 42, Section 183 of the U.S. Code - part of the federal Civil Rights Act under which individuals may sue state officials in a state or federal court for violations of their civil rights.

Because police internal investigations are generally not made public, civil lawsuits are often the only means by which evidence from both sides enters the public domain and the only forum for any outside evaluation of allegations made. Unlike criminal prosecutions where juries must find evidence of abuse beyond reasonable doubt, damages may be in a civil trial based on a "preponderance of the evidence". Juries may also award a plaintiff damages for wrongful injury while finding that the officer concerned acted in good faith.

The Christopher Commission reviewed five years' litigation against the LAPD and found that the cases examined indicated a serious problem of excessive force. However, until recently, the police failed to monitor civil actions for alleged misconduct and the City Attorney did not keep the Police Commission informed about such lawsuits. Nor did the Sheriff's Department keep a record of lawsuits filed against deputies. The Christopher Commission recommended that the police set up a system for monitoring such cases, noting that evidence sometimes came to light through lawsuits which had not been available earlier or which conflicted with the initial police investigation results. The Commission also recommended extending the present one-year statute of limitations under the City Charter, by which disciplinary action to remove or suspend an LAPD officer must be initiated within a year of the misconduct alleged.

Although both departments have now established procedures for monitoring civil lawsuits,<sup>38</sup> police officials told Amnesty International that they did not consider jury awards or out-of-court settlements to be necessarily indicative of police misconduct and that many cases were settled simply to avoid further costs. They also pointed out that they won most cases that went to trial. However, city attorneys said out-of-court settlements tended to be agreed in those cases where the evidence for the plaintiff was strongest. Statistics show that these constitute by far the largest proportion of cases in which damages have been paid in recent years. Many cases are settled on the basis of an independent evaluation of the facts by a judge or magistrate. Amnesty International therefore agrees with the Christopher Commission that, while not all settled cases

prove misconduct, in general they provide an important indicator of police abuse.

### Limitation of civil actions as a remedy for police abuses

Although civil lawsuits provide a remedy in the form of compensatory damages to some victims, Amnesty International does not consider that civil lawsuits are the best means of dealing with alleged police abuses. One shortcoming is that the onus is on the victim to initiate a civil lawsuit, whereas international standards require allegations of ill-treatment to be independently investigated whether or not the victim has made a complaint. Civil rights lawyers also claim that there are many cases of alleged abuse in which lawsuits are not pursued, such as cases where there are no independent witnesses or cases in which injuries are not severe enough for any award to cover the costs of litigation, or where the plaintiff may not be a particularly credible witness by virtue of his or her background.

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<sup>38</sup>The LAPD said its Internal Affairs Division had started monitoring lawsuits before the Rodney King incident.  
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Another problem is that cases usually take years to reach a settlement and the adversarial nature of the proceedings leads police to exculpate their behaviour rather than examining what might have been wrong. Lawyers have also alleged that the authorities often seek to obstruct the proceedings by failing to provide relevant information such as police records on use of force or records against individual officers. There have been several cases where courts have imposed monetary sanctions against the authorities for failing to provide information requested in a court order. Also, while civil lawsuits may provide a remedy to the individual in the form of compensatory damages, they do not serve as a deterrent to prevent future abuses either in general or against the officers concerned. Amnesty International was told that juries sometimes issue punitive damages against individual officers whom they consider guilty of particular wrongdoing, but that these are invariably paid by the city or county.

It was pointed out that it has been historically difficult to bring lawsuits seeking to prevent an alleged "pattern and practice" of police abuses, although several such actions are currently pending (e.g. the class action suits in the dog cases and the Thomas case against the Sheriff's department).

## 4. Role of the Federal Government

It has been suggested that the US Government should take a more active role in addressing human rights violations by state officials, in keeping with its obligations under the Constitution as well as international standards.

Under present law, the US Government can only bring criminal charges against individual state officials for civil rights violations and has no authority to pursue civil actions. Several measures have been suggested by civil rights groups for improving police accountability through civil lawsuits and enabling the federal government to bring civil actions. A Police Accountability Act has been drafted by a congressional committee which would give the Attorney General the authority to prosecute law enforcement agencies that engage in a "pattern and practice" of excessive force, through civil actions seeking injunctive relief. The Act would also make it easier for individual citizens to bring civil suits seeking injunctive relief from a pattern and practice of police abuses. The Act would, further, require the Attorney General to collect data about excessive force complaints for research and statistical purposes. A federal judge, Jon Newman, has also suggested that the Justice Department should be given powers to bring civil actions on behalf of individual victims of official misconduct. These proposals were still pending before Congress at the time of writing.

In 1991, in response to the Rodney King incident, the US Justice Department conducted a nationwide review of complaints of official misconduct to see if it could identify a pattern of abuse in any particular areas. The study looked at some 15,000 complaints of official misconduct made to the Civil Rights Division of the Justice Department from 1985-1990. Its findings, published in May 1992 were inconclusive, stating that the study "does not reveal any statistically significant patterns of police misconduct". The report noted that this was due to the material studied, which was limited only to complaints filed with the Justice Department (only a small proportion of overall complaints against state officials); and that no records had been kept of the relative merits of the complaints. The report noted that there was no agency that collected data on police brutality nationwide. There have been a number of calls for the Justice Department to collect such information, one of the proposals included in the Police Accountability Act.

## CONCLUSIONS AND RECOMMENDATIONS

Amnesty International's findings suggest that there have been a disturbing number of cases in recent years in which law enforcement officials in Los Angeles have resorted to excessive force, sometimes amounting to torture or other cruel, inhuman or degrading treatment.

The use of excessive force has included physical brutality and use of lethal force including firearms, in violation of international standards. Police dogs also appear to have been used to inflict unwarranted injury on suspects, particularly in black or latino neighbourhoods. In many cases officers appear to have acted with impunity or received only minor disciplinary sanctions. The evidence suggests that racial minorities, especially blacks and latinos, have been subjected to discriminatory treatment and are disproportionately the victims of abuse.

Amnesty International welcomes the measures already taken within the police departments and by other responsible authorities to address this issue. However, it believes that further measures are needed. To this end it makes the following recommendations:

1. The police leadership and other responsible authorities should make it clear that torture and other cruel, inhuman or degrading treatment will not be tolerated and that their own guidelines on use of force as well as international standards must be adhered to in all cases. The authorities should take steps to incorporate the *UN Code of Conduct* and *Basic Principles on the Use of Force by Law Enforcement Officials* into their codes of practice. Strong disciplinary measures should be undertaken and, where appropriate, criminal prosecutions, for the abusive use of force and firearms, in accordance with international standards.
2. Amnesty International endorses the Christopher Commission's recommendations for improving the LAPD's complaints procedure, training, cultural awareness and development of community policing programmes. It urges that these be implemented in full and that, in particular, the proposals for an independent civilian oversight of the complaints process within the Police Commission be established at the earliest possible date.
3. Amnesty International's findings suggest that many of the abuses identified by the Christopher Commission apply to the LASD. It urges that the present independent inquiry recommend similar reforms. Amnesty International believes that consideration should be given to instituting an independent oversight of complaints made against the Sheriff's Department.
4. Sheriff's Department guidelines on the use of firearms should be amended and expanded to comply with international standards, in particular those set out in the *Basic Principles on the Use of Force by Law Enforcement Officials*, which require, among other things, that firearms should be used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm.
5. There should be a thorough investigation into the use of canine units by the LAPD and the LASD to ensure that use of police dogs does not amount to unwarranted excessive force. Guidelines and procedures should be instituted to ensure that canine units are used in a manner that will minimize the risk of injury.
6. The federal government should take a more active role in monitoring complaints of excessive force by state law enforcement agents, and in preventing such abuses and bringing those responsible to justice, in

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accordance with US obligations under international law. Provisions that would enable the federal government to take action to prevent a "pattern and practice" of abuse by state law enforcement agencies would be one step towards meeting this obligation. The creation of a national reporting agency on use of force and firearms and the development of national guidelines should also be considered.

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## Appendix 1



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Amnesty International has issued more than 30 reports on human rights violations in the USA since 1987. The following is a list of those major publications and reports.

## **MAJOR PUBLICATIONS**

USA: The death penalty (AMR 51/01/87) February 1987

USA: The death penalty: briefing (AMR 51/02/87) February 1987

## **REPORTS**

USA: US Supreme Court ruling in *McCleskey v. Kemp* (AMR 51/20/87)  
5 May 1987

Allegations of ill-treatment in Marion Prison, Illinois, USA (Report on the prisoners' lawsuit against Marion Prison, Illinois, USA, by David Matas) (AMR 51/26/87) May 1987

USA: The case of Willie Jasper Darden (AMR 51/52/87) 17 September 1987

USA: Laws, legislative moves and other state developments on the death penalty 1987 (AMR 51/56/87)  
10 October 1987

USA: The execution of Edward Earl Johnson in Mississippi on 20 May 1987 (AMR 51/33/87)  
3 June 1987 USA: The death penalty: Developments in 1987 (AMR 51/01/88) January 1988

USA: The case of Elmer "Geronimo" Pratt (AMR 51/27/88) May 1988

USA: The High Security Unit (HSU), Lexington Federal Prison, Kentucky  
(AMR 51/34/88) September 1988

USA: The death penalty: Developments in 1988 (Supplement and update to - "USA: The death penalty: Developments in 1987" (AMR 51/01/88) and "USA: The death penalty" (AMR 51/01/87)) (AMR 51/01/89) January 1989

USA: The death penalty: James Russell Trimble (AMR 51/04/89) January 1989

USA: The death penalty (AMR 51/08/89) February 1989

USA: New York may bring back the death penalty (AMR 51/13/89) March 1989

USA: The death penalty - The risk of executing the innocent (AMR 51/19/89) June 1989

USA: United States Supreme Court rulings allow execution of juvenile offenders and the mentally retarded (AMR 51/27/89) June 1989

USA (Alabama): Execution of Horace Dunkins (AMR 51/34/89) 25 July 1989

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The death penalty in the USA: Developments from January to August 1989 (AMR 51/46/89) September 1989

USA: Federal death penalty draft legislation under consideration by Congress (AMR 51/48/89) 31 October 1989

USA: The death penalty in California (AMR 51/03/90) 28 February 1990

USA: The death penalty: Government survey finds pattern of racial disparities in imposition of death penalty (AMR 51/08/90) March 1990

USA: the case of Dalton Prejean, scheduled for execution in Louisiana (AMR 51/13/90) 23 March 1990

USA: Follow-up to the case of Dalton Prejean, Louisiana (AMR 51/21/90) 15 June 1990

USA: First Illinois execution for 28 years is scheduled for September 1990 (AMR 51/29/90) 25 July 1990

USA: Execution of Charles Walker (AMR 51/38/90) 21 August 1990

USA: Allegations of police torture in Chicago, Illinois (AMR 51/42/90) December 1990

USA: Participation of doctors in executions (AMR 51/12/91) 26 March 1991

USA: The death penalty in the USA: developments from 1 September 1989 to 31 December 1990 (AMR 51/13/91) April 1991

USA: The death penalty and juvenile offenders (AMR 51/23/91) October 1991

USA: The death penalty: Warren McCleskey (Georgia) July 1991 (AMR 51/24/91) July 1991

USA: Federal death penalty - 1991 crime bill (AMR 51/26/91) August 1991

USA: Death penalty developments in 1991 (AMR 51/01/92) February 1992

USA: The death penalty in California: the case of Robert Harris (AMR 51/34/92) March 1992