

FIGHTING POLICE ABUSE: A COMMUNITY ACTION MANUAL

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- Loren Siegel, Director

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PREFACE

One year ago today, the American public was riveted by an incident that would become synonymous with police brutality: the beating of a young man named Rodney King. An amateur video, televised nationwide, showed King handcuffed and lying on the ground while three officers of the Los Angeles Police Department (LAPD) kicked him and struck him repeatedly with their nightsticks. No one who viewed that beating will ever forget its viciousness.

Politicians were quick to condemn it. Los Angeles Mayor Tom Bradley declared that he was “shocked and outraged.” President George Bush said the beating “made me sick” and called for an end to “gratuitous violence and brutality.” The U.S. Department of Justice, the FBI, the Los Angeles County District Attorney’s office and the Internal Affairs Division of the LAPD all announced investigations. Civil rights, civil liberties and local community groups demanded the immediate resignation of L.A. Police Chief Daryl F. Gates, long known for his disregard of citizen complaints and tolerance of unnecessary physical force by members of his department. Subsequently, Mayor Bradley appointed the civilian Christopher Commission to investigate the King beating and Chief Gates’ leadership. In July 1991, the commission issued a report and recommendations for extensive reforms, including the resignation of Gates.

But as we mark this first anniversary of the incident that catapulted the reality of police abuse into living rooms across the nation, we’re compelled to note that too little has changed. Chief Gates is still in command at the LAPD. Few of the Christopher Commission’s recommendations have been implemented. And police abuse, especially against people of color, remains a major national problem:

On September 2, 1991, 27 year-old Darryl Antonio Stephens was shot and killed by West Covina, California police officers who were serving a search warrant in the course of an investigation. The officers said Stephens had made a furtive movement while kneeling next to his bed. Stephens was unarmed and not a suspect in the investigation.

On August 6, 1991, 31 year-old Gregory R. Jones, who was handcuffed and in custody, was shot in the back by a Seattle officer when he broke away from his police escorts.

On September 12, 1991, nine AIDS activists were clubbed, maced and beaten by Philadelphia police officers while demonstrating peacefully against an appearance by President Bush at a downtown hotel.

Police work is multifaceted, stressful, difficult and dangerous. Moreover, constant confrontation with the human face of our country’s most severe social problems almost inevitably engenders in some officers such a dim view of the public they are supposed to serve that they eschew completely the role of “servant” for that of “warrior.” But even many law enforcement experts realize that police abuse should not be ignored, and that, in fact, it obstructs good law enforcement. The ACLU supports the efforts of, and works closely with, police organizations like the Police Executive Research Forum (PERF), the Police Foundation, the National Organization of Black Law Enforcement Executives (NOBLE) and the National Black Police Association to foster fair and humane policing policies.

Most of our political leaders and institutions, unfortunately, have failed to seriously address the problem. Ordinary citizens, therefore, must do what they can to effect change themselves. That’s why the ACLU has published *Fighting Police Abuse: A Community Action Manual*—to help the residents of communities all over the United States demand and get police accountability. It reflects the knowledge and experience gained by the ACLU and other groups over more than two decades.

This manual was not inspired by, nor is it intended to generate, animosity toward the police, or to promote the perception that all police officers are prone to abusive conduct. Indeed, I know personally that many police officers—including many chiefs—were just as horrified by the beating of Rodney King as I was. The manual arose out of our realization that, ultimately, it will take a strong and sustained effort by community groups to bring about real and lasting reform of police practices. Ira Glasser

Executive Director
American Civil Liberties Union
March 3, 1992

I. SOME OPERATING ASSUMPTIONS

THE BAD NEWS...

...is that police abuse is a serious problem. It has a long history, and it seems to defy all attempts at eradication.

The problem is national—no police department in the country is known to be completely free of misconduct—but it must be fought locally. The nation's 19,000 law enforcement agencies are essentially independent. While some federal statutes that specify criminal penalties for willful violations of civil rights and conspiracies to violate civil rights, the United States Department of Justice has been insufficiently aggressive in prosecuting cases of police abuse. There are shortcomings, too, in federal law itself, which does not permit "pattern and practice" lawsuits. The battle against police abuse must, therefore, be fought primarily on the local level.

THE GOOD NEWS...

...is that the situation is not hopeless. Policing has seen much progress. Some reforms do work, and some types of abuse have been reduced. Today, among both police officials and rank and file officers it is widely recognized that police brutality hinders good law enforcement.

To fight police abuse effectively, you must have realistic expectations. You must not expect too much of any one remedy because no single remedy will cure the problem. A "mix" of reforms is required. And even after citizen action has won reforms, your community must keep the pressure on through monitoring and oversight to ensure that the reforms are actually implemented.

Nonetheless, even one person, or a small group of persistent people, can make a big difference. Sometimes outmoded and abusive police practices prevail largely because no one has ever questioned them. In such cases, the simple act of spotlighting a problem can have a powerful effect that leads to reform. Just by raising questions, one person or a few people—who need not be experts—can open up some corner of the all-too-secretive and insular world of policing to public scrutiny. Depending on what is revealed, their inquiries can snowball into a full blown examination by the media, the public and politicians.

II. GETTING STARTED: IDENTIFYING THE PROBLEM

You've got to address specific problems. The first step, then, is to identify exactly what the police problems are in **your** city.

What's wrong with your police department is not necessarily the same as what's wrong in another city. Police departments are different in size, quality of management, local traditions and the severity of problems. Some departments are gravely corrupt; others are relatively "clean" but have poor relations with community residents. Also, a city's political environment, which affects both how the police operate and the possibilities for achieving reform, is different in every city. For example, it is often easier to reform police procedures in cities that have a tradition of "good government," or in cities where minorities are well organized politically.

The range of police problems includes:

- 1) Excessive use of deadly force.
- 2) Excessive use of physical force.
- 3) Discriminatory patterns of arrest.
- 4) Patterns of harassment of such “undesirables” as the homeless, youth, minorities and gays, including aggressive and discriminatory use of the “stop-and-frisk” and overly harsh enforcement of petty offenses.
- 5) Chronic verbal abuse of citizens, including racist, sexist and homophobic slurs.
- 6) Discriminatory non-enforcement of the law, such as the failure to respond quickly to calls in low-income areas, and half-hearted investigations of domestic violence, rape or hate crimes.
- 7) Spying on political activists.
- 8) Employment discrimination—in hiring, promotion and assignments, and internal harassment of minority, women and gay or lesbian police personnel.
- 9) The “code of silence” and retaliation against officers who report abuse and/or support reforms.
- 10) Overreaction to “gang” problems, which is driven by the assumption that most or all associational activity is gang-related. This includes illegal mass stops and arrests, and demanding photo IDs from young men based on their race and dress instead of their criminal conduct.
- 11) The “war on drugs,” with its overbroad searches and other tactics that endanger innocent bystanders. This “war” wastes scarce resources on unproductive “buy and bust” operations to the neglect of more promising community-based approaches.
- 12) Lack of accountability, such as the failure to discipline or prosecute abusive officers, and the failure to deter abuse by denying promotions and/or particular assignments because of prior abusive behavior.
- 13) Crowd control tactics that infringe on free expression rights and lead to unnecessary use of physical force.

SIDEBAR: HOW MUCH BRUTALITY?

How common is police brutality? Unfortunately, measuring this problem in a scientific fashion has always been very difficult. In the first systematic study, *The Police and the Public* (1971), Albert Reiss found the overall rate of unwarranted force to be low—only about one percent of all encounters with citizens; even less than that by another calculation. But Reiss hastened to point out that individual incidents accumulate over time, and since poor men are the most frequent victims of police abuse, they experience both real and perceived harassment by the police.

In 1982, the federal government funded a “Police Services Study,” in which 12,022 randomly selected citizens were interviewed in three metropolitan areas. The study found that 13.6 percent of those surveyed had cause to complain about police service in the previous year (this included verbal abuse and discourtesy, as well as physical force). Yet, only 30 percent of the people filed formal complaints. In other words, most instances of police misconduct go unreported.

Community activists, take note: Your local police department or local news media may produce official figures showing a low rate of alleged abuse, but those figures do not reflect unreported incidents. Moreover, a low overall rate masks the much higher rate of abuse suffered by poor men—poor men of color in particular.

III. GATHER THE FACTS

The first thing to bear in mind about the “homework” community residents have to do in order to build a strong case for reform is that obtaining the most relevant information on the activities of your police department can be a tough task. In answer to critics, police chiefs often cite various official data to support their claim that they are really doing a great job. “Look at the crime rate,” they say, “it’s lower than in other cities.” Or: “My department’s arrest rate is much higher than elsewhere.” The catch is that these data, though readily available to citizens, are deeply flawed, while the most telltale information is not always easy to get.

FORGET The “Crime Rate.” The “crime rate” figures cited by government officials are based on the FBI’s Uniform Crime Reports (UCR) system, which has several serious flaws. To name only a few: First, the UCR only measures **reported** crime. Second, since the system is not independently audited there are no meaningful controls over how police

departments use their crime data. Police officers can and do “unfound” crimes, meaning they decide that no crime occurred. They also “downgrade” crimes—for example, by officially classifying a rape as an assault. Third, reports can get “lost,” either deliberately or inadvertently. There are many other technical problems that make the UCR a dubious measure of the extent of crime problems.

The National Crime Survey (NCS), published by another part of the U.S. Justice Department, provides a far more accurate estimate of the national crime rate and of long-term trends in crime. But it is a national-level estimate and does not provide data on individual cities. So the NCS isn’t much help on the local level.

FORGET The “Clearance Rate.” A police department’s official data on its “clearance rate,” which refers to the percentage of crimes solved, do not accurately reflect that department’s performance. The fact that one department “clears” 40 percent of all robberies, compared with 25 percent by another department, doesn’t necessarily mean it is more effective. There are too many ways to manipulate the data, either by claiming a larger number of crimes “cleared” (inflating the numerator), or by artificially lowering the number of reported crimes (lowering the denominator).

FORGET The arrest rate. Police officers have broad discretion in making and recording arrests. The Police Foundation (in Washington, D.C.), which conducts research on policing issues, has found great variations among police departments in their recording of arrests. In many departments, police officers take people into custody, hold them at the station, question and then release them without filling out an arrest report. For all practical purposes, these people were “arrested,” but their arrests don’t show up in the official data. Other departments record such arrests. Thus, the department that reports a lower number of arrests may actually be taking more people into custody than the department that reports more arrests.

FORGET The citizen complaint rate. Official data on the complaints filed by citizens regarding police conduct are important but present a number of problems. Many departments do not release any information on this subject. Some publish a smattering of information on complaints and the percentage of complaints sustained by the department. In more and more cities, the civilian review agency publishes this data.

Data on citizen complaints are difficult to interpret. Some examples: In 1990, it was widely reported that San Francisco, with less than 2,000 police officers, had more citizen complaints than Los Angeles, which has more than 8,000 officers. What that may mean, however, is that Los Angeles residents are afraid to file reports or don’t believe it would do any good. San Francisco has a relatively independent civilian review process, which may encourage the filing of more complaints. Also in 1990, New York City reported a decline from previous years in the number of citizen complaints filed. But many analysts believe that simply reflected New Yorkers’ widespread disillusionment with their civilian review board. Citizen complaints filed in Omaha, Nebraska doubled after the mayor allowed people to file their complaints at City Hall, as well as the police department.

Another problem is that in some police departments with internal affairs systems, officers often try to dissuade people from filing formal complaints that will later become part of an officer’s file. And the number of complaints counted is also affected by whether or not the internal affairs system accepts anonymous complaints and complaints by phone or mail, or requires in-person, sworn statements.

Thus, the official “complaint rate” (complaints per 1,000 citizens), rather than being a reliable measure of police performance, more than likely reflects the administrative customs of a particular police department.

WHAT YOU REALLY NEED TO KNOW, AND WHY

A. Police shootings. You need to know about police firearms discharges, which refer to the number of times a police weapon has been fired. This information is more complete than statistics on the number of persons shot and wounded or killed. (However, information on the race of persons shot and wounded or killed is important.) Particularly important is information on repeat shooters, which can tell you whether some officers fire their weapons at a suspiciously high rate.

With this information, you can evaluate the use of deadly force in your department. You can also evaluate the long-term trends in shootings. Are shootings increasing or decreasing? Has there been a recent upsurge? How does the department compare with other departments—are officers shooting at a significantly higher rate in your department than elsewhere?

SIDEBAR: WHO SHOOTS?

*Do some officers shoot more often than others? *Do white officers shoot more often than black officers? *Do young officers shoot more often than veteran officers?

The most detailed analysis of police shootings was produced by James Fyfe, a former police officer who is now a criminologist and expert on police practices. He concluded that the single most important factor determining patterns of shooting is place of assignment.

Fyfe's findings showed that: Black and white officers assigned to similar precincts fired their weapons at essentially the same rate; since new officers are assigned to less desirable, high crime precincts based on the seniority system, younger officers shoot more often than older officers; and since a disproportionate number of black officers are young due to recent affirmative action programs, black officers shoot more often than white officers—but as a function of assignment, not race.

Fyfe found significant differences in shooting patterns between police departments. The overall shooting rate in some departments was significantly higher than in others, a disparity that he attributed to differences in department policy.

SOURCE: James J. Fyfe, "Who Shoots? - - A Look At Officer, Race And Police Shooting." *Journal of Police Science And Administration*; Volume 9, December 1981; pp. 367-382.

B. Use of physical force. You need to know how frequently, day to day, police officers in your city use physical force in the course of their encounters with citizens. Do officers try to refrain from using such force against citizens, or do they quickly and casually resort to force?

In its report on the Los Angeles police department in the aftermath of the March 1991 beating of Rodney King, the Christopher Commission confirmed a long held suspicion: a small number of officers are involved in an extraordinarily high percentage of use of force incidents. Ten percent of the officers accounted for 33.2% of all use of force incidents. The Commission was able to identify 44 such officers who were not disciplined despite the fact that they were the subjects of numerous citizen complaints.

In 1981, the U.S. Civil Rights Commission found a similar pattern in Houston and recommended, as a remedy, that police departments establish "early warning systems" to identify officers with high rates of citizen complaints.

Patterns in the use of physical force reveal a lot about the "culture" of a particular police department. Clearly, a department whose officers repeatedly engage in physically coercive conduct needs reform. Police officials often deny that their personnel are prone to using force inappropriately, so if your community believes it has a problem in this area citizens must be able to support their claims with existing data, or data they have gathered themselves.

SIDEBAR: RACIAL DISCRIMINATION IN POLICE SHOOTINGS

These data indicate a clear pattern of racial discrimination. The disparity between whites and blacks shot and killed is extreme in the category of persons "unarmed and not assaultive." These are classic "fleeing felon" situations in which, prior to 1985, Memphis Police Department policy and the common law of many states permitted officers to use deadly force. In 1985, the U.S. Supreme Court ruled that it is unconstitutional for a police officer to shoot a suspected felon in flight who does not pose an immediate danger to the officer or public. The case—*Tennessee v. Garner*—involved Edward Garner, a 15 year-old black youth who, though unarmed, was shot and killed while trying to flee the scene of a suspected burglary.

POLICE SHOOTINGS IN MEMPHIS 1969-1974

Person Shot and Killed	Number Shot and Killed	
	White	Black
Armed and Assaultive	5	7
Unarmed and Assaultive	2	6
Unarmed and Not Assaultive	1	13

SOURCE; James J. Fyfe, "Blind Justice: Police Shootings in Memphis," *Journal of Criminal Law and Criminology*, 73 (1982, No. 2); pp. 707-722.

C. Official policies. You need to know whether your local police department has formal, written policies that set forth how officers are supposed to behave in particular situations. How does the department treat domestic violence complaints?

What is the policy on how officers are supposed to deal with homeless people? Does the department use canine patrols and, if so, under what circumstances?

In examining official policies, you need to evaluate them in comparison to recommended standards.

D. Lawsuits. You need to know how many lawsuits citizens have filed against your local police department. You want to know what the charges were, the number of officers involved, whether certain officers are named repeatedly in suits, what was the outcome and, in the case of successful suits, how much did the city pay in damages.

The number of lawsuits filed against a police department can be very revealing. For example, the Los Angeles Times reported that the city paid \$64 million (of citizens' tax money!) in damages for abuses by the Los Angeles Police Department and county sheriff's office in just three years -- 1989-1991. In 1990 alone, New York City paid victims of police misconduct a record high of more than \$13 million. This kind of information can be used to mobilize middle-class taxpayers and "good-government" activists, who can then be brought into a community coalition against police abuse.

E. Minority employment. You need to know how many African Americans, Hispanics, Asians, other minorities and women are employed by your police department and their distribution throughout the department's ranks.

This information is useful in assessing, again, the "culture" of your local police department—is it internally diverse, fair and equitable? It also suggests how much value the department places on the "human relations" aspects of its work, and how responsive it is to community concerns.

WHERE TO GET THE INFORMATION, AND HOW

Police business is generally shrouded in secrecy, which conceals outdated policies and departmental inertia, encourages cover-ups and, of course, breeds public suspicion. But remember: Police departments are an arm of government, and **the government's business is your business**. Police policies, procedures, memoranda, records, reports, tape recordings, etc. should not be withheld from public view unless their release would threaten on-going investigations, endanger officers or others, or invade someone's personal privacy.

Demanding information about police practices is an important part of the struggle to establish police accountability. Indeed, a campaign focused solely on getting information from the police can serve as a vehicle for organizing a community to tackle police abuse. Regarding all of the following categories, one of the tactics your community could employ is to interest a local investigative journalist in seeking information from the police for a series of articles. Once in hand, the information is a tool for holding the police accountable for their actions.

A. Police Shootings. Virtually every big city police department has this information on hand, since officers are required to file a report after every firearms discharge. Departments are supposed to publish a summary of weapons discharges every year, but they don't usually release the information voluntarily. Strong civilian review boards in a few cities now publish the information. As for repeat shooters, this information exists in police reports but police departments vigorously resist identifying repeat shooters. There are several ways to proceed:

- (1) As an organizing strategy, demand that the police department publish this data, identify the repeaters and take appropriate remedial action (counseling, retraining, formal discipline, transfer, etc.)
- (2) Alternatively, since it isn't essential that officers be identified by name, demand that they be identified simply by a code number, which can focus public attention on the problem of excessive shooters.
- (3) Visit your local civilian review agency, if one exists. These agencies often have the authority to collect and release a range of information about local police conduct.

SIDEBAR: ON DRUGS, GANGS AND POLICE OFFICER SAFETY

Police work remains dangerous, and many police officers contend that they need greater freedom to use deadly force today because of the increase in heavily armed drug gangs.

But in fact, police work is much less dangerous than it used to be. The number of officers killed in the line of duty is half of what it was nearly 20 years ago. According to the FBI, the number of officers killed dropped from 134 in 1973 to 67 in

1990. That reduced death rate is even more dramatic considering the increase in the number of police officers on duty in the field.

Police officers have not been the victims of “drive-by” gang shootings.

Innocent by-standers and rival gang members have been the victims.

The police do not need more firepower.

B. Physical Force. There are three potential sources of data on police use of physical force.

(1) Data developed by community residents. Community residents can make a significant contribution to documenting physical force abuses and, in the process, organize. They can bear witness to, and record, abuse incidents, take information from others who have witnessed incidents, refute police department arguments that there is no problem and help document the inadequacies of the police department’s official complaint review process.

The San Diego chapter of the ACLU’s Southern California affiliate set up “police hotline,” which is listed in the Yellow Pages, to receive complaints about the police. The chapter’s first report on the hotline, issued in August 1990, offers some useful information about complaint patterns. The Police Watch in Los Angeles compiles similar data. To receive a copy of the San Diego ACLU report, write to the ACLU/San Diego, 1202 Kettner Boulevard, Suite 6200, San Diego, CA 92101, or call (619) 232-2121. Police Watch can be contacted at 611 South Catalina, Suite 409, Los Angeles, CA 90005; (213)387-3325.

(2) Formal complaints filed by citizens. Most police departments do not make this information public. Some publish summary data in their annual report, so consult that document. In a number of cities, civilian review agencies publish it, so check with that agency in your city. The annual reports of the New York City Citizen Complaint Review Board (CCRB) and San Francisco’s Office of Citizen Complaints (OCC) provide fairly detailed summaries.

(3) Internal police reports. An increasing number of police departments require officers to fill out reports after any use of physical force. This is a larger set of data than the citizen complaints would provide, since many citizens don’t file complaints even when they have cause to do so. Ask to see these reports.

C. Official Policies. Your police department has a Standard Operating Procedure (SOP) manual (it may have another title) that contains the official policies of the department. The SOP manual is a public document and should be readily available. Some departments place current copies in local libraries. Others treat it as an internal document not available to the public—which is unacceptable. Demand to see the manual, if your department withholds it. As a last resort, you can file suit under your state’s open records law to obtain the SOP manual.

D. Lawsuits. Lawsuits brought against police departments are matters of public record. Records of suits brought in state courts reside at your local state courthouse; of suits brought in federal district court, at your local federal courthouse. The Lexis computer database is a source of published opinions in civilian suits brought against the police. However, collecting information from any of these sources is a very laborious task. Better to contact your local ACLU affiliate and/or other relevant public interest groups, which may have done most of the work for you. In the back of this manual, find the name and address of your local ACLU and other organizations.

E. Minority Employment. Official data on this issue are generally reliable and available from your local police department. If the police stonewall, you can get the information from the city’s personnel division. The point is to evaluate the police department’s minority employment record relative to local conditions. Using current data, compare the percentage of a particular group of people in the local population with that group’s representation on the police force. If, for example, Hispanic Americans are 30 percent of the population but only 15 percent of the sworn officers, the your police department is only half way toward achieving an ideal level of diversity.

IV. CONTROLLING THE POLICE: COMMUNITY GOALS

GOAL #1: A CIVILIAN REVIEW BOARD

Civilian review of police activity was first proposed in the 1950s because of widespread dissatisfaction with the internal disciplinary procedures of police departments. Many citizens didn't believe that police officials took their complaints seriously. They suspected officials of investigating allegations of abuse superficially at best, and of covering up misconduct. The theory underlying the concept of civilian review is that civilian investigations of citizen complaints are more independent because they are conducted by people who are not sworn officers.

At first, civilian review was a dream few thought would ever be fulfilled. But slow, steady progress has been made, indicating that it's an idea whose time has come. By the end of 1991, more than 60 percent of the nation's 50 largest cities had civilian review systems, half of which were established between 1986 and 1991.

Civilian review advocates in every city have had to overcome substantial resistance from local police departments. One veteran of the struggle for civilian review has chronicled the stages of police opposition as follows:

the "over our dead bodies" stage, during which police will not accept any type of civilian oversight under any circumstances;

the "magical conversion" stage, when it becomes politically inevitable that civilian review will be adopted. At this point, former police opponents suddenly become civilian review experts and propose the weakest possible models;

the "post-partum resistance" stage, when the newly established civilian review board must fight police opposition to its budget, authority, access to information, etc.

Strong community advocacy is necessary to overcome resistance at every stage, even after civilian review is established.

WHAT IS CIVILIAN REVIEW?

Confusion reigns about civilian review systems because they vary tremendously. Some are more "civilian" than others. Some are not boards but municipal agencies headed by an executive director (who has been appointed by, and is accountable to, the mayor).

The three basic types of civilian review systems are:

(1) Type I. Persons who are not sworn officers conduct the initial fact-finding. They submit an investigative report to a non-officer or board of non-officers, requesting a recommendation of discipline or leniency. This process is the most independent and most "civilian."

(2) Type II. Sworn officers conduct the initial fact-finding. They submit an investigative report to a non-officer or board of non-officers for a recommendation.

(3) Type III. Sworn officers conduct the initial fact-finding and make a recommendation to the police chief. If the aggrieved citizen is not satisfied with the chief's action on the complaint, he or she may appeal to a board that includes non-officers. Obviously, this process is the least independent.

Although the above are the most common, other types of civilian review systems also exist.

SIDEBAR: TEN PRINCIPLES FOR AN EFFECTIVE CIVILIAN REVIEW BOARD

1 Independence. The power to conduct hearings, subpoena witnesses and report findings and recommendations to the public.

2 Investigatory Power. The authority to independently investigate incidents and issue findings on complaints.

3 Mandatory Police Cooperation. Complete access to police witnesses and documents through legal mandate or subpoena power.

4 Adequate Funding. Should not be a lower budget priority than police internal affairs systems.

5 Hearings. Essential for solving credibility questions and enhancing public confidence in process.

6 Reflect Community Diversity. Board and staff should be broadly representative of the community it serves.

7 Policy Recommendations. Civilian oversight can spot problem policies and provide a forum for developing reforms.

8 Statistical Analysis. Public statistical reports can detail trends in allegations, and early warning systems can identify officers who are subjects of unusually numerous complaints.

9 Separate Offices. Should be housed away from police headquarters to maintain independence and credibility with public.

10 Disciplinary Role. Board findings should be considered in determining appropriate disciplinary action.

WHY IS CIVILIAN REVIEW IMPORTANT?

- Civilian review establishes the principle of police accountability.

Strong evidence exists to show that a complaint review system encourages citizens to act on their grievances. Even a weak civilian review process is far better than none at all.

A civilian review agency can be an important source of information about police misconduct. A civilian agency is more likely to compile and publish data on patterns of misconduct, especially on officers with chronic problems, than is a police internal affairs agency.

Civilian review can alert police administrators to the steps they must take to curb abuse in their departments. Many well-intentioned police officials have failed to act decisively against police brutality because internal investigations didn't provide them with the facts.

The existence of a civilian review agency, a reform in itself, can help ensure that other needed reforms are implemented. A police department can formulate model policies aimed at deterring and punishing misconduct, but those policies will be meaningless unless a system is in place to guarantee that the policies are aggressively enforced.

Civilian review **works**, if only because it's at least a vast improvement over the police policing themselves. Nearly all existing civilian review systems

- reduce public reluctance to file complaints;
 - reduce procedural barriers to filing complaints;
- enhance the likelihood that statistical reporting on complaints will be more complete;
enhance the likelihood of an independent review of abuse allegations;
foster confidence in complainants that they will get their "day in court" through the hearing process;
increase scrutiny of police policies that lead to citizen complaints, and
- increase opportunities for other reform efforts.

*A campaign to establish a civilian review agency, or to strengthen an already existing agency, is an excellent vehicle for community organizing. In Indianapolis, for example, a civilian review campaign brought about, not only the establishment of a civilian review agency, but an effective coalition between the Indiana ACLU, the local branch of the National Association for the Advancement of Colored People (NAACP) and other community groups that could take future action on other issues.

Your community's campaign should seek the strongest possible civilian review system, one that is fully independent and designed for easy access. But if all you can get adopted is a weak system, take it with the understanding that once it's created you can press for changes to make it more independent and effective.

GOAL #2: CONTROL OF POLICE SHOOTINGS

Police misconduct in the use of deadly force is an area in which considerable progress has been made. Although the rate of deadly force abuse is still intolerably high, national data reveal reductions, by as much as 35-to-40 percent in our 50 largest cities, in the number of persons shot and killed by the police since the mid-1970s. This has been accompanied by a significant reduction in the racial disparities among persons shot and killed: since the 1970s, from about six minority persons to one white person, down to three minority persons to one white.

This progress serves as a model for controlling other forms of police behavior. How was it achieved?

In the mid-1970s, police departments began to develop restrictive internal policies on the use of deadly force. These embodied the "defense of life" standard, which allows the use of deadly force only when the life of an officer or some other person is in danger. In 1985, the Supreme Court finally upheld this standard in the case of *Tennessee v. Garner* (see sidebar, "Racial Discrimination in Police Shootings"). However, the majority of policies adopted by police departments go beyond the courts *Garner* decision, prohibiting warning shots, shots to wound, and other reckless actions. Most important,

these policies require officers to file written reports after each firearms discharge, and require that those reports be automatically reviewed by higher-ranking officers.

To meet goal #2, your community must

(1) Ensure that the police department has a highly restrictive deadly force policy. Most big city departments do. But the national trend data on shootings suggest that medium-sized and small departments have not caught up with the big cities, so much remains to be done there. Much remains to be done as well in county sheriff and state police agencies, which have not been subject to the same scrutiny as big city police departments.

(2) Ensure enforcement of the deadly force policy through community monitoring. To be accountable, the police department and/or the local civilian review agency should publish summary data on shooting incidents.

Citizens should also be able to find out whether the department disciplines officers who violate its policy, and whether certain officers are repeatedly involved in questionable incidents.

SIDEBAR: THE HOUSTON POLICE DEPARTMENT'S DEADLY FORCE POLICY (1987)

POLICY: The Houston Police Department places its highest value on the life and safety of its officers and the public. The department's policies, rules and procedures are designed to ensure that this value guides police officers' use of firearms.

RULES: The policy stated above is the basis of the following set of rules that have been designed to guide officers in all cases involving the use of firearms:

*The citizens of Houston have vested in their police officers the power to carry and use firearms in the exercise of their service to society. This power is based on trust and, therefore, must be balanced by a system of accountability. The serious consequences of the use of firearms by police officers necessitate the specification of limits for officers' discretion; there is often no appeal from an officer's decision to use a firearm. Therefore, it is imperative that every effort be made to ensure that such use is not only legally warranted but also rational and humane.

*The basic responsibility of police officers to protect life also requires that they exhaust all other reasonable means for apprehension and control before resorting to the use of firearms. Police officers are equipped with firearms as a means of last resort to protect themselves and others from the immediate threat of death or serious bodily injury.

*Even though all officers must be prepared to use their firearms when necessary, the utmost restraint must be exercised in their use. Consequently, no officer will be disciplined for discharging a firearm in self-defense or in defense of another when faced with a situation that immediately threatens life or serious bodily injury. Just as important, no officer will be disciplined for not discharging a firearm if that discharge might threaten the life or safety of an innocent person, or if the discharge is not clearly warranted by the policy and rules of the department.

*Above all, this department values the safety of its employees and the public. Likewise it believes that police officers should use firearms with a high degree of restraint. Officers' use of firearms, therefore, shall never be considered routine and is permissible only in defense of life and then only after all alternative means have been exhausted.

RULE 1: Police officers shall not discharge their firearms except to protect themselves or another person from imminent death or serious bodily injury.

RULE 2: Police officers shall discharge their firearms only when doing so will not endanger innocent persons.

RULE 3: Police officers shall not discharge their firearms to threaten or subdue persons whose actions are destructive to property or injurious to themselves but which do not represent an imminent threat of death or serious bodily injury to the officer or others.

RULE 4: Police officers shall not discharge their firearms to subdue an escaping suspect who presents no imminent threat of death or serious bodily injury.

RULE 5: Police officers shall not discharge their weapons at a moving vehicle unless it is absolutely necessary to do so to protect against an imminent threat to the life of the officer or others.

RULE 6: Police officers when confronting an oncoming vehicle shall attempt to move out of the path, if possible, rather than discharge their firearms at the oncoming vehicle.

RULE 7: Police officers shall not intentionally place themselves in the path of an oncoming vehicle and attempt to disable the vehicle by discharging their firearms.

RULE 8: Police officers shall not discharge their firearms at a fleeing vehicle or its driver.

RULE 9: Police officers shall not fire warning shots.

RULE 10: Police officers shall not draw or display their firearms unless there is a threat or probable cause to believe there is a threat to life, or for inspection.

GOAL #3: REDUCE POLICE BRUTALITY

Your community's principal aim here should be to get the police department to adopt and enforce a written policy governing the use of physical force.

This policy should have two parts:

(1) It should explicitly restrict physical force to the narrowest possible range of specific situations. For example, a policy on the use of batons should forbid police officers from striking citizens in "non-target" areas, such as the head and spine, where permanent injuries can result. Mace should be used defensively, not offensively. Since electronic stun guns (Novas and Taser) have great potential for abuse because they don't leave scars or bruises, their use should be strictly controlled, supervised and reviewed.

(2) It should require that a police officer file a written report after **any** use of physical force, and that report should be automatically reviewed by high ranking officers.

Your community's second objective should be to get the police department to establish an early warning system to identify officers who are involved in an inordinate number of incidents that include the inappropriate use of physical force. The incidents should then be investigated and, if verified, the officers involved should be charged, disciplined, transferred, re-trained or offered counseling—depending on the severity of their misconduct. The Christopher Commission's report on the Rodney King beating ascertained that the Los Angeles police leadership typically looked the other way when officers were involved in questionable incidents. This tolerance of brutality by the top brass helped create an atmosphere conducive to police abuses.

GOAL #4: END POLICE SPYING

Police spying, or intelligence gathering, on constitutionally protected political, religious and private sexual behavior is an historic problem. And it's particularly difficult to deal with because spying, by definition, is a covert activity. The victim doesn't know it's happening, and it's not witnessed by others.

During the 1970s, the ACLU and other public interest organizations brought lawsuits against unconstitutional police surveillance in several cities around the country, including New York City, Chicago, Memphis and Los Angeles. These suits resulted in the imposition of stricter limits on intelligence gathering by the police.

In Seattle in 1976, it came to light that local police were spying on organizations of black construction workers, Native Americans, advocates for low-income housing and other community activists whose conduct was perfectly lawful. In response to the revelations, the ACLU, along with the American Friends Service Committee and the National Lawyers Guild, formed the Coalition on Government Spying. After several years of hard work and lobbying, the coalition succeeded in bringing about passage of a comprehensive municipal law—the first of its kind in the country—that governs all police investigations and restricts the collection of political, religious and sexual information.

This law, called the Seattle Police Intelligence Ordinance, is an important breakthrough and a model for other efforts. It contains three elements that represent basic changes in police intelligence operations:

(1) "Restricted" information (that is, religious, political or sexual information) can be collected only if a person is reasonably suspected of having committed a crime, and the information must be relevant to that crime;

(2) An independent civilian "auditor", appointed by the mayor and confirmed by the city council, must review all police authorizations to collect restricted information and have access to all other police files. If the auditor finds that the police have violated the law, he or she must so notify the individuals who are the subjects of the unlawful investigations;

(3) Any individual subjected to unlawful surveillance can bring a civil action in court to stop the surveillance, and to collect damages from the city.

GOAL #5: GENERAL OVERSIGHT OF POLICE POLICY

Police policies should be subject to public review and debate instead of being viewed as the sole province of police insiders. Open policy-making not only allows police officials to benefit from community input, but it also provides an opportunity for police officials to explain to the public why certain tactics or procedures may be necessary. This kind of communication between the police and the community can help anticipate problems and avert crises before they occur.

The Police Review Commission (a civilian review body) of Berkeley, California holds regular, bi-monthly meetings that are open to the public. At these meetings, representatives of community organizations can voice criticisms, make proposals and introduce resolutions to review or reform specific police policies.

The Police Practices Project of the ACLU of Northern California successfully pressured the San Francisco Police Department to adopt enlightened policies in regard to the treatment of homeless people; the use of pain holds and batons; the deployment of plainclothes officers at protests and demonstrations; intelligence gathering; the selection of field training officers, and AIDS/HIV education for police officers. The Project has also prevented the adoption of bad policies, including an anti-loitering rule and a policy that would have made demonstrators financially liable for police costs.

In Tucson, Arizona, a Citizens' Police Advisory Committee was made part of the city's municipal code in July 1990. The Committee, which is composed of both civilian and police representatives, has the authority to initiate investigations of controversial incidents or questionable policies, along with other oversight functions.

SIDEBAR: CITIZEN-POLICE ADVISORY COMMITTEE

TUCSON, ARIZONA

(Created by the Tucson Code, Sec. 10A-86)

FUNCTIONS:

- (a) Consult with the governing body from time to time as may be required by the Mayor and [City] Council.
- (b) Assist the police in achieving a greater understanding of the nature and causes of complex community problems in the area of human relations, with special emphasis on the advancement and improvement of relations between police and community minority groups.
- © Study, examine and recommend methods, approaches and techniques to encourage and develop an active citizen-police partnership in the prevention of crime.
- (d) Promote cooperative citizen-police programs and approaches to the solutions of community crime problems, emphasizing the principal that the administration of justice is a responsibility which requires total community involvement.
- (e) Recommend procedures, programs and/or legislation to enhance cooperation among citizens of the community and police.
- (f) Strive to strengthen and ensure throughout the community the application of the principle of equal protection under the law for all persons.
- (g) Consult and cooperate with federal, state, city and other public agencies, commissions and committees on matters within the committee's charge.
- (h) The committee may ask for and shall receive from the Police Department, a review of action taken by the Department in incidents which create community concern or controversy.
- (i) The committee shall have the authority, should it so desire, to use a specific incident as a vehicle for the examination of police policies, procedures and priorities.
- (j) At the discretion and express direction of the Mayor and Council, assume and undertake such other tasks or duties as will facilitate the accomplishment of these goals and objectives....

GOAL #6: IMPROVED TRAINING

Over the years, citizens' groups in some communities demanded more education and training for police officers as part of their efforts to solve the problem of police abuse. But at this juncture, the education issue is somewhat moot because the educational levels of American police officers have risen dramatically in recent years. By 1986, 22.6 percent of all officers had four or more years of college. About 65 percent had at least some college experience. The levels of education are highest among new recruits, who, in many departments have about two years of college. Moreover, no evidence exists to show that college educated police officers perform better, or are more respectful of citizen's rights, than less educated officers. In an abuse-prone department, all officers are likely to engage in misconduct, regardless of education levels.

The training of police personnel has also improved significantly in recent years. The average length of police academy programs has more than doubled, from about 300 to over 600 hours; in some cities, 900 or even 1200 hours are the rule. As the time devoted to training has increased, the academies have added a number of important subjects to their curricula: race relations, domestic violence, handling the mentally ill, and so on.

Unquestionably, a rigorously trained, professional police force is a desirable goal that should be pursued depending on local conditions. If citizens in your community feel that this is an important issue, here's what you should aim for:

A first rate police academy curriculum. The curriculum should be near the high end of the current scale -- 800 hours or more. It should include a mix of classroom and supervised field training.

It should include training in the techniques of de-escalating violence. In addition to being given weapons and taught how to use them, police recruits should also learn special skills—especially communications skills—to help them defuse and avert situations that might lead to the necessary use of force.

It should include community sensitivity training. Training recruits to handle issues of special significance in particular communities can lead to a reduction in community-police tensions.

The ACLU of Georgia, after a series of incidents occurred in Atlanta involving police harassment of gays, helped provide regular training at the local police academy to sensitize new recruits on gay and lesbian concerns.

The Police Practices Project of the ACLU of Northern California organized a group of homeless people to create a video for use in sensitivity training at the San Francisco police academy.

The ACLU of New Jersey, in response to complaints that state police were harassing minority motorists and entrapping gay men during an undercover operation in the men's room of a highway service area, joined the NAACP and the Lesbian and Gay Coalition in initiating a series of meetings with the new superintendent of the Division of State Police. The meetings resulted in the introduction a two-week seminar on "Cultural Diversity and Professionalism" that all 1,700 employees of the Division were required to take within a year's time. Although it's too soon to evaluate the seminar's impact on police conduct, the participating organizations believe that at the very least it opened up lines of communication between the community and the police.

Unfortunately, even the most enlightened training programs can be undermined by veteran officers, who traditionally tell recruits out in the field to "forget all that crap they taught you in the academy."

In San Francisco some years ago, men selected as field training officers (FTOs) were found to have some of the worst complaint and litigation records in the department. The evaluation scores they gave recruits revealed their systematic attempts to weed out minority and women officers. They labeled women recruits "bad drivers," gave Asians low scores in radio communication and unfairly criticized African Americans for their report-writing. The Northern California ACLU's Police Practices Project joined other community groups in successfully pressuring the police department to adopt stricter selection criteria for FTOs to ensure greater racial and gender integration, fairer evaluations of recruits and higher quality training.

GOAL #7: EQUAL EMPLOYMENT OPPORTUNITY

Historically, police departments, like other government agencies, have engaged in employment discrimination. People of color have been grossly underrepresented, and women were not even accepted as full-fledged officers until the 1970s.

Some progress has been made in the last 15 to 20 years. Police departments in several cities now have significant numbers of officers who are people of color. A few departments even approach the theoretically ideal level of maintaining forces

that reflect the racial composition of the communities they serve. Most departments now recruit and assign women on an equal basis with men.

Nonetheless, the overall employment levels of women and minorities still lag far behind the ideal. In 1986, only 8.8 percent of all sworn officers were women. The San Francisco police force, even though it has been operating under a court-approved consent decree for 12 years, is still only 12 percent female and about 25 percent minority—just a little more than half the integration level the court required. These disparities are most blatant at the highest ranks of virtually all police departments in the country. Although a number of cities now have African American police chiefs, only two big city departments have ever had female chiefs.

Improvements in police employment practices have come about largely as the result of litigation under existing civil rights laws. However, the courts may not be hospitable to employment discrimination claims in the future. Therefore, community groups and civil rights organizations should prepare to fight in the political arena for the integration of police departments.

In the short term, the recruitment of more women and minority officers may not result in less police abuse. Several social science studies suggest that minority and white officers do not differ greatly in their use of physical or deadly force, or in their arrest practices. (Women officers, on the other hand, are involved in citizen complaints at about half the rate of male officers, according to the New York City CCRB.) Still, in the long term, an integrated police force is a very important goal for these reasons:

- (1) Integration will break down the isolation of police departments, as they reflect more and more the composition of the communities they serve. A representative police force will probably be less likely to behave like an alien, occupying army. The visible presence of officers of color in high-ranking command positions engenders public confidence in the ability of police department personnel to identify, on human terms, with community residents.
- (2) Integration sends the important message that the primary enforcement arm of “the law” is, itself, committed to the principles of equal opportunity and equal protection of the law.
- (3) Integration might, over time, reduce overtly racist/sexist enforcement tactics and actions, including brutality.

GOAL #8: CERTIFICATION AND LICENSING OF POLICE OFFICERS

Every state now has procedures for certifying or licensing police officers that require all sworn officers to have some minimum level of training. This was one of the advances of the late 1960s and early 1970s.

An important new development is the advent of procedures for *de*-certifying officers. Traditionally, a police officer could be fired from one department but then hired by another. As a result, persons guilty of gross misconduct could continue to work as police officers. Decertification bars a dismissed officer from further police employment in that state (though not necessarily in some other state). Between 1976 and 1983, the Florida Criminal Justice Standards and Training Commission decertified 132 police officers.

Procedures for state-level certification/decertification are a worthy goal to pursue. Be aware, however, that the state commission must have sufficient power and resources to investigate misconduct complaints, and must vigorously exercise its authority. And even so, certification/decertification procedures are only one part of the comprehensive approach that’s needed to achieve meaningful police discipline.

GOAL #9: ACCREDITATION OF POLICE DEPARTMENTS

One result of the increasing number of lawsuits brought against police departments by victims of abuse over the past 20 years was a movement, within the police profession, for an accreditation process similar to that in education and other fields whereby the police would establish and enforce their own professional standards.

In 1979, the Commission on Accreditation for Law Enforcement Agencies (COALEA) was established as a joint undertaking of several major professional associations. COALEA published its first set of Standards for Law Enforcement Agencies in 1985 and issues new standards periodically.

In deciding whether your community should press for accreditation of its local police department, keep in mind these basic points.

- (1) Accreditation is a voluntary process. A police department suffers no penalty for not being accredited. (In contrast, lack of accreditation in higher education carries penalties that include an institution's ineligibility for student financial aid programs and non-recognition of its awarded credits or degrees.)
 - (2) Current accreditation standards are minimum, rather than optimum. They are very good in some respects but do not go far enough in covering the critical uses of law enforcement powers.
 - (3) Accreditation might make a difference in the case of a truly backward, unprofessional and poorly managed police department in that it could help stimulate much needed and long overdue changes. On the other hand, a police department can easily comply with all of the current standards and still tolerate rampant brutality, spying and other abuses.
 - (4) Citizens in your particular community must decide whether, taking all of the above into account, accreditation would serve as an effective mobilization tool.
-

V. ORGANIZING STRATEGIES

Once your community has identified its police problems and decided what solutions to pursue, an organizing strategy for securing the desired reform must be developed.

In the 1960s and '70s, the most successful method of attacking police abuse was the lawsuit. During the tenure of Chief Justice Earl Warren, landmark Supreme Court decisions that imposed nationally uniform limits on police behavior were handed down in the cases of *Mapp v. Ohio*, *Escobedo v. Illinois* and *Miranda v. Arizona*. Respectively, those decisions extended Fourth Amendment protection against unreasonable searches and seizures to the states, established the Sixth Amendment right to a lawyer during police interrogations and required the police to inform persons taken into custody of their Fifth Amendment right against self-incrimination.

Today, the Supreme Court under Chief Justice William H. Rehnquist is repeatedly demonstrating its hostility to individual rights, as are many lower federal courts, the majority of whose presiding judges were appointed by Presidents Ronald Reagan and George Bush. More and more, therefore, the task of opposing police abuse falls not to lawyers, but to the citizens in your community.

The following profiles of successful organizing strategies can guide your community's attempts to effectively challenge police abuse.

STRATEGY #1: BUILD COALITIONS

PROFILE: The Indianapolis Law Enforcement and Community Relations Coalition

The year is 1984. Galvanized by a series of brutal and unjustified police killings that have sparked tensions between the police department and the African American community, 19 civil rights, religious, professional and civic organizations form the Indianapolis Law Enforcement/Community Relations Coalition. Coalition members include the Urban League, Baptist Ministerial Alliance, Community Centers of Indianapolis, Hispano-American Center, Indiana Council of Churches, Jewish Community Relations Council, Mental Health Association, NAACP and the United Methodist Church.

The coalition, co-chaired by the directors of the Indiana Civil Liberties Union and the Urban League of Greater Indianapolis, sets the establishment of a civilian review board as its first priority. A board is established in 1989.

Currently, the coalition is seeking to strengthen the board's authority and functions. Coalition members are calling for removal of three police representatives so that the board will be completely civilian and, thus, truly independent.

Coalition members collaborate with police academy instructors on sensitivity training, meeting with every class of recruits before the recruits graduate and take on their first field assignments. The recruits receive orientation around various policies and procedures that impact on the community, such as the use of deadly force.

In Indianapolis today, the Law Enforcement/Community Relations Coalition is regarded by the police, the public and the media as the city's principal civilian watchdog organization. Key to the coalition's success has been its broadbased character and commitment to participatory decision-making.

STRATEGY #2: MONITOR THE POLICE

PROFILE: COPWATCH, Berkeley, California

COPWATCH is a community organization whose stated purpose is “to reduce police harassment and brutality,” and “to uphold Berkeley’s tradition of tolerance and diversity.” Its main activities are monitoring police conduct through personal observation, recording and publicizing incidents of abuse and harassment, and working with Berkeley’s civilian review board -- the Police Review Commission.

COPWATCH sends teams of volunteers into the community on three-hour shifts. Each team is equipped with a flashlight, tape recorder, camera, “incident” forms (see sidebar) and COPWATCH Handbooks that describe the organization’s non-violent tactics, relevant laws, court decisions, police policies and what citizens should do in an emergency. At the end of a shift, the volunteers return their completed forms to the COPWATCH office. If they have witnessed an harassment incident, they call one of the organization’s cooperating lawyers, who follows up on the incident.

COPWATCH holds weekly meetings, and its activists attend public meetings of the Police Review Commission. It publishes a quarterly newsletter, Copwatch Report, which features a “Cop Blotter” column that describes examples of police misconduct “gleaned from COPWATCH incident reports.”

Although the group’s impact has not been studied, COPWATCH activists are convinced that their monitoring activities deter and, thus, reduce harassment and abuse.

SIDEBAR: [sample copwatch incident report form]

Date _____ Time _____ Place _____

Officers (names & numbers) _____

Police Car License No. _____

Arrestee/Victim’s Name _____

Other Information _____

Suspected Charge _____

Witnesses (names & phone numbers) _____

Injuries? _____ If yes, describe _____

Photos or tapes? ___ Does arrestee need a lawyer? _____

Description of incident _____

Name of Copwatcher _____

STRATEGY # 3: USE OPEN RECORDS LAWS

PROFILE: The Seattle Coalition on Government Spying

The year is 1976. During confirmation hearings for a new Seattle police chief, it comes to light that the city’s police department maintains political intelligence files on citizens who are not suspected of any criminal activity. Some time later, a local newspaper prints the names of 150 individuals that were found in police files.

A group of citizens, concerned about this clear violation of First Amendment and privacy rights, form the Coalition on Government Spying.

One of the coalition’s first acts is to file suit under the Washington public disclosure law, seeking access to the police department’s intelligence files (see sample Open Records statute in sidebar). Under the law, the police can refuse to disclose the files only if “nondisclosure is essential to effective law enforcement.” Since the files are purely political, the court orders full disclosure.

The coalition’s charges of abuse turn out to be well-founded. Not only do the files show that the police have engaged in unconstitutional surveillance of political activists, but they are full of inaccurate, misleading and damaging information.

The lawsuit and its revelations receive a lot of media attention, which helps build strong public support for reform. The result: Seattle enacts the first and only municipal ordinance in the country that restricts police surveillance.

SIDEBAR: OPEN RECORDS LAWS

Each of the 50 states has a freedom of information act or an open records law. Virtually all such laws were enacted post-Watergate, in the mid-1970's. Under these laws, community groups can request and obtain access to police reports, investigations, policies and tape recordings regarding a controversial incident, such as a beating, shooting, or false arrest. If the police refuse to disclose information to representatives of your community, that refusal in itself should become the focus of organizing and public attention. Ultimately, your community can sue to compel disclosure, unless the records you seek are specifically exempted.

FLORIDA FREEDOM OF INFORMATION ACT

General state policy on public records.

It is the policy of this state that all state, county, and municipal records shall at all times be open for a personal inspection by any person.

Definitions.

(1) "Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, or other material, regardless of physical form or other characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

(2) "Agency" shall mean any state, county, district, authority or municipal officer, department, division, board, bureau, commission, or other separate unit of government...

Inspection and examination of records; exemptions.

(1) Every person who has custody of public records shall permit the records to be inspected and examined by any person desiring to do so, at reasonable times, under reasonable conditions...The custodian shall furnish copies or certified copies of the records upon payment of fees...

(2) All public records which presently are provided by law to be confidential or which are prohibited from being inspected by the public, whether by general or special law, shall be exempt from the provisions of subsection (1).

STRATEGY #4: EDUCATE THE PUBLIC

PROFILE: Police Practices Project, ACLU of Northern California

The Police Practices Project conducts education programs to teach citizens about their constitutional rights. One aspect of the police abuse problem, the project believes, is that the police tend to abuse certain people partly because they think these individuals don't know their rights, or don't know how to assert their rights. The project also believes that its programs have the added advantage of recruiting groups and individuals to work in police reform campaigns.

The project, working with other groups, sponsors training programs for homeless people, as well as for advocates and service providers for the homeless. The training includes the distribution of copies of police policies, information on homeless people's legal rights, suggestions on how to observe and record police misconduct and presentations by members of the local civilian review agency. The project created a videotape of its training techniques for use by other groups outside the Bay Area.

The project also publishes wallet-size cards in English, Spanish and Chinese that inform citizens about what to do or say in encounters with the police. These cards have been widely distributed in the community. (One card-holder reported that he pulled out his card when confronted by a police officer, only to have the officer reach into his wallet and pull out his own copy of the same card!)

The project believes that individual citizens and community groups become informed about police policies just by participating in the preparation of educational materials and training sessions. That participation also fosters awareness

about particular areas of police practice that need reform. Most important, education empowers even the most disenfranchised people and helps deter the police from treating them abusively.

SIDEBAR: Wallet Cards [sample cards: front]

Some Practical Suggestions About You and the Police

Distributed by
American Civil Liberties Union of Northern California
1663 Mission Street, #460
San Francisco, CA 94103
(415) 621-2488

[back]

Your Rights and the Police

What you say to the police is always important. What you say can be used against you, and it can give the police an excuse to arrest you, especially if you “bad mouth” a police officer.

You do not have to answer a police officer’s questions, but you must show your driver’s license and registration when stopped in a car. In other situations, you cannot legally be arrested for refusing to identify yourself to a police officer.

You do not have to give your consent to any search of yourself, your car or of your house. If you do consent to a search it can affect your rights later in court. If the police say they have a search warrant, ask to see it.

Do not interfere with, or obstruct, the police—you can be arrested for it.

If You Are Stopped for Questioning

1. It is not a crime to refuse to answer questions, although refusing to answer can make the police suspicious about you. You cannot be arrested merely for refusing to identify yourself on the street.
2. The police may “pat down” your clothing if they suspect a weapon to check for concealed weapons. Do not physically resist, but make it clear that you do consent to any further search.
3. Ask if you are under arrest. If you are, you have a right to know why.
4. Do not “bad mouth” the police officer or run away, even if you believe what is happening is unreasonable. That could lead to your arrest.

If You Are Stopped in Your Car

1. Show your driver’s license and registration upon request. You can in certain cases be searched without a warrant so long as the police have probable cause. To protect yourself later, you should make it clear that you do not consent to a search.
2. If you are given a ticket, you should sign it, otherwise you can be arrested. You can always fight the case in court later.
3. If you are suspected of drunken driving and refuse a blood, urine or breath test, your driving license can be suspended.

If You Are Arrested or Taken to a Police Station

1. You have the right to remain silent and talk to a lawyer before you talk to the police. Tell the police nothing except your name and address. Do not give explanations, excuses or stories. You can make your defense in court based on what you and your lawyer decide is best.
2. Ask to see a lawyer immediately. If you cannot pay for a lawyer, you have a right to a free one, and you should ask the police how the lawyer can be contacted. Do not talk without a lawyer.
3. Within three hours after you are arrested, or immediately after being booked, you have the right to make two free complete phone calls in the local dialing area. (1) to a lawyer, (2) a bail bondsman. . .

STRATEGY # 5: USE THE POLITICAL PROCESS TO WIN REFORMS

PROFILE: The New York Civil Liberties Union's Campaign for a "Real Civilian Review Board"

The time is August 1988; the place, New York City. Manhattan's Lower East Side neighborhood is rocked by one of the most serious outbreaks of police violence in years. The violence occurs as the police, declaring a curfew, begin to eject homeless people and their supporters from Tompkins Square Park. Fifty-two people, most of them innocent bystanders, sustain serious injuries at the hands of the police. Much of the violence is recorded on video. Yet the officers who are guilty of misconduct go virtually unpunished; only one receives more than a 30-day suspension from the force.

The city's Civilian Complaint Review Board (CCRB) comes under heightened scrutiny. Although it has existed since 1966, the CCRB has long been criticized for its lack of independence and secretive proceedings. Half of its 12 members are appointed by the mayor, the other half by the police commissioner. Most of the CCRB's investigators are police officers.

In the wake of the Tompkins Square events, the New York Civil Liberties Union (NYCLU) spearheads "A Campaign for a Real Civilian Review Board" and organizes a coalition of civil rights organizations to back it up. The goal of the campaign is the establishment of a new, all-civilian CCRB that will be totally independent of the police department.

During 1991, the campaign calls on the city's community boards to pass resolutions in support of "a real CCRB." (The community boards are elected bodies that have advisory jurisdiction over a variety of local matters, such as zoning and land use). Campaign spokespeople debate police department representatives before some 30 community boards throughout the city, and 19 boards pass resolutions calling for revisions of the present system (see sample resolution in sidebar). Each board that passes a resolution becomes a member of the campaign coalition. Coalition members set up tables at street fairs and other community events to collect signatures on petitions for "a real CCRB." More than 1,000 signatures are collected.

The NYCLU, after garnering this broad support develops legislation for submission to the City Council. The bill is endorsed by 14 Council members. At this writing, the bill has yet to be debated, but the cause of true civilian review in New York City has already been advanced.

SIDEBAR: Resolution on The Civilian Complaint Review Board of New York City

Adopted by Community Board #9, Serving Hamilton Heights/Manhattanville &

Morningside Heights New York City

Whereas, many New Yorkers are concerned about the independence and effectiveness of the present Civilian Complaint Review Board; and

Whereas, with the proposed hiring of 9,000 new police officers, unfortunately, there may be a wider possibility of alleged police abuse; and

Whereas, if alleged police abuse has been charged, New Yorkers should have an effective government review agency that will render fair and full investigation and hearing of their allegations without pressure from the Police Department now, therefore, be it

Resolved, that the new board should have investigators and board members that are civilians with no allegiances to the Police Department and should have the power to subpoena witnesses to insure cooperation from the police officers or other concerned individuals. It should hold regular public hearings and maintain procedural safeguards to protect the rights of civilians and police officers. It should have expanded jurisdiction that includes all police and peace officers employed by the City and quasi-city agencies; and in adopting this resolution we are following the lead of Community Boards #4, #11, and #12.

STRATEGY #6: LOBBY FOR STATE LEGISLATION

PROFILE: The ACLU of California's Legislative Approach to Police Misconduct

Frustrated by inaction on the part of Los Angeles police officials, the ACLU's affiliates in Southern California, Northern California and San Diego are building a campaign for the passage of state legislation to deal with the problem of police abuse. The affiliates are developing legislation that would:

establish an Office of the Special Police Prosecutor to prosecute cases of police abuse. Independent prosecutors are needed because conventional city and county prosecutors are reluctant to bring charges against the same police officers they rely on for evidence in other criminal cases;

- establish state-mandated civilian police review boards for local police;

break the "code of silence" by making it a crime for a police officer to fail to report criminal wrongdoing by another officer. This provision would also protect a reporting officer from retaliation;

- require statewide data collection on police abuse and misconduct;

- restrict the use of force and "pain compliance" techniques;

break down the wall of secrecy that shields complaints of police misconduct and most complaint investigative processes from public scrutiny and oversight.

Meanwhile, for the last several years ACLU lobbyists have waged a largely successful battle against a flood of dangerous bills introduced into the California Legislature by police lobbyists. In the process, the ACLU has learned that an informed presence in state legislatures is essential to counteracting well-funded and influential police lobbies that sometimes oppose or undercut reform efforts.

A FINAL WORD

Keep your eye on the big picture: On the one hand, each individual reform is only one step on a long road to correcting the deeply entrenched problem of police misconduct; on the other hand, important and genuine reforms **can** be won.

A well-organized, focused campaign against police abuse can draw broad community support. The key is to transform that support into realistic demands, and develop strategies that turn those demands into concrete reforms.

We hope the information and advice contained in this manual inspires and equips your community to effectively tackle the problem of police misconduct from the grass roots up. Reform of police practices is in the best interests of every American, including the men and women in blue.

You have our best wishes for success. Keep in touch.

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RESOURCES: ORGANIZATIONS

American Friends Service Committee

Immigration Law Enforcement Monitoring Project

3515 Allen Parkway
Houston, TX 77019
Tel: (713) 524-5428

Monitors abuses by Immigration and Naturalization Service, Border Patrol and other agencies. Model computerized tracking program for incidents of abuse.

Commission on Accreditation for Law Enforcement Agencies (COALEA)
4242-B Chain Bridge Road
Fairfax, VA 22030
Tel: (703) 352-4225

Private accrediting board for law enforcement agencies. Organized and supported by law enforcement agencies. Publishes a set of accreditation Standards.

Community United Against Violence (CUAV)
514 Castro Street
San Francisco, CA 94114
Tel: (415) 864-3112

Lesbian/gay rights advocacy organization. Extensive experience conducting law enforcement sensitivity training on lesbian/gay issues.

COPWATCH

2022 Blake Street
Berkeley, CA 94704
Tel: (510) 548-0425

Community-based volunteer organization which monitors police activity in an effort to preserve the rights of all citizens, including the homeless, to fair treatment under the law.

International Association For Civilian Oversight of Law Enforcement (IACOLE)
1204 Wesley Avenue
Evanston, IL 60202
Tel: (312) 353-4391

Professional association of persons involved in civilian review of the police. Membership consists primarily of staff members of local civilian review agencies. Annual meeting. Newsletter. Periodically publishes a compendium of civilian review agencies.

International Association of Chiefs of Police (IACP)
13 Firstfield Road
P.O. Box 6010
Gaithersburg, MD 20878

Primary professional association for chiefs of police. Traditionally dominated by chiefs from small town police departments.

International Union of Police Associations (IUPA)
1016 Duke Street
Alexandria, VA 22314
Tel: (703) 549-7473

National federation of local police unions. Does not represent all local unions.

National Association for the Advancement of Colored People (NAACP)
4805 Mt. Hope Drive
Baltimore, MD 21215
Tel: (301) 358-8900

Civil rights organization with chapters across the country. Promotes civil rights through litigation, lobbying and community organizing.

National Association of Criminal Defense Lawyers
1110 Vermont Avenue, N.W., Suite 1150
Washington, D.C. 20005
Tel. (202) 872-8688

Develops public policy recommendations on matters pertaining to the criminal justice system and lobbies Congress.

National Black Police Association (NBPA)
3251 Mt. Pleasant St. N.W.
Washington, D.C. 20010
Tel: (202) 986-2070

Association of Black police officers. Resource for community groups working on police abuse issues. Speakers. Brochure on how to handle encounters with police, entitled, "What To Do When Stopped by the Police."

National Coalition for Police Accountability (NCPA)
59 E. Van Buren, Suite 2418
Chicago, IL 60603
Tel: (312) 663-5392.

New coalition of groups working on police abuse issues. Members include legal, advocacy, victims, minority police and religious organizations. Plans for annual conference, newsletter and other forms of networking.

National Gay and Lesbian Task Force
1734 14th Street, N.W.
Washington, D.C. 20009
Tel: (202) 332-6483

Civil rights organization that promotes freedom and equality for lesbians and gay men. Its Anti-Violence Project publishes an annual report on "Anti-Gay/Lesbian Violence, Victimization & Defamation" and a pamphlet, "Dealing With Violence: A Guide for Gay and Lesbian People."

National Organization of Black Law Enforcement Executives (NOBLE)
908 Pennsylvania Avenue, S.E.
Washington, D.C. 20003
Tel: (202) 546-8811

Non-profit organization of professional law enforcement officials dedicated to improving the quality of police services for all citizens.

National Urban League
500 E. 62nd Street
New York, NY 10021
Tel: (212) 310-9000

Civil rights organization that focuses on the economic condition and empowerment of the African American community.

Police Executive Research Forum (PERF)
2300 M Street, N.W.
Washington, D.C. 20037
Tel: (202) 466-7820

Professional association of police chiefs from the big cities in the United States. Conducts research and management consulting. Issues position papers and policy statements on important issues in policing.

Police Foundation
1001 22nd St., N.W., Suite 200
Washington, D.C. 20037
Tel: (202) 833-1460

Non-profit consulting group, primarily engaged in research and demonstration projects on innovative police programs. Involved in some of the most important research projects in policing since the 1970s.

Police Watch
611 S. Catalina, Suite 409
Los Angeles, CA 90005
Tel: (213) 387-3325

Model legal referral program for victims of police abuse. Some training for police abuse litigators. Data base on incidents of abuse in Southern California.

[A Directory of ACLU Affiliate offices is included in the print version of this report. An up-to-date list of ACLU affiliates is available in Constitution Hall.]