



RAMPART Reconsidered

The Search for Real Reform Seven Years Later

**Blue Ribbon
Rampart Review
Panel**

Panel Chair
Constance L. Rice

Panel Members
Jan L. Handzlik
Laurie L. Levenson
Stephen A. Mansfield
Carol A. Sobel
Edgar Hugh Twine

Panel Members Emeriti
Erwin Chemerinsky
Andrea Ordin
Maurice Suh

Executive Director
Kathleen Salvaty

Lead Investigator
Brent A. Braun

Additional Investigators
Eusebio Benavidez
Morris D. Hayes
Jack Keller
Pete McGuire
Michael Wolf

Additional Staff
Kenneth Berland
Jenna Cobb
John Mathews
Pilar Mendoza
Margaret Middleton
Natasha Saggar
Rishi Sahgal
Regina Tuohy

**Special
Thanks**

Hon. James K. Hahn

* * *

Akin Gump Strauss
Hauer & Feld LLP

Burke, Williams
& Sorenson, LLP

Gibson, Dunn
& Crutcher LLP

Howrey LLP

Lindahl, Schnabel,
Kardassakis & Beck LLP

Nossaman Guthner
Knox Elliott LLP

O'Melveny & Meyers LLP

Orrick, Herrington
& Sutcliffe LLP

Paul, Hastings, Janofsky
& Walker LLP

Sidley Austin LLP

Skadden, Arps, Slate,
Meagher & Flom LLP

The James Irvine
Foundation

* * *

Linder & Associates

Los Angeles Police
Foundation

Los Angeles City
Personnel Department

Technical Threat
Analysis Group, Inc.

* * *

LAPD Office of the
Inspector General

Latin American Law
Enforcement Association

Law Enforcement
Association of Asian Pacifics

Los Angeles Police
Protective League

Oscar Joel Bryant
Foundation

* * *

Chief William J. Bratton

* * *

Corina Alarcon
Hon. Lee Baca
Andre Birotte, Jr.
Merrick Bobb
Rick J. Caruso

Gerald Chaleff
Warren M. Christopher
Johnnie L. Cochran, Jr.
Hon. Steve Cooley
David S. Cunningham III
Hon. Rockard J. Delgadillo
Donna Denning
Richard E. Drooyan
Paul Enox
Shelley Freeman
James J. Fyfe
Bonifacio Bonny Garcia
Michael J. Gennaco
Gigi Gordon
Michael P. Judge
E. Richard Larson
Barrett S. Litt
John Mack
Cheryl White Mason
Winston K. McKesson
Hon. Cindy Miscikowski
Rose M. Ochi
Anthony Pacheco
R. Samuel Paz
Ramon L. Quintana
Gilbert T. Ray
Hon. Ed P. Reyes
Lael Rubin
Anthony Asadullah Samad
Alex Sanchez
Silvia Saucedo
Alan J. Skobin
Michael J. Strumwasser
Richard Tefank
Karen Wagener
Samuel Walker

Hon. Jack Weiss
Hon. Debra W. Yang
Roberta Yang
Gregory A. Yates

*All of the dedicated
LAPD officers and
employees who gave
their time and insight
to this Panel in
order to improve
the department.*

This report is dedicated in memoriam to Edgar Hugh Twine

Contents

1 Introduction

9 The Road Ahead

9 I. THE RAMPART RECOVERY

12 Conclusion I.1.

The New Rampart Leadership and Crime Fighting Model Would Have Prevented CRASH Misconduct from Metastasizing into a Crisis

13 Conclusion I.2.

The New Rampart Leadership and Crime Fighting Model Had the Following Key Attributes

13 Conclusion I.3.

The New Rampart Leadership and Crime Fighting Model Had the Following Leadership Qualities

14 Conclusion I.4.

The New Rampart Leadership and Crime Fighting Model Had the Following Conditions Precedent

15 Conclusion I.5.

The New Rampart Leadership and Crime Fighting Model Is Not the Norm Throughout LAPD

15 Conclusion I.6.

The New Rampart Leadership and Crime Fighting Model Is Unlikely to Last

16 II. EXTERNAL BARRIERS TO REPLICATING THE RAMPART TRANSFORMATION

17 Conclusion II.1.

Los Angeles Has An Under-resourced, “Thin Blue Line” Policing Model

18 Conclusion II.2.

The “Thin Blue Line” Model Seeds Proactive Policing that Delivers Containment and Suppression of Violence in High Crime Areas, but Not Public Safety

19 Conclusion II.3.

Aggressive, Untargeted Proactive Policing Destroys Public-Police Trust

20 Conclusion II.4.

The City Bears Responsibility for Failing to Provide Resources for a Citywide Public Safety Model

20 Conclusion II.5.

The City Has Failed to Heed the 40-Year-Old McCone Commission Warning to Fix the “Sickness in the Center of Our City” that Fuels Public-Police Friction and Riots

21 Conclusion II.6.

Public and Private Institutions Have Not Done Enough to Stabilize Distressed Communities

22 Conclusion II.7.

Communities and Families Have Not Done Enough to Confront and Counter the Culture of Violence and Destruction Overtaking Some Poor Neighborhoods

22 Recommendation II.1.

In Order to Increase Trust and Public-Police Cooperation, LAPD Should Transition from Proactive/Suppression Policing to the High Road Policing Demonstrated in the Rampart Division Turnaround

23 Recommendation II.2.

The City and LAPD Should End “Thin Blue Line” Policing and Develop a Blueprint for Funding and Providing Citywide Public Safety

23 Recommendation II.3.

The City Should Fulfill the McCone Commission Mandate to End “The Spiral of Failure” that Seeds Public-Police Conflict

23 Recommendation II.4.

Public and Private Institutions Must Find and Fund More Effective Solutions for Improving Conditions in Poor, High Crime Communities

23 Recommendation II.5.

Residents of High Crime Communities Must Take Responsibility for and Receive Resources Needed to Counter the Culture of Violence

24 III. THE INTERNAL BARRIERS TO REPLICATING THE RAMPART TRANSFORMATION: CHANGES NEEDED IN LAPD EVEN IF THE EXTERNAL BARRIERS REMAIN

24 Conclusion III.1.

Current Reforms, While Significant, Are Not Sufficient to Prevent Corruption Recurrence, Fix Longstanding Problems or Take the Rampart Transformation Department-wide

25 Conclusion III.2.

Supervision Has Improved in Specific Divisions but Not Sufficiently to Prevent Scandal Recurrence

27 Conclusion III.3.

Investigation Quality Has Improved Significantly, but Remains Uneven

27 Conclusion III.4.

Cultural Factors that Contributed to the CRASH Mindset Remain

30 Conclusion III.5.

In Addition to Internal Barriers Posed by Unresolved Problems Stemming from the CRASH Scandal, Deeper Cultural Dynamics within LAPD also Block Solutions to LAPD’s Longstanding Problems

34 Conclusion III.6.

LAPD Can Fix Itself When Change Agent Officers Drive the Transformation Process

35 Conclusion III.7.

The Office of Inspector General Is the Only LAPD Entity with the Potential Capacity to Effectively Enforce LAPD Accountability over the Long Term

35 Conclusion III.8.

The OIG Currently Operates Under Constraints that Prevent It from Functioning as the Potent Check It Should Be

36 Conclusion III.9.

Discipline Decisions by the Chief of Police Are Important Tools for Implementing the Policing Showcased by the New Rampart Model

37 Conclusion III.10.

The Federal Court and the Consent Decree Are Central to Department Advancement and Transformation

38 Recommendation III.1.

LAPD Leaders Need to Forge a Clear Consensus among Officers to Permanently Transition to the High Road Policing Showcased in Rampart Division Turnaround

39 Recommendation III.2.

The Police Commission Should Significantly Expand the Independence and Resources of the Inspector General

39 Recommendation III.3.

LAPD Leaders Should Continue to Use Discipline as a Tool for Implementing the Policing Showcased by the New Rampart Model

39 Recommendation III.4.

Federal Court Enforcement of the Consent Decree Should Continue the Current Focus on Achieving “Real Reform” to Remedy the Underlying Causes of the CRASH Crisis

40 Recommendation III.5.

An Expedited Joint Action Taskforce Should Chart Actions Needed to Move LAPD to High Road Policing

46 The Road Behind

50 I. LAPD

50 Conclusion I.1.

LAPD Leaders Knew of Renegade Policing, Exclusive of Drug Crimes, in Rampart Division and its CRASH Gang Unit Years Before CRASH Crisis Erupted

50 Conclusion I.2.

Other CRASH Units Had Similar Renegade Subcults

50 Conclusion I.3.

LAPD Leaders Did Not Adequately Address Specific Warnings of Illegal Policing Tactics by Rampart CRASH Officers before the Scandal Erupted Publicly

51 Conclusion I.4.

Fraternization and Conflicts of Interest Undermined Effective Supervision and Accountability in Rampart Division

51 Conclusion I.5.

Whistleblowers Who Intercepted and Challenged Rampart CRASH Officers Were Punished or Ignored

52 Conclusion I.6.

Evidence Controls Lacked Adequate Safeguards to Prevent Theft

53 Conclusion I.7.

LAPD Failed to Approach the Investigation of Drug Theft as a Police Corruption Case with Systemic Implications

53 Conclusion I.8.

Internal Leaks Jeopardized the Investigation of Rafael Perez

54 Conclusion I.9.

LAPD's Rampart Task Force Failed to Design an Investigation Appropriate for a Complex, Multi-Defendant Police Corruption Case

54 Conclusion I.10.

As the Rampart Task Force Grew, Many Investigators Did Not Have Adequate Skills and Experience to Conduct Investigations into a Complex Police Corruption Scandal

54 Conclusion I.11.

LAPD Failed to Assign Case Responsibility to One Individual and Used a Team Approach that Diluted Focus, Direction and Results

55 Conclusion I.12.

In Conducting the Polygraph Examination of Rafael Perez, LAPD's Polygrapher Employed Flawed Techniques that Undermined the Validity of the Examination

55 Conclusion I.13.

LAPD's Failure to Offer Administrative Immunity Limited Effectiveness of Investigations

56 Conclusion I.14.

Conflicts of Interest Undermined the Investigations

56 Conclusion I.15.

LAPD Focused Disproportionately on Pursuing the Board of Inquiry and Administrative Investigations to the Detriment of Criminal Investigations

57 Conclusion I.16.

The Department's Disproportionate Focus on Pursuing Administrative Cases Resulted in Contamination of Criminal Investigations

58 Conclusion I.17.

Most LAPD Rampart Task Force Investigators Did a Professional Job Investigating Perez' Allegations of Police Misconduct, Despite Challenges

58 Conclusion I.18.

A Small Number of LAPD Investigators on the Rampart Task Force Undermined the Criminal Investigations

59 Conclusion I.19.

The Lack of Cooperation between LAPD and the DA's Office Hindered Progress in the Investigations

60 Conclusion I.20.

Many Believe that Justice Was Not Served

60 Conclusion I.21.

Conflicts of Interest Ran through the Board of Inquiry

61 Conclusion I.22.

The Board of Inquiry Report Omitted Critical Information in Its Discussion of Personnel and Hiring

61 Conclusion I.23.

"Affirmative Action" Did Not Cause the Rampart CRASH Crisis

62 Conclusion I.24.

The Board of Inquiry Limited Investigations into the Extent of Misconduct

62 Conclusion I.25.

LAPD Failed to Issue Follow Up Reports on Incomplete Investigation Areas

62 Conclusion I.26.

LAPD Failed to Fulfill Its Commitment to Produce an After-Action Report on the CRASH Crisis

63 Conclusion I.27.

LAPD Cannot Provide an Acceptable Explanation for the Failure to Produce the After-Action Report

64 Conclusion I.28.

The Rampart Related Boards of Rights Largely Failed

65 Conclusion I.29.

LAPD Failed in its Attempt to Investigate Itself in Connection with the Rampart CRASH Crisis

66 Recommendation I.1.

The Department Should Not Ignore Early Indicators of Larger Problems

66 Recommendation I.2.

Develop Conflicts of Interest Policy

66 Recommendation I.3.

Implement Anti-Retaliation and Whistleblower Protections

66 Recommendation I.4.

Dedicate Additional Resources to Protecting Evidence Storage Facilities

67 Recommendation I.5.

Develop Protocol for Investigating Serious Police Misconduct Case as Police Corruption Cases with Systemic Implications

67 Recommendation I.6.

LAPD Should Transfer Investigation of the Next Large Corruption Crisis over to a Properly Resourced, Independent, Multi-Agency Investigation Force

67 Recommendation I.7.

Prioritize Criminal Investigations

67 Recommendation I.8.

Defer Conducting Internal Analyses, such as the Board of Inquiry, Until Criminal Investigations Are Largely Completed

67 Recommendation I.9.

When Conducting an Internal Analysis of a Large-Scale Corruption Crisis, the Department Should Conduct an Unlimited Assessment of Systems and Should Bring in Outside Experts

68 Recommendation I.10.

Produce a Thorough and Credible After-Action Report for Public Distribution

68 Recommendation I.11.

The Current Boards of Rights System Should Be Replaced

68 II. PROSECUTORIAL AGENCIES

68 Conclusion II.1.

At the Time of the CRASH Crisis, the DA's Office Was Not Sufficiently Proactive in its Approach toward Police Corruption in Los Angeles County

69 Conclusion II.2.

The DA's Office Did Not Adequately Staff the RHD Task Force Prior to Perez' Disclosure of Widespread Corruption

69 Conclusion II.3.

The DA's Office's did Not Adequately Staff and Supervise the Trial, Plea and Subsequent Interrogations of Rafael Perez

70 Conclusion II.4.

The Interrogation Process of Perez Was Flawed

71 Conclusion II.5.

The DA's Office Worked Quickly to Develop a Fair Standard for Determining whether Convictions Should Stand

71 Conclusion II.6.

Members of the DA's Office Recall Feeling Overwhelmed by the Scale of the CRASH Crisis

71 Conclusion II.7.

The DA's Special Prosecution Team Worked Hard in Challenging Environment to Pursue Cases They Thought Viable

72 Conclusion II.8.

Many Prosecution Team Members Recalled Being Unaccustomed to the Challenges of Prosecuting Police Officers

72 Conclusion II.9.

The DA's Office Did Not Appear to Adequately Consider the Merits of Turning these Cases over to an Independent Prosecuting Agency

72 Conclusion II.10.

The DA's Office Did Not Follow Up on All of Perez' Allegations, in part because LAPD Did Not Submit Full Submissions

73 Conclusion II.11.

The County's Civil Grand Jury Failed to Produce an Assessment of the CRASH Crisis

74 Conclusion II.12.

The DA's Office Did Not Conduct any Detailed Assessment of its Response to the CRASH Corruption Scandal

74 Conclusion II.13.

The U.S. Attorney's Office in Los Angeles Has Historically Approached Police Misconduct Cases as Isolated Cases that Can Be Addressed with Traditional Investigative and Prosecutorial Measures

75 Conclusion II.14.

The U.S. Attorney's Office Did Not Devise a Coordinated, Multi-Agency Strategy to Address the CRASH Crisis

75 Conclusion II.15.

Initially, the Los Angeles U.S. Attorney's Office Did not Effectively Communicate or Coordinate with the Los Angeles County DA's Office

76 Conclusion II.16.

A Significant Gap Exists between how Criminal Defense Attorney and Prosecutors Perceive the Los Angeles Criminal System Working

77 Conclusion II.17.

The DA's Establishment of a Brady Compliance Division and Database, While Commendable, Would not Identify Much of the Misconduct at Issue in the CRASH Crisis

78 Conclusion II.18.

Institutions of The Los Angeles Criminal Justice System Do Not Have Sufficiently Robust Checks and Interventions on Police Perjury and Misconduct

78 Recommendation II.1.

Conduct an Analysis of the Integrity of the Los Angeles County Criminal Justice System

79 Recommendation II.2.

Prosecutors Should Develop More Robust Checks and Interventions on Police Perjury and Misconduct

79 Recommendation II.3.

Prosecutorial Agencies Should Improve Inter-Agency Coordination

79 Recommendation II.4.

A Standing Task Force Should Be Created with Federal and Local Authorities to Coordinate Investigation of Police Corruption Case

80 Recommendation II.5.

Prosecutorial Agencies Should Improve Training for Handling Police Corruption Cases

80 Recommendation II.6.

Federal Prosecutors Should Be Prepared to Handle Local Police Misconduct Cases without Being Overly Reliant on DOJ Washington

80 Recommendation II.7.

The LAPD and the City Attorney's Office Should Improve Information Disclosure Processes

81 Actions and Solutions

82 Afternotes

Appendices included in separate document

Introduction

The CRASH Crisis and Its Aftermath

In 1999, allegations by a convicted former Los Angeles Police Department Rampart CRASH¹ officer of widespread police abuse and corruption exploded into Los Angeles headlines. The charges—that beyond his own drug crimes, he and dozens of fellow officers committed routine framing, evidence planting and fabrication, perjury, and brutality—swept the City and the department into “one of the worst police scandals in American history.”² The scandal was not simply that a few corrupt officers had stolen drugs and framed suspects—perennial risks that all police departments face. It was the scale of the abuses, if even by a few, the impunity with which they acted, and the cover afforded their crimes by the department’s culture and the City’s long established inability to exert control over LAPD. The CRASH crisis torpedoed the integrity of the entire Los Angeles criminal justice system and placed LAPD under the jurisdiction of a federal court and the Consent Decree.³ One elected official noted the gravity of the corruption as “a dagger aimed at the heart of constitutional democracy.”⁴

How did it happen?

The CRASH crisis happened because burned out and feuding supervisors in Rampart Division stopped doing their jobs; weak supervisors ignored early warnings; corrupt supervisors silenced whistleblowers—and then removed the good supervisors who tried to restrain rampant misconduct by vaunted “hard chargers” in CRASH. It happened because LAPD leaders in Parker Center either ignored warnings or were clueless, and because Central Bureau leaders, who nicknamed Rampart “‘Rampage’ Division” years before the scandal, dismissed pleas for help. It happened because division bosses steeped in a police “culture of war”⁵ responded to intense political pressure to counter a crime wave and

signaled open season on gangs to a renegade anti-gang unit. It happened because a clique within that anti-gang unit went beyond its “gunslinger” mentality and gangster tactics to become gangsters themselves. It happened because fear of CRASH rogues and the code of silence licensed officers who were aware of CRASH brutality to look the other way. It happened because LAPD’s “culture of war” severely discounts the human worth of gang members and other suspects to the point of sanctioning brutality.⁶ It happened because LAPD brass, the Police Commission, the City Council, the District Attorney, federal authorities and the courts failed to heed decades of warnings to change that police culture and the City’s policing paradigm. And without the inept oversight of these same institutions, none of LAPD’s systems failures in leadership, supervision, accountability and management would have been possible.

In short, the CRASH crisis did not happen because a few LAPD rogues stole drugs. It happened because the Los Angeles criminal justice system’s anemic checks on police abuse and LAPD’s feeble constraints on its “warrior policing” failed across the board.

The Context For This Report

This report is the latest in a long line of tomes about this City’s century-old struggle with its police department and public safety. As an analysis of a crisis, it necessarily focuses on failures—and not just in LAPD but in several other criminal justice institutions as well. It should not, however, be misread as a condemnation of department leaders, officers, command staff, union leaders or civilians. On the contrary—Chief Bratton and the Police Commission insisted on this

“Since joining [LAPD]...I have been focused on one job: rebuilding... trust between LAPD and the communities it is sworn to protect and serve, while at the same time rebuilding trust between officers and their department.”

Chief William J. Bratton

review, and scores of LAPD staff and union leaders offered unflinching criticism of themselves and the department in hopes that this report will lead to the deeper changes they believe are needed. Indeed, this report affirms the department's considerable advances and confirms the conclusions of key LAPD leaders that current recovery and reform efforts are good, but insufficient to lock in recent successes, prevent another CRASH crisis, or resolve LAPD's other longstanding problems that block closing the public-police trust gap in high crime areas. Without the drive of LAPD leaders from command, rank and file, retired officers and police unions, this opportunity to fortify the reform agenda would not exist. If this department ever finds its way to fighting crime while winning trust—"free of corruption, bias and brutality"⁷—it will be because these officers and LAPD's current leadership cared more about digging deeper to finally "get it right" than the political costs of doing so.

Seven Years Later: At the Crossroads

Seven years after the CRASH crisis, the City of Angels and its police department are at a crossroads. The direction chosen will determine whether the Los Angeles criminal justice system fully recovers from the CRASH crisis or simply moves beyond it until the next scandal. As the Chief of Police puts it:

We are at the fork in the road where we can now take the high road and improve our relationships with the people we serve rather than continue the practices that lead to tension and mistrust. It is not enough to continue to drive crime down, we must at the same time, through compassionate and constitutional policing practices, improve the relationship between the police and the public we serve. This is particularly true in our poorest and most disadvantaged neighborhoods. It won't be easy. It's hard work, but if we keep trying, I believe the role of the police will evolve from distanced protector and rapid responder to a true partner and catalyst for meaningful social change."⁸

This report is about that fork in the road, and the roadmap to "high road" public safety—a framework that provides better conditions for officers, better insurance against corruption and brutality and, for the first time, citywide public safety and public-police cooperation. The good news is that the federal Consent Decree and the Chief's *Plan of Action for the Los Angeles That Is and the Los Angeles That Could Be* offer the basic plot-scan for such a map. Even better news is that officers who transformed Rampart Division have shown the department how to achieve high road policing that thwarts corruption and generates community trust.

Overview of the Recovery

The City's recovery from the scandal is still unfolding. LAPD's current achievements overshadow failures associated with the Rampart CRASH crisis but do not erase them or the need to heed their lessons. After several scandal-related criminal trials and pleas, multiple LAPD investigations and four major reports, the scope of CRASH corruption remains unknown. Prior reports provide excellent accounts of what was known about Rampart CRASH actions and which systems and management failures left the corruption undetected for so long. But no public entity conducted an independent investigation with the capacity, authority and resources to definitively vet the extent of the CRASH corruption or its causes.⁹ Whether due to inadvertence, incompetence, and/or intent, LAPD did not design

“The real story about Rampart is that no one really knows. I know people still on this job that were part of this crew. The investigations were botched so early on, and the guys on Perez' crew sat down. But at least one or two are still working. The investigations were botched so badly by IA... Now [PSB] wouldn't botch [the investigations like that]... They wouldn't tell Perez' sergeant that they're following him. They wouldn't have shown [Perez] a list of cops and say 'identify the bad cops.'”

LAPD Detective, more than 25 years on force

investigations capable of determining the scope of the scandal, and investigations by other entities, including this Panel, were too limited to do so. Indeed, if obscuring the extent of the corruption were the goal, it is hard to imagine a better game plan. For the many LAPD officers, Police Commissioners, district attorneys and others who were genuinely pushing to establish the truth, the failures to define the corruption and establish its extent are the most serious failings of the City's post-scandal response.

These failures preclude consensus on what the CRASH crisis was or means, with the predictable result that the scandal triggers as many viewpoints and definitions as a Rorschach test.

The Rampart Rorschach Test: Defining The Scandal

To the dismay of officers who have worked hard since the crisis to redeem the division's name, "Rampart" is not only shorthand for the scandal and run riot policing; it also is code for multiple crimes, misconduct and views of the scandal's extent. Many LAPD officers believe the City overreacted to the crimes of two CRASH officers. Most members of the City's elite, including this Panel, conclude the scandal entails total systems failure, fueled by the Los Angeles criminal justice system's anemic checks on police abuse and LAPD's feeble constraints on its "warrior policing." To clarify this muddy picture, the Panel categorizes activity associated with the Rampart CRASH crisis as follows:

- Crimes (e.g., selling drugs)
- Brutality (e.g., triggering suspect beatings)
- Unconstitutional Policing (e.g., fabricating probable cause)
- Misconduct (e.g., falsifying reports, insubordination)
- Mismanagement (e.g., weak or corrupt supervision, weak oversight)

- Cultural Drivers of the Scandal (e.g., LAPD's codes of silence, loyalty and retaliation against whistleblowers, prosecutorial offices' passive role in checking police misconduct)
- Systems Failures (e.g., plea bargaining machinery that can result in the conviction of the innocent)

While current LAPD leaders are achieving significant advances in many important areas, progress in these areas associated with the scandal is uneven. In 2006, actions required by the Consent Decree and clear mandates from LAPD's top leaders have made the drug crimes and brutality associated with the scandal much harder to commit with the impunity of CRASH offenders. Astonishing practices that shielded CRASH crimes seven years ago—like officers phoning in orders of cocaine evidence for delivery to their divisions like a pizza—are gone. And due to stings by Professional Standards Bureau ("PSB"), Inspector General audits, effective Police Commission actions and the checks mandated by the Consent Decree, the risks to rogues who cross serious crime barriers are much higher.

The extent of the unconstitutional policing associated with the scandal, like fabrication of probable cause and planting evidence, is unknown. LAPD leaders could be right that such misconduct (often referred to as "good corruption") has declined. But recent discoveries of replica guns, such as those used by CRASH offenders to frame suspects, suggest that planting evidence is not a thing of the past. And a 2006 sting revealed that such tactics still occur even in the reformed Rampart Division. Management at the top of LAPD focuses intently on achieving improvements mandated in the Consent Decree, but the prime management failure of the CRASH crisis, first line supervision, remains weak. Finally, no institution in the Los Angeles criminal justice system has adequately confronted the underlying cultural drivers of the scandal, or the criminal justice system's flaws that shielded CRASH malfeasance and resulted in convicting the innocent.

While longstanding problems like the codes of silence and retaliation remain,¹⁰ the story of the department's recovery and current advancement is good, if still unfolding. LAPD's progress in vital areas while not discernable to many residents of high crime areas, is a fact. To sum up the view of many officers interviewed in 2004 and 2005, the department has never been better: Crime is down; Rampart Division is fixed; and the Consent Decree is almost over.

So what warrants a rear-view look at a seven-year-old scandal that everyone wants to forget?

Objects in the rear-view mirror are closer than they appear.

Command staff, officers, leaders of the rank and file and outside experts warn that, while the serious crimes of the CRASH crisis are gone, neither the supervision failures nor the deeper drivers of the CRASH corruption have been adequately addressed to prevent scandal recurrence.

Why Another Report

In 2003, when the Los Angeles Police Commission requested this report, four prior reports on the Rampart CRASH crisis already existed.¹¹ The Police Commission requested this fifth report for two reasons. First in early 2003, Chief of Police William Bratton asked to see the department's final after-action analysis of the Rampart CRASH matter. When he learned that no credible account of the biggest scandal in the department's history existed, he requested that the Police Commission appoint an outside, independent group to produce the analysis.

Second, in response to the Chief's request, the Police Commission asked the chair of this Panel to assess the need for an additional investigation. During that assessment, current and retired LAPD leaders—all veterans expected to oppose exhuming the CRASH coffin—stated that another review was needed because they saw

LAPD continuing to make scandal related mistakes. They offered as examples their conclusions that LAPD supervisors still too often signed off on search warrants lacking proper support; the department was still allowing unqualified supervision over specialized gang units; and the department had failed to look closely enough at the new gang structures, which, in their view, were “old wine in new flasks.” In addition, no analysis had ever been done on the actions of non-LAPD institutions that had responded to the crisis.

In July 2003, after adopting the conclusions of the Chief that no credible after-action analysis by the department existed and that reports of continued mistakes could not be ignored, the Police Commission appointed the Blue Ribbon Rampart Review¹² Panel and charged it to:

[I]nvestigate and review the response by the City and others to the Rampart Area scandal in order to determine the extent to which the underlying causes for the scandal have been identified and addressed. The Panel will make findings regarding the adequacy of the City's response and will make recommendations designed to prevent any such event from ever occurring in the future.¹³

In February 2004, the Los Angeles City Council approved the Panel's formation, adopting the report of the Public Safety Committee which recommended that the Panel “investigate and review the response by the City and others to the Rampart Area scandal in order to determine the...underlying causes...[and] [d]ocument the deeper cultural and mental drivers behind the Rampart scandal and its aftermath.”¹⁴ In late August 2004, the Commission issued the rules that governed Panel operations. The Panel officially commenced its work at that point. This report responds to the investigation requests of the City Council and the Police Commission.

Methodology

SCOPE AND LIMITATIONS

This report is a post-scandal check up that re-examines the underlying causes of the CRASH crisis and identifies continuing threats of corruption recurrence. It also is a proposal for actions that lock in current successes, resolve the department's longstanding problems and begin to defuse police-public hostility that still vexes high crime areas. This report is not a substitute for the investigations and after-action analysis that should have been done much earlier, but were not. The time for the definitive report that gets to the bottom of the CRASH scandal has long passed, and its absence stands as a major failure of the City's response to the CRASH crisis.

Post-scandal analyses conducted years after the fact are constrained in usefulness by many things, not the least of which is the passage of time. Prior to agreeing to do this analysis, the Chair of this Panel limited its scope to systems failures in management and oversight, underlying cultural drivers and critical path decisions. This report does not focus on individuals. The Panel also agreed to report ongoing misconduct consistent with witness anonymity, but precluded the use of investigation findings in further prosecutions, discipline or other sanctions. Finally, the Panel expressly stated that it would use a forward-looking lens that examined past failures for their relevance to today's public safety challenges.

INFORMATION SOURCES

The conclusions, findings, and recommendations in this report rest on several sources, the most important of which are interviews with officers, department leaders, policing experts, prosecutors, civil rights attorneys and others with expertise in policing, knowledge of LAPD or experience stemming from the CRASH crisis and its aftermath. Most of the anonymous comments that appear in the margins of this report come from those interviews and are

presented as examples of the views the Panel heard or reviewed during the course of the investigation. (A substantial selection of comments, primarily from interviews with officers, appears in Appendix B.)

The Panel considered the following categories of information.

THE INTERVIEWS

The Panel conducted interviews of over 200 people with relevant experience and/or expertise in LAPD and the Los Angeles criminal justice system. The Panel selected most interviewees for specific reasons, and conducted several round tables with groups of experts from different institutions. In addition to the interviews, the Panel received the views of several hundred LAPD and other law enforcement officers and experts. Expertise received included the views of five former LAPD interim and permanent Chiefs of Police; over thirty deputy and assistant chiefs, commanders and captains; top leaders of the LA Police Protective League; current and former heads and members of the Oscar Joel Bryant Foundation, the Latin American Law Enforcement Association ("La Ley") and the Law Enforcement Association of Asian Pacifics ("L.E.A.A.P."); scores of officers ranging in rank from patrol through lieutenant; and current and former Police Commissioners. Non-law enforcement interviews captured expertise from federal and state courts, prosecutors, defense counsel, city attorneys, public defenders, plaintiffs' counsel, authors of prior reports on LAPD, the City Personnel Department, investigators, commissioners, politicians, journalists, academics, community leaders and consultants. All tenure tallied, the views presented to the Panel entail 8,000 years of experience in LAPD and the Los Angeles criminal justice system.

PRIOR REPORTS

This Panel's analysis incorporates a large portion of the analysis found in the four prior reports on the CRASH crisis: the *Report of*

the Rampart Independent Review Panel (the “Drooyan Report”), appointed in 2000 by the Police Commission and the Office of the Inspector General; LAPD’s internal *Board of Inquiry on the Rampart Area Corruption Incident* (the “Board of Inquiry”); *An Independent Analysis of the Los Angeles Police Department’s Board of Inquiry Report on the Rampart Scandal* (The “Chemerinsky Report”), also written in 2000 at the request of the Police Protective League;¹⁵ and *A Critical Analysis of Lessons Learned: Recommendations for Improving the California Criminal Justice System in the Wake of the Rampart Scandal* (the “Collins Report”), issued in 2003 by the Los Angeles County Bar Association Task Force on the State Criminal Justice System.¹⁶

The Drooyan Report examines the broader context of the scandal and provides the definitive framework for understanding the basic story of the scandal and the operational, structural, political, governance and cultural failures that fueled the Rampart CRASH crisis. The extensive analysis of this 250-page work is required reading to understand this Panel’s analysis which starts where the Drooyan Report ends, and does not replicate but incorporates its findings. This Panel’s report delves more deeply into the cultural and mindset drivers of the scandal identified in the Drooyan Report and Chemerinsky Report as well as the Board of Inquiry. It also focuses more directly on the broader political barriers that undermine the fair administration of criminal justice, and department practices that undermine sustained progress. Although some Drooyan Report recommendations have been enacted, many that are still relevant have not been sufficiently considered.

The Board of Inquiry, conducted by LAPD command in the immediate wake of the scandal, analyzes the Rampart CRASH subculture and suggests fixes for the failures of middle management and basic systems. Although it omitted important questions like the responsibility of higher command and the role of LAPD culture, its discussion of the mentality that existed at Rampart CRASH and its recommendations on performance evaluations remain useful.

The Chemerinsky Report critiqued the Board of Inquiry and urged even deeper scrutiny of the scandal’s cultural underpinnings and of other institutions in the Los Angeles criminal justice system that failed to check LAPD misconduct. The Chemerinsky Report’s central findings that the systemic failure of the CRASH crisis stems from fundamental problems with LAPD culture and the administration of criminal justice in Los Angeles are also incorporated into and amplified by this Panel’s report.

The Collins Report includes important recommendations for improving the criminal justice system to prevent wrongful convictions. However, judges, prosecutors and defense counsel interviewed acknowledge that little progress has been made on implementing these recommendations.

All of these reports, while too limited in scope and resources to provide the definitive investigation, offer excellent ideas. In the wake of the federal Consent Decree, recommendations in the Drooyan Report, Chemerinsky Report and Board of Inquiry received inadequate consideration. They should be reviewed again to determine whether their recommendations could enhance current reforms. This Panel does not replicate the extensive analysis done by prior reports on the CRASH crisis. This Panel’s report starts where these prior reports ended and drills down to the issues that were missed or not reachable in the immediate wreckage of the scandal.

CONSENT DECREE REPORTS

The most consequential result of the CRASH crisis is that the United States Department of Justice (“DOJ Washington”) sued to place the operations of the Los Angeles Police Department under the jurisdiction of a federal court and the Consent Decree. The Consent Decree mandates reforms stemming from specific misconduct by Rampart CRASH officers as well as several longstanding problems. The reports of the Monitor for the federal Consent Decree

currently are the central barometer of LAPD progress in developing systems that check misconduct and sound alarms when signs of problematic behavior emerge. The Consent Decree is an important foundation for future and more probing changes needed in LAPD. But more importantly, the role of the Court is indispensable to any hope of sustaining the department's current advances or making the deeper changes that LAPD officers and other experts say are needed to avoid perennial pitfalls.

OTHER DOCUMENTS

The Panel reviewed dozens of LAPD investigations, reports, manuals, and audits, including LAPD planning documents like Chief Bratton's *Plan of Action for The Los Angeles That Is and the Los Angeles That Could Be*. The Panel also reviewed volumes of non-LAPD material including trial transcripts, defendant interviews, complaints, books, prior reports, news articles and videotapes.

PERSONNEL DEPARTMENT ANALYSIS

The Los Angeles Department of Personnel developed for this report an assessment of the backgrounds and qualifications of LAPD candidates in selected years. The Panel requested this study, which required months of research and analysis, to get an informed response to the commonly expressed view that corrupt officers had detectable red flags in their backgrounds or were admitted erroneously as a result of "affirmative action." As discussed more fully in the section of this report entitled "The Road Behind," the Personnel Department experts found no instance where a candidate failed to meet the LAPD's background or psychological standards. Moreover, the experts found no meaningful difference in the application of background and psychological standards to candidates of varying race or ethnicity. (See Appendix D for a summary of the study.)

CONCLUSIONS AND RECOMMENDATIONS

Panel members and staff synthesized relevant information from credible witness interviews and information sources described above to formulate conclusions and recommendations. Issues or allegations raised in the course of the investigation that had insufficient corroboration may be acknowledged in the report as areas for further study, possible aberrations or possible indicators of unresolved problems. They were not, however, used as the basis for conclusions and recommendations.

Report Structure

The structure of this report reflects four premises:

1. The unlearned lessons of the CRASH crisis remain relevant to scandal prevention and department advancement.
2. The unexpected nexus between scandal prevention and department advancement is the notable recovery of the Rampart Division.
3. The underlying causes and drivers of the scandal—the City's policing paradigm, conditions in high crime areas and inadequate resources and staff—need to be addressed by non LAPD institutions; but others—LAPD attitudes, accountability and incentives—can be fixed by the department.
4. Such changes will not happen unless LAPD officers co-chart the solutions and agree to implement them.

The first section of the report, entitled "The Road Ahead," tells the story of Rampart Division's transformation in the wake of the CRASH crisis, explores implications of that change for past lessons and future advances and sets out the barriers to taking those changes department-wide. "The Road Ahead" has three subsections. The first focuses on how innovative officers built on prior recovery

efforts to transform Rampart Division from dysfunction into a showcase of clean, effective, collaborative crime fighting.

The second subsection of “The Road Ahead” focuses on the external barriers to making the Rampart success standard throughout all LAPD divisions, including the prohibitive conditions in high crime divisions and the City’s failure to move away from its thinly resourced “thin blue line” policing model.

The third subsection of “The Road Ahead” presents the internal LAPD barriers to making the Rampart model LAPD’s standard, including the reasons LAPD does not solve the longstanding underlying problems like internal distrust, codes of silence, retaliation, misplaced loyalty and accountability aversion that officers agree prevent it from broader transformation or gaining the community trust it needs for policing in 21st century Los Angeles. This subsection ends with a proposal for a taskforce of internal and external change agents to co-chart the difficult actions needed to fix these longstanding problems.

The second section of this report, entitled “The Road Behind,” reviews what went right and what went wrong with the major responses of different institutions to the Rampart CRASH crisis. This section outlines the difficulties and successes of the investigations of the CRASH scandal by different government agencies and concludes that the next scandal will have to be handled in a completely different way.

The third section of the report, entitled “Actions and Solutions,” is blank. If the Police Commission and department leaders accept the Panel’s recommendation for an expedited action taskforce, this section of the report will be written jointly with LAPD’s leading change agents to chart the map to the Road Ahead, which can then be added to Chief Bratton’s *Plan of Action for The Los Angeles That Is and the Los Angeles That Could Be*.

* * *

It is understandable why in March 2005, after settling the last of the Rampart civil lawsuits, City leaders declared the Rampart CRASH chapter closed.¹⁷ New leaders in LAPD and the City of Los Angeles had moved beyond the scandal, and were well on their way to a third year of falling crime rates. LAPD continues to improve many of its systems and has a remarkable recovery in Rampart Division to build on. On the surface, there seemed no reason to go back and take a last look at the past problems. A deeper look, however, reveals that the Rampart CRASH chapter remains open.

Underneath Rampart Area’s notable recovery and the department’s progress is the reality that the underlying drivers and some hallmarks of the crisis still occur. These missed lessons increase the risk of scandal recurrence and prevent the department from moving toward the promising policing showcased in the Rampart recovery. At this point in time, the imperative is to identify the deeper changes needed to further reduce the likelihood of a scandal recurrence, to fix LAPD’s longstanding problems and to advance its current progress.

As one LAPD veteran summed it up:

We’re making the same mistakes and haven’t made the deeper fixes really needed to head off another Rampart or Rodney King. We’ve got one last chance to get it right...and not much time to do it.

Once these deeper fixes and longstanding problems are addressed, the department will be able to move beyond the shadow of the scandal and irrevocably forward down the road to better policing.

The Road Ahead

I. THE RAMPART RECOVERY

The last thing that this Panel expected to find was that Rampart Division had not merely recovered from the scandal but had done so by pioneering a promising community-backed, collaborative crime fighting model. The division's transformation blurs any nexus to the old division that harbored the outlaw officers who spawned the crisis.

Even before the scandal that marred its name, Rampart Division was known for hard-charging, rambunctious policing that had few rules and fewer constraints. Nicknamed "'Rampage' Division" in the early 1990s, its eight square miles include LA's most dense immigrant neighborhoods, desirable parks, landmarks and a relatively high crime rate. In 1992, gang related crime had surged to alarming levels. Political pressure on LAPD to reverse the crime wave mounted. In response, the division unleashed its anti-gang CRASH unit. Unsupervised and unrestrained, Rampart CRASH officers quickly developed "an independent subculture that embodied a 'war on gangs' mentality where the ends justified the means," and that rejected supervision and control.¹⁸ And within this "gunslinger" mentality developed an even more dangerous subset of outlaw officers who went beyond the unit's routine excessive force, exaggerated or fabricated probable cause and intimidation.

CRASH officers in this selected subset stood accused by former Rampart CRASH officer Rafael Perez of evidence planting, false imprisonment, illegal searches, beatings, framing suspects and perjury.¹⁹ Perez and at least one other CRASH officer admitted that they stole drugs and money, framed innocent defendants and shot and wounded an unarmed suspect. Patrol officers who regularly ran into CRASH units on the streets reported seeing assaults and beatings by CRASH officers and refusals by them to help patrol officers

in need. They feared CRASH retaliation and remained silent. Former and current gang members interviewed reported routine abuses by CRASH officers that resulted in serious bodily injury. One former gang member told the Panel that two CRASH officers transported him to rival territory, chained him "like a dog" to a lamppost and notified the rival gang. He reported that rival gang members pulled a gun on him and threatened to kill him.

If the worst allegations by these sources are true, the extent and severity of the brutality and illegal tactics by Rampart CRASH officers were even more severe than the acts documented by the Los Angeles District Attorney. But worse, if they are true, CRASH abuses of gang suspects and the rules of evidence were not limited to Rampart Area but extended to subcults of CRASH units in 77th, Southeast and Wilshire Divisions. Prior investigations of the CRASH crisis do not conclude that other divisions' CRASH units shared the pattern of routine excessive force, brutality, fabrication of probable cause and corrupt investigations alleged in Rampart CRASH. However, the record establishes voluminous complaints from suspects and gang members about excessive force abuses (but not drug crimes) from subcults within several CRASH units. While such witnesses are problematic, the volume and pattern of their complaints should not have been routinely ignored by LAPD. Credible officer witnesses who observed or were members of these other CRASH units in action during the early to mid-1990s also corroborate these gang member reports of routine abuse. These reports strongly suggest that the non-drug corruption was not limited to Rampart. Being "in the loop" may have been a subculture norm for CRASH.²⁰

“ We intimidate those who intimidate others.”

Rampart CRASH Motto

“ Ain't No Dope Like Cop Dope.”

Rampart CRASH Motto

“ It takes a wolf to catch a wolf.”

Former Rampart CRASH Officer

What this investigation can reliably confirm is that Rampart Division in the mid-90s was a darkly conflicted, dysfunctional and dangerous place to be. It was an easy mark for a “gunslinger” clique determined to hijack division control. According to convicted officers, they filled the division’s leadership void and leveraged their role in the war on gangs into a power base that few dared to challenge. These officers reported feeling they could operate—legally and illegally—with impunity: “We were without fear—of anything or anyone. We were untouchable.”

Had Rafael Perez stuck to abusing gang members, scoring record numbers of arrests and retrieved guns, he likely would have remained untouchable. But he crossed a line that even his subcult within CRASH would not automatically defend. He had stolen drugs and gotten caught. And in disclosing misconduct in accordance with a plea agreement on drug charges, he exposed the CRASH abuses that would toss the Los Angeles Police Department into its most serious police corruption scandal in sixty years. His charges of routine framing, planting evidence, perjury, evidence fabrication and brutality triggered federal takeover of the LAPD, more than 100 overturned convictions and over \$70 million in damages.²¹

Seven years later, the division that Perez ruled is gone. The transformation began in late 1999 with a ruthless clean up process that left the majority of innocent officers and civilians in Rampart Division demoralized and certain that fairness had been sacrificed on the altar of political expedience. New managers had dismantled the division’s gang unit, imposed strict adherence to LAPD policy and reasserted command control. In 2001, as the Rampart criminal investigations ended, internal investigations closed and the scandal receded from the headlines, crime in the division continued to decline.

Within three years of the crisis, LAPD could have declared “recovery accomplished” based on regaining control of the division and driving its “gunslinger” subculture underground. New division leadership that arrived in 2003, however, determined that while

improved management, operations and procedure might be enough to reform outward behavior, they had not changed the underlying attitudes and mindset that had seeded the scandal.

It is at this point that the new LAPD command and Rampart Division leadership moved beyond division stabilization into pioneering an unorthodox crime fighting model that was designed to not only reduce crime but to do so with community support, and change how officers view themselves and their jobs. It resulted in a turnaround of the division, the transformation of a local park and a 180-degree difference in officer mindset.

The key was leadership and a vision. In 2003, the Chief had ordered the division to shape up and the local park to be cleaned up. The new captain had been stunned by the news that within four years of the scandal, the new gang unit had ordered black hats with symbols on them to wear after duty. This kind of activity was a hallmark of Rampart CRASH conduct and can signal the “gunslinger” mindset.²² Worse than the hats was the fact that their supervisor had not recognized the danger of that mindset or ordered a halt to signature conduct of the disbanded CRASH unit. The Captain replaced these officers with the smartest, most seasoned and mature officers he knew from across the department. The Rampart team replaced intimidation tactics with problem solving joint ventures among the station, local businesses, community leaders and other city departments. They mobilized the community, and corporate donations and government grants allowed them to fill the park with cameras and monitoring equipment, state of the art lighting and playground equipment. Within six months, park crime plunged 45% and the park was clean to the point that families felt safe enough to dance to music in the dark under the new lights that awaited money to be turned on.

“Search and Destroy wasn’t working. We had to try something else that didn’t make the community hate us.”

LAPD Supervisor involved in Rampart turnaround, over 20 years on force

The Rampart Division turnaround is not a fairytale. This Panel spent considerable time verifying that the scandal-ridden division had not just ended corruption but had crafted an unorthodox crime fighting strategy that was smart, tech-savvy and community backed. Interviewees from the Rampart community confirmed that the division had rallied them—respectfully and collabora-

“It’s not often that a group of police officers can make a difference. We did it...People see something special is going on here and they want to be part of that.”

LAPD Lieutenant, Rampart Area (on success of MacArthur Park)

tively—to clean up MacArthur Park. While it was difficult to gauge support among recent immigrants who understandably fear interaction with officers and blue ribbon panels, area gang members and gang intervention leaders grudgingly noted that the division had changed the tenor and tone of its policing. They

testified that the new division leaders by and large had treated them professionally. More importantly to the gang members and intervention workers, Rampart leaders had moved out officers who still abuse them, but now do so from Wilshire and Hollywood Divisions.²³ This Panel monitored the park at night, as well as during the day. The consistent absence of drug dealing, prostitution and unruly behavior is striking. And everyone interviewed in the Rampart Division agreed that the collaboration and community consultation had changed the outlook of a few officers and the outward behavior of many more.

The Panel recognizes that the Rampart Division transformation is not perfect. MacArthur Park is not Disneyland. The streets a few blocks over exhibit much of the dark activity driven from the park. The area, while improving, is still dense with poverty and deep socio-economic needs. Not all officers in the division buy into the new policing outlook, and like many in other divisions, dismiss it as “social work.” Citizen complaints continue. At least two Rampart officers have been snared in corruption stings—with one appar-

ently duplicating the evidence planting tactics of former CRASH offenders.²⁴ And the park was not very important to the robbery victim who had overcome great fear to enter the station, only to be turned away by an apologetic desk sergeant who couldn’t speak Spanish. Other factors—like the area’s gentrification, gang injunctions and improved economy—played disputed roles in the recovery. And history supports warnings that the new model will end once the levels of staff and resources decline and the change agents move onto new assignments: This is not the first time that Rampart Division has been resurrected from a nadir. For example, in the late 1980s, then Chief Daryl Gates, according to a former deputy chief, “took Rampart Division apart” to reimpose constraints and discipline.

It also is important to point out that Rampart Division’s success—a product of vision from the Chief and others, and an Assistant Chief’s innovative ideas to streamline bureaucracy and increase effectiveness—is not the department’s only notable example of high road policing. Pilot projects in several other divisions also have showcased innovative leaders leading successful problem solving crime fighting. In Southwest Division, under the Safer City Initiative, the department committed a specific group of officers to work in the Baldwin Village neighborhood, targeting gang violence and working with the community to help them access public resources to improve their community. Despite overt opposition from several of their colleagues, select officers in Southwest also worked closely with community leaders to support former Councilman Martin Ludlow’s “Summer of Success” program, which reduced violence by providing recreation and short-term employment for at-risk youth in the summer of 2004. In Valley Bureau, a retired Deputy Chief also ignored resistance from LAPD’s “us against them” old guard to forge an alliance with local gang intervention leaders. Community members and gang interventionists reported that innovative leaders in Harbor Division created the same kind of partnership with the long-serving Tolberman House. And for a brief period in 2003, an effort spear-

headed by City Council staff created an effective public-police coalition to combat gang activity in Pacific Division. Unlike the Rampart turnaround, these commendable programs did not have division-wide participation, did not benefit from the bureaucratic streamlining that freed up Rampart staff, and did not have the additional resources. They also had less potential for department-wide applicability because they tended to be personality dependent and/or very short-term, and encountered open hostility from officers who preferred traditional proactive policing.

In considering the Rampart turnaround, it also should be noted that some of the most extraordinary LAPD leadership is found in South Bureau, where command staff have skillfully contained recent public-police confrontations. As discussed below, leaders in South Bureau daily contend with much higher crime rates, deeper public-police mistrust, and entrenched officer and community outlooks that pose daunting obstacles to installing the high road policing showcased in the Rampart turnaround.

These and other important issues notwithstanding, it would be a mistake to miss the significance of the Rampart Division turnaround. It is the genome for DNA that keeps the strengths of traditional LAPD culture and replaces the weaknesses with attributes that improve its ability to check corruption and overcome long-standing problems that prevent the department from gaining the public trust it needs to fight crime in high crime divisions.

Conclusions Regarding The Rampart Recovery

Conclusion I.1.

The New Rampart Leadership and Crime Fighting Model Would Have Prevented CRASH Misconduct from Metastasizing into a Crisis

The impact of this unorthodox model on the Rampart Division's CRASH scandal would have been unmistakable: CRASH rogues would have been stopped because supervisors under this model do

not indulge LAPD's traditional "us versus them" and "ends justify the means" paranoia that excuses misconduct and excessive force.²⁵ Nor do they tolerate the silencing of whistleblowers or share LAPD's historic disdain for laws and policies viewed as obstacles to tough policing.²⁶ Supervisors under the new model go to great lengths

to treat officers fairly and invest in their development, at the same time rejecting the common tendency in LAPD to befriend officers instead of enforcing constraints. They check what officers are doing in the streets and enforce policy. They do not shield "hard chargers" with high arrest numbers from discipline, permit peer leaders to countermand supervisors or excuse abuse of suspects and gang members as "aggressive policing." More importantly, the new Rampart supervisors would have neutralized two of the scandal's strongest drivers: the "gunslinger" mindset and intense political pressure for dramatic crime reduction that distorted division operations and licensed "no holds barred" tactics.

This model is the key to preventing recurrence of the CRASH crisis because it arrests the corruption at the right level—at the underlying mentality, core professional identity, peer cues, customs and codes that drive LAPD behavior. The leadership qualities and conditions that produced the Rampart turnaround are important to identify for several reasons. First, the specific leadership attributes are the key to the model's success and need to be studied, codified and taught. Second, the gaps between the new model and LAPD norms identify the internal hurdles to implementing it department-wide. Third, the conditions and actions that paved the way for the Rampart turnaround point to the much larger external barriers to taking this effective crime fighting model beyond the division it redeemed. Officers and division leaders who crafted the model identified its key attributes, leadership qualities and preconditions.

“ The philosophy is that police make a difference... you can affect community and crime. We are not here just to chronicle what happened; we are here to improve the future. That is the underlying message.”

LAPD Supervisor involved in Rampart turnaround, over 20 years on force

Conclusion I.2.

The New Rampart Leadership and Crime Fighting Model Had the Following Key Attributes

The Panel identified and officers confirmed the following key attributes of the new Rampart leadership and crime fighting model:

- Crime fighting strategies based on good use of data, advanced criminology, and a problem solving policing vision that goes beyond tactics and arrests.
- Critical thinking prized over obedience and rote application of rules.
- Sophisticated use of technology.
- Problem solving mentality.
- Firm but fair supervision.
- Officers are rewarded for helping the community solve problems that generate crime and enlisting community help to fight crime.
- Officers know how to engage local leaders and community members in crime prevention and crime fighting without alienating or endangering them.
- Officers know how to interact professionally and productively with gang intervention workers and with gang members.
- Officers are taught how to conduct public agency joint planning, secure private sector participation in specific projects and win corporate backing and donations.

Conclusion I.3.

The New Rampart Leadership and Crime Fighting Model Had the Following Leadership Qualities

As noted above, excellent supervision was a critical factor in the Rampart Division's success. The supervisors who transformed the Rampart Division share a number of leadership qualities. All of the supervisors:

- Use inspirational leadership that sets clear expectations, invests in officers and treats them humanely and fairly.
- Do not micromanage but advise and help officers succeed.
- Have high persuasion abilities, assess people accurately and navigate department politics well.
- Are fluent in the LAPD culture and understand what is good about it and what has been bad about it.
- Have evolved beyond old culture's negative aspects like the bunker mentality, blind loyalty, "ends justify the means" thinking, toleration of brutal and harsh tactics, and "search and destroy" policing that alienates the community.
- Have replaced traditional "us versus them" xenophobia with collaboration and a joint planning mindset.
- Have a substantive policing background that has earned the respect of rank and file by promoting after doing actual street work and not promoting disproportionately through paper knowledge and tests.
- Know officers' strengths and weaknesses and how to put them in jobs they will be good at.
- Know which officers will create good teams that solve problems.
- Cross barriers raised by rank, LAPD hierarchies, specialized units and cliques to find the smartest problem solvers with records of effective crime fighting.

- Do not tolerate or excuse retaliatory or other hostile work environments for any officer.
- Show high interracial abilities and are viewed by officers of all races as not just unbiased, but knowledgeable about LAPD's internal and external racial problems and how to neutralize them.
- Are viewed by women officers as fair and proactive in shutting down the shunning, hazing and other gender bias activities that a few male officers still engage in.
- Analyze problems fully, seek different ideas and act strategically to solve larger problems.
- Are unafraid to take informed risks.
- Know how to cut through red tape and minimize the drag of LAPD bureaucracy.
- Value critical thinking, constructive criticism, new ideas that solve problems, teamwork, collaboration with outsiders and common sense.
- Effectively neutralize the "gunslingers" and peer leaders who subvert good supervision.
- Can distinguish among mistakes, misconduct, malfeasance and crime by officers and impose fair discipline, helpful training or removal as warranted.
- Know how to discipline officers who make mistakes in an instructive, affirming way that improves their policing and does not leave them humiliated and afraid for their careers.
- Enforce mature, professional treatment of suspects and zero tolerance for brutality or mistreatment.
- Do not indulge in the LAPD tradition of "passing the lemons" or transferring unremediated problem officers.
- Insist that officers replace LAPD's arrogant, cold, dismissive public interaction with professional, respectful, helpful interaction.
- Rise above and counter the unprofessional attributes of LAPD's informal culture including the gossip grapevine, political factions and old-boy systems that promote and favor based on crony loyalty and other inappropriate factors.
- Use data intelligently and strategically, but do not reward numbers of arrests more than the quality of policing and prevent disproportionate focus on numbers as sole measure of success.
- Check data manipulation and mindless arrests to achieve numeric results.
- Share credit and reward success and responsible risk taking.
- Use criminology and best practices to develop crime fighting strategies like joint agency focus on violent offenders and the top 10% of criminals that produce the majority of crime.
- Know how to win support from outside agencies, corporations, local businesses, foundations, politicians, residents and all local advocates including those who challenge police.

Conclusion I.4.

The New Rampart Leadership and Crime Fighting Model Had the Following Conditions Precedent

The Rampart transformation could not have happened without certain conditions precedent. Those conditions included:

- Crime had stabilized.
- Prior leaders in the immediate wake of the scandal had cleaned, primed and prepped the troops for new approaches.
- The Chief of Police gave clear orders for a dramatic clean up of the park done in a smart way.

- The Chief of Police empowered division leaders with discretion to make decisions.
- An Assistant Chief developed a streamlined structure that relieved Rampart Division's leaders from reporting to the bureau, conducting personnel investigations and having to generate paperwork, projects and other activities that burdened supervisors and diverted crime fighting focus.
- Community support for police remained high.

Four additional points to note about the model's attributes: First, it was critical that the Chief of Police expressed a vision of effective crime fighting that increases public-police trust, and mandated that the goal of cleaning up the park be achieved with community

“Now I get thanked by residents. I get a wave instead of the finger. That's intangible, but you have no idea how big that is. The elderly lady who used to dislike us now calls with information.”

LAPD Sergeant, about 10 years on the force
(describing effect of his change to collaborative,
problem solving, High Road policing.)

support. Second, it is important that LAPD veterans forged these leadership qualities by combining the best in LAPD culture with new outlooks that they have developed as smarter ways to fight crime. Third, the qualities listed above must be seen as a package, not a menu; picking one or two will not work. And fourth, this model was not pioneered in Rampart or other divisions with current pilot projects. LAPD years ago rejected efforts by African American, Latino and female officers who were the first to expand the “Basic Car Plan” community policing model by replacing “search and destroy” policing with joint problem solving and community collaboration.

The question is why isn't this model the standard throughout LAPD?

Conclusion I.5.

The New Rampart Leadership and Crime Fighting Model Is Not the Norm Throughout LAPD

Several interviewees contended that the collaborative crime fighting model showcased in the Rampart turnaround already is the department standard. The Panel agrees that department rhetoric about community collaboration is standard, and that Rampart Division, as noted above, is not the department's only example of collaborative, problem solving policing. But the fact that these examples are notable as exceptions and that they faced vocal and covert opposition demonstrates that they are not the LAPD norm.

Conclusion I.6.

The New Rampart Leadership and Crime Fighting Model Is Unlikely to Last

Officers from several divisions gave the success at Rampart less than a 50-50 chance of surviving more than two years, and no chance of lasting after Chief Bratton leaves. So far, new division leaders are beating those odds. Two years out, the progress is holding despite loss of staff and funds. In 2006, Rampart officers are seeking donations to pay for turf, to start sporting leagues for local kids, and to refurbish the bandstand in the park. But the likely reason for the continued progress is that some of the original leaders are still in the division and only supervisors who share the new outlook have been selected for assignment to Rampart. Once the old thinking supervisors return, the odds are likely that the turnaround will go the way of many other innovations at LAPD—by the wayside.

The low odds of sustaining and standardizing the Rampart crime fighting model can be beat, but not without understanding the impact of the external barriers to implementing the Rampart turnaround department-wide.

II. EXTERNAL BARRIERS TO REPLICATING THE RAMPART TRANSFORMATION

Officers and experts interviewed agree that the internal and external barriers to making high road policing the department standard are daunting. The same officers who openly criticized LAPD resistance to change, also pointed beyond the department's shortcomings to the bigger external obstacles posed by the City's thinly resourced policing model, the failures of other institutions and the "dangers on the ground" in high crime areas. In short, insufficient resources, old mindsets and the instability of high crime divisions will block change.

Their point that the policing demonstrated in the Rampart turnaround will be stymied by these and other external factors should not be taken as an excuse for LAPD failures, but as their proper context. For example, the relatively stable conditions that eased the Rampart turnaround do not exist in high crime divisions. Officers in high crime divisions compare their jobs to triage in a MASH unit or smoke jumping. They contend that a Rampart-like transformation would be doomed by the volume of emergency calls. They roll from one crisis call to another with no time for the planning, public interaction, meetings and other activities that Rampart

Division conducted. Moreover, the majority of interviewees contend that even if they had the time, such activities would detract from the arrest numbers that they believe are needed for promotions. More importantly, officer perceptions of constant danger and the actual dangers can block the shifts in outlook and

“Historically, serious crime clustered in the inner city neighborhoods, leaving other neighborhoods relatively crime free. This led to a practice of crime containment, and with it, a reluctance to give the LAPD the proper resources it needed to effectively police the entire city.”

LAPD Plan of Action for the Los Angeles That Is and the Los Angeles That Could Be, Book 1 at 2 (October 28, 2004)

mentality that are central to the Rampart transformation. Specifically, officers who fear that too few are available for backup or to help assert control can develop a “state of siege” mindset that distorts threat assessment and treatment of the public. Officers in high crime divisions report they do not feel they can safely go beyond answering calls for service and stemming crime with aggressive and alienating pre-emption tactics.

Other officers do not report being fearful, but state that they are there to take advantage of high crime areas to “do real police work,” meaning that they get to use force with less scrutiny and fewer consequences. And the minority of officers in high crime areas who forgo “intimidation policing” in favor of more collaborative tactics report hostility and retaliation from the officers with the warrior outlook.

Many of these observations reflect the myths and lore of urban policing as well as the tensions within a department trying to find its way into the 21st century. Nonetheless, they are a legitimate part of the calculus of what stands in the way of moving the most troubled divisions toward high road policing. It is important not to inflate the validity of police myths about inner city policing. But it is equally important to account for the real conditions that officers face.

Gang officers who patrolled South Bureau in 2005 confronted violence that exceeded the crime wave that besieged Rampart Division in 1996. Although Rampart Division currently hosts many gangs—a few of which rank with the most dangerous in the City—and still has a rate of crime and poverty that West Los Angeles would find staggeringly high, when compared to conditions in South Bureau, Rampart is relatively steady. In sum, the relative stability that allowed the new Rampart leadership to pioneer that

“Southeast officers who come to Rampart can’t believe the difference. They can drive by the street and not feel the hatred.”

LAPD Supervisor who served in Rampart and Southeast areas, more than 25 years on force

division's transformation does not exist in South Bureau. More importantly, the public support expressed by residents and community leaders for Rampart Area officers even at the height of the scandal, has never existed in South Bureau. Officers in South Bureau reap the bitter harvest of public hostility from LAPD's racially vexed history in historically poor black communities.

South Bureau also has leaders with the entrepreneurial problem-solving outlook that led the Rampart turnaround. Both sets of leaders agree that conditions for the two Bureaus present starkly different challenges and that thin resources are a major issue. But they and other interviewees emphasize that while lack of resources presents a formidable barrier, it pales in comparison to two much bigger external barriers to wider transformation: 1) the plate tectonics of the City's "thin blue line" policing model that seed aggressive proactive suppression policing; and 2) the desperate and dysfunctional poverty of Los Angeles' underclass neighborhoods. The first of these bigger external barriers to a Rampart-like transformation is that South Bureau is ground zero of "thin blue line," proactive containment policing.

“But a blue line stretched too thin left officers uncertain how quickly back up would arrive, and so a policing style evolved that became overly aggressive in the eyes of many Angelinos, especially in minority communities. Police behavior that had arisen in this context has been called ‘good cop corruption,’ which describes pursuit of justice through means both legal and unconstitutional. The laudable end goal to achieve public safety in Los Angeles had become corrupted by the means to achieve it—fear.”

LAPD Plan of Action for the Los Angeles That Is and the Los Angeles That Could Be, Book 1 at 2 (October 28, 2004)

Conclusions Regarding External Barriers To Replicating The Rampart Transformation In High Crime Divisions

Conclusion II.1.

Los Angeles Has an Under-resourced, “Thin Blue Line” Policing Model

“Thin blue line” policing emerged from the need to control LA’s hundreds of square miles with fewer than 2.5 officers per thousand residents and from the City’s historic xenophobic need to control unwanted immigrants and “criminally inclined” racial minorities.²⁷ Former LAPD Chief William Parker, the architect of LAPD’s proactive professional paramilitary ethos, touted the “thin blue line” as the only way to protect civilized LA from “moral anarchy”: “In [Parker’s] mind, America was ‘the most lawless nation on earth’ and ‘man the most predatory of all [in] the animal kingdom.’ An omnipresent police force—a ‘thin blue line’—was, he felt, society’s only salvation.”²⁸ The paradigm is steeped in the aggressive racial hostility and the puritanical “militant moralism” of 19th century Los Angeles.

“We have been forced into paramilitary [policing] to keep control. Ultimately, it causes you to lose control because there is no community trust. There is a disconnect between the public and the police department... It is a paradox—we are pushed into it but if there are no resources to get out of it, then it becomes our downfall.”

Retired LAPD Command Staff, more than 30 years on force.

Over forty years ago, the McCone Commission evoked the “thin blue line” in a chapter titled “Law Enforcement—The Thin Thread.” The Commission, convened in the wake of the 1965 Watts riots, noted that “[a] group of officers who represent a tiny fraction of one percent of the population is the thin thread that enforces observance of law by those few who would do otherwise.” (McCone Report at 29.)

Conclusion II.2.

The “Thin Blue Line” Model Seeds Proactive Policing that Delivers Containment and Suppression of Violence in High Crime Areas, but Not Public Safety

In this “thin blue line” framework, the police see themselves as the cordon between violent high crime areas and protected “safe” neighborhoods. They and everyone else know which communities and which individuals belong on either side of that line. In a striking confirmation of the model, the chair of this Panel, while driving through Watts in a BMW convertible, got pulled to the curb by an LAPD squad car and a Los Angeles Sheriff’s deputy. The officers and the deputy explained that she had done nothing wrong. They had pulled her over out of concern that she must be lost, and suggested that she allow them to escort her back to the freeway. On

“We’re here to maintain control between civilization and utter chaos.”

LAPD Officer, *Primetime Thursday: LAPD*
(ABC Television Broadcast, June 1, 2004)

Just as treatment of individuals on either side of that line can differ, so does the policing. In low-crime neighborhoods, the public enjoys relative safety and the absence of brutality. In the high crime hotspots of LA’s underclass, the public receives crime suppression and violence containment.

Officers view containment/suppression tactics as proactive policing that preempts crime and compensates for having too few officers in high crime zones.³⁰ It allows police to amplify their presence through tactics that range from persistent pretextual stops of residents, to sweeping dragnets, repeated roundups, pat down and prone out stops, random searches, constant questioning, entering names into the gang database, photographing tattoos, ordering

one level, the officers’ concern and courtesy should be—and were—greatly appreciated. On another, their actions could only have resulted from an unmistakable understanding of the invisible blue line and who belongs in safer areas on the right side of it.²⁹

people off of their porches and other actions to project control and preempt crime.³¹ Officers recently have added to this repertoire powers granted under neighborhood-wide gang injunctions.

Underclass communities experience proactive suppression policing as a pervasive, racially targeted campaign of indiscriminate harassment and police dominion that aggravates the deprivation of their neighborhoods. And under containment/suppression policing, black and Latino men interviewed all reported feeling like the prey in a search and destroy hunt.

These divergent views of containment/suppression or proactive policing converge on one point: it is a harsh strategy that abides unacceptably high levels of violence from the public and the police. And its aggravating corollary, the “thin blue line” model, allocates public safety resources sufficient to contain violence but not stabilize crime or provide safety. As one Southeast gang officer summed it up:

They really don’t want to know everything that occurs down here. And they don’t put us in a position to win. We’re not here to win anything. We’re here to maintain control between civilization and utter chaos. That’s all we’re here for. Until they’re willing to give us everything that we need to win, and all the resources that go with it, they don’t want us to win.

Primetime Thursday: LAPD (ABC Television Broadcast, June 1, 2004)

The City should heed this officer’s challenge to end its lose-lose game of public safety blue lining. The parallel challenge of this report is for the city to change the chronic anorexia of its “thin blue line” public safety model under which high crime hotspots often get triage, violence containment strategies, suppression tactics and

“We have only enough police officers here to make certain that the wealthier neighborhoods stay safe...[T]he question that...Los Angeles has to confront is...Do we want to make the whole city safe?”

Primetime Thursday: LAPD
(ABC Television Broadcast, June 1, 2004).

other stopgap palliatives instead of actual public safety. Los Angeles needs to move to a model that can deliver public safety citywide. As policing expert John Linder put it after analyzing Los Angeles' public safety landscape for over a year:

We have only enough police officers here to make certain that the wealthier neighborhoods stay safe...[T]he question that...Los Angeles has to confront is...Do we want to make the whole city safe?

Primetime Thursday: LAPD (ABC Television Broadcast, June 1, 2004).

The answer to this question should be yes. It is not solely a question of morality, although it is morally wrong for some children to have to dodge bullets to get to school. It is a question of the City's long-term survival. High crime hotspots left untreated will spread and eventually endanger safe areas. And solving crime and fighting terrorism require public cooperation, which requires trust, the one thing precluded under containment/suppression policing and the "thin blue line" model.

Conclusion II.3.

Aggressive, Untargeted Proactive Policing Destroys Public-Police Trust

Under proactive policing, the costs are high to impacted communities and the police who patrol them. But the most dangerous cost is to trust. In crime-ridden hotspots, there is a multi-faceted trust gap among residents who fear each other and their children who are in gangs, between racial groups, between the public and government institutions, and between the public and the police. But it is the public-police trust gap that is dangerously wide. Too often the trust needed to fight crime and create safer conditions dissolves in the hostility between police and the public. The subtext between them is one of combat. Too many residents in the City's high crime hotspots view LAPD more as persecutor than protector. In their minds, LAPD does not distinguish between the few dangerous crim-

inals and the majority of the community who are just trying to survive. To them, the only surprise about the Rampart CRASH crisis was that the City's elite seemed shocked about the misconduct; residents who live on the wrong side of the "thin blue line" believe that officers put cases on innocent people and lie to protect themselves all of the time.

For their part, the police view high crime zones as violent, hopeless and without values. Many officers feel endangered and under siege. They understand but dislike residents' reluctance to testify and otherwise help them fight crime. They do not understand why the community attacks police every chance they get, but does not protest against violent gang members and their cult of destruction. In their view, police put their lives on the line to protect people, but their efforts are often unappreciated and even resented. Put in dangerous communities with insufficient backup and without what's needed to fight hopeless "wars" on drugs and gangs, some police feel they pay too high a price for too many failed families and failed public policies. And to avoid paying the ultimate price, they will do whatever it takes to make it home at night.

Dozens of residents and officers who work in high crime divisions testified about the dynamics that destroy trust between the public and police. But some officers believe just as firmly that protests against LAPD's proactive policing are irrelevant "rabble rousing" that contradicts the silent majority's support of LAPD. From the vantage point of these officers, this is a reasonable view to have since no polls

“Everyone behind the tape could say to cops, ‘We can’t have safe streets without you.’ But there is zero mutuality. No cops are saying, ‘We can’t do it without you. We need you to keep streets safe.’... The irony is no [cops] inside the yellow tape knew more than [us] outside it. Will LAPD reward cops who stay in the community? Will you advance their salary? Officers promote to SWAT or detectives—they want out of here fast.”

Gang Intervention Leader

establish what residents in Rampart or Southeast Divisions want from or think of LAPD. But if LAPD had broad support and trust from the larger communities of South Bureau, the Stanley Miller flashlight strikes, the Devin Brown shooting, the Suzie Peña shooting and the confrontation with Nation of Islam Minister Tony Mohammad would not have triggered the rage or political emergencies that they did.³² LAPD mistakes and confrontations should not evoke an automatic presumption of department malfeasance. But they do. And police errors should not be capable of so easily setting this City on peril's edge. But they are. This goes beyond activists in the press; there is a police-public trust gap born of decades of public-police friction. And it is important to determine its scope and attributes in order to end it.

Conclusion II.4.

The City Bears Responsibility for Failing to Provide Resources for a Citywide Public Safety Model

Los Angeles leaders bear significant responsibility for the City's policing problems because they have failed to end the "thin blue line" model or to provide the resources needed for citywide public safety. The City regularly considers plans to marginally increase the numbers of officers but has not determined what citywide public safety would cost. Los Angeles' policing crises will not recede until City leadership provides the resources that permit the department to end containment/ suppression policing, improve the police to population ratio, end the police-public hostility, and change policing strategies in high crime areas where public safety is not sufficiently established.

Conclusion II.5.

The City Has Failed to Heed the 40-Year-Old McCone Commission Warning to Fix the "Sickness in the Center of Our City" that Fuels Public-Police Friction and Riots

In its analysis of LAPD's role in the 1965 riots, the McCone Commission warned the City to end the conditions that provide the

kindling for the fires of urban riots so often lit by the match of police abuse:

In examining the sickness in the center of our city, what has depressed and stunned us most is the dull, devastating spiral of failure that awaits the average disadvantaged child in the urban core... [U]nemployment in the disadvantaged areas runs two to three times the county average, and the employment available is too often intermittent. A family whose breadwinner is chronically out of work is almost invariably a disintegrating family. Crime rates soar and welfare rolls increase, even faster than the population... [These] conditions in our city... underlay the gathering anger which impelled the rioters to escalate the routine arrest of a drunken driver into six days of violence.

McCone Report at 5-6.

This paragraph still applies forty years later to Los Angeles' current urban underclass.³³ The City's spiral of failure continues. While conditions have improved significantly for most working and middle class minorities, the underclass remains devastated. Los Angeles' bottom-rung poor are the most aggravated part of a national trend of the poorest of the poor getting poorer.³⁴ Average unemployment rates for the county's black and Latino males remain higher than those for whites.³⁵ However, for underclass black and Latino males—many of who dropped out of school and have never been in the workforce—unemployment is significantly higher with some estimates as high as 70%.³⁶ An estimated one-third of black men and 17% of Latinos born in Los Angeles in 2001 are likely to go to prison in their lifetime, compared with 6% of white men.³⁷ Drop out rates at one predominantly minority urban core high school in Watts are estimated to exceed 60%.³⁸

“ We have a 30-year gang problem. It is getting worse, gang members are getting more violent and we do the exact same thing we have done for 30 years.”

LAPD Gang Officer, less than 10 years on force

But the averages and means of statistics do not begin to capture the misery of the worst urban core conditions. Violence in underclass Los Angeles can peak to unimaginable levels. Grandmothers report putting children to bed in bathtubs to protect them from gunfire. In 2004, just one of South Bureau's four divisions, Southeast, had more murders than six states combined.³⁹ In the same year, the murder rate in South Bureau was more than five times the national average.⁴⁰ In just one year, shootings at police officers in South Bureau increased 80%.⁴¹ There is no other swath of territory like it in the United States. In the most dangerous neighborhoods, children test at civil war levels for Post Traumatic Stress Syndrome.⁴² Incarceration rates in these poorest communities are high. And with no rehabilitation, two-thirds will fail the parole gauntlet and return to prison—repeatedly.⁴³ Not that there are many jobs anyway. The economy in these areas is largely underground with much of it illegal.⁴⁴

These are not just underclass poverty descriptors; they are the trigger conditions for the City's next riot.

South Bureau is not the only area of the City with debilitating conditions that spawn dangerous enclaves. Neighborhoods in the East Valley, Central and East Los Angeles share similar deficits, hurdles and high crime. It is these areas that the City must face if it fails to move from the containment/suppression they currently receive to the citywide public safety envisioned by the McCone Commission.

The McCone Commission cited the “tinder-igniting” factors such as those noted above as the fundamental causes of the riots that swept seven eastern cities in 1964 and Los Angeles in 1965: “not enough jobs... not enough schooling... [and] a resentment, even

hatred of the police.” (McCone Report at 2.) Los Angeles must reframe the mission of public safety to focus on curing “the sickness in the center of our city” and stopping the “spiral of failure” that the McCone Commission articulated as primordial barriers to reducing public-police friction and advancing police reform.

For example, the Los Angeles Unified School District has failed to recognize the need to develop radically different models for operating schools in hot zone neighborhoods to provide education and facilitate school safety and public safety.

Moreover, public institutions have failed to support programs that increase job creation and crime prevention. Employment and income are by far the strongest correlations to gang homicides in Los Angeles.⁴⁵ And over-incarceration of youth aggravates delinquent behavior and recidivism. Yet most public safety funding goes to incarceration, not prevention and job creation.

The private sector also bears some responsibility for failing to improve conditions in the City's poorest communities. The non-profit sector, philanthropic sector and other civic sectors have failed to develop, fund or imple-

ment effective solutions to the problems engulfing Los Angeles' poorest high crime neighborhoods.

Conclusion II.6.

Public and Private Institutions Have Not Done Enough to Stabilize Distressed Communities

City and county institutions have failed to provide effective strategies that reduce the aggravating factors in poor neighborhoods and deliver

“No Los Angeles resident is safe as long as gang violence continues unabated. But too many in ‘safe’ neighborhoods close their eyes to the threat mistakenly believing it is a gang-on-gang problem that can be contained to certain sections of the city. But residents of City areas once considered havens from violence are being attacked in increasing numbers as gangs and other violent criminals expand their territory...”

(LAPD Plan of Action for the Los Angeles That Is and the Los Angeles That Could Be, Book II at 5 (October 28, 2004))

services that meet the challenges in high crime hotspots of Los Angeles. Schools, medical institutions, housing authorities, public welfare, child welfare, probation, parole, gang prevention and other public bureaucracies need to revamp how they meet these challenges.

Conclusion II.7.

Communities and Families Have Not Done Enough to Confront and Counter the Culture of Violence and Destruction Overtaking Some Poor Neighborhoods

Residents of these distressed communities must also share the blame. Too few Los Angeles families, local leaders and neighborhood organizations in low-income, high crime areas have taken sufficient responsibility for countering the social disintegration

“I think the problems and pointing fingers [at] who’s responsible is not the answer because we all have a portion to play in this. The whole community has to come together. We all have to say we’re going to stop this.”

Jacquelyn Simms, President of Watts Neighborhood Council, *Talk of the City: The War in Watts* (KPCC radio broadcast, July 28, 2005)

and cult of destruction engulfing hotspot areas of LA. If these areas do not receive the strategies and resources to mount a movement to end the violence, it will spread.

As for their more privileged counterparts, Angelinos who enjoy safe, non-violent neighborhoods have failed to demand that politicians forge competent, cost-efficient and effective solutions to counter the growing violence in Los Angeles’ hotspots. Indeed, advantaged communities evince far too much complacency about the five-alarm conditions festering within fifteen miles of their safe zones. The Los Angeles body politic must support and fund citywide public safety.

Recommendations Regarding External Barriers To Replicating The Rampart Transformation In High Crime Divisions

Recommendation II.1.

In Order to Increase Trust and Public-Police Cooperation, LAPD Should Transition from Proactive/Suppression Policing to the High Road Policing Demonstrated in the Rampart Division Turnaround

Public-Police trouble is all but guaranteed when even a small number of officers with a “war” mentality, “high recap” outlook and no nexus to the people or their problems are dropped onto the streets of relatively violent, poverty stricken areas. With no resources or mandate to solve the larger problems and no possibility of ever making anyone “safe,” it is almost inevitable that from some officers you will get callous and capricious policing. And officers who reject the “us versus them” mentality and try to do their jobs with compassion, respect and awareness of community complexities report still having to struggle against strong internal rejection from officers who view such policing as “getting too close to the enemy.” LAPD needs to end this silent tussle and openly debate which road its culture should take. Department leaders need to forge department-wide consensus on which elements of proactive policing should be kept while moving to make predominant the policing and mentality modeled by Chief Bratton, key members of South Bureau command, innovative leaders of other divisions and the leaders of the Rampart transformation.

“Having the trust of the public has to be one of the prime objectives of any law enforcement agency. Without... the public’s trust it becomes difficult, if not impossible, to police any particular jurisdiction.”

United States Department of Justice, “Misconduct to Corruption Avoiding the Impending Crisis.” 1998.

Recommendation II.2.

The City and LAPD Should End “Thin Blue Line” Policing and Develop a Blueprint for Funding and Providing Citywide Public Safety

The City should work with LAPD and experts to develop a new policing model that will take the City from “thin blue line” policing to the high road policing demonstrated in the Rampart Division turnaround. The City should work with the Police Commission and the Chief of Police to determine the costs and cost savings of a citywide public safety model. They should explore reinvestment, redeployment, reorganization, new funding sources, cross-agency cooperation and other strategies for reducing crime in neighborhoods that do not have sufficient public safety.

At a minimum, the City must provide robust support systems that buttress current policing, including state of the art technology, multi-lingual translation, community experts who can help officers understand community dynamics, communication equipment, instant community referral resources accessible from squad cars, instant mapping capacity, access to mental health and medical backup and many other capacities that problem solving policing requires.

Recommendation II.3.

The City Should Fulfill the McCone Commission Mandate to End “the Spiral of Failure” that Seeds Public-Police Conflict

With recent initiatives by Mayor Villaraigosa, the City and Los Angeles County to jointly confront urban poverty and to radically change the norm of chronic failure in public education, some of these external roadblocks that the McCone Commission first flagged are finally beginning to get attention. But the City has not come to grips with the scale of change needed or what it means to end the spiral of failure.

By documenting the nexus between entrenched, dysfunctional poverty and public-police friction, the McCone Commission properly reframed the public safety debate. Forty years later, the City has

yet to learn that lesson. The continuing relevance to police reform of the McCone Commission’s mandate to arrest spiraling deterioration in poor communities is borne out by the fact that officers identified relatively stable community conditions as key to the successful transformation of Rampart Division. City leadership must give voters a competent and efficient strategy that is capable of stabilizing LA’s hotspots and beginning the transition to citywide public safety.

If the City keeps the “thin blue line” model and continues to ignore this mandate, it should expect public-police eruptions to continue and the violence currently contained in poor areas to metastasize.

Recommendation II.4.

Public and Private Institutions Must Find and Fund More Effective Solutions for Improving Conditions in Poor, High Crime Communities

In addition to the City developing much more robust and effective strategies, business and philanthropic sectors must help these communities and families by co-creating and funding coordinated efforts by competent neighborhood-fluent groups to jointly execute strategies capable of stabilizing these communities.

Recommendation II.5.

Residents of High Crime Communities Must Take Responsibility for and Receive Resources Needed to Counter the Culture of Violence

Too few Los Angeles families, local leaders and neighborhood organizations in low-income, high crime areas have taken sufficient responsibility for countering the social disintegration and cult of destruction engulfing hotspot areas in LA County. LA’s other more advantaged sectors, including the public

“ The only thing left for black men is prison or death, or peace and survival... the only way to beat the prison industrial complex is to shut it down. The only way to keep mortuaries from becoming millionaires is to stop the killing... Now it’s up to the rest of us to help them.”

Anthony Asadullah Samad, *Los Angeles Sentinel*, March 2006

schools, must help these communities and families launch a social movement to effectively compete with and end the violence and other dysfunction of *la vida loca*.

III. INTERNAL BARRIERS TO REPLICATING THE RAMPART TRANSFORMATION: CHANGES NEEDED IN LAPD EVEN IF THE EXTERNAL BARRIERS REMAIN

Conclusions Regarding Internal Barriers To Replicating The Rampart Transformation

Conclusion III.1.

Current Reforms, While Significant, Are Not Sufficient to Prevent Corruption Recurrence, Fix Longstanding Problems or Take the Rampart Transformation Department-wide

The department has improved in innumerable ways. Even prior to the current leadership's accelerated changes in use of force policy, discipline, misconduct investigations, and scores of other areas, the department had many reform projects underway. Dozens of internal LAPD proposals, initiatives and plans from department leaders, planning division, bureau projects and taskforces routinely propose improvements in every LAPD function imaginable—force policy, organization structure, tactics, investigations, discipline, training, weapons, recruitment, academy training, supervision, use of force, fair discipline, patrol improvement, performance evaluation, bias, retaliation, cronyism, racial tension, the role of the inspector general, commission operations, etc. And over the past decades, dozens of department reports and every blue ribbon tome for the past forty years have offered hundreds of recommendations to improve monitoring mechanisms, policy, organization, tactics, and internal accountability. A small library of documents leaves no question that the department works constantly to improve these systems—sometimes in response to scandals or lawsuit settlements, but often because of internal direction.

Evidence of improvement also can be seen in the striking increase in cooperation with the Inspector General, more rigorous complaint procedures, the separation of administrative and criminal officer complaint investigations, and the completion of dozens of other changes that LAPD had resisted making for decades. Current department leaders have a clear commitment to achieving a transparent, accountable and fair department, and innovative leaders of the Rampart Division transformation and a few other divisions have made high road policing happen on the ground. Accountability—the touchstone of police reform—is on the rise. The discipline of self-monitoring spurred by Consent Decree compliance and the increased possibility of getting caught in a sting have boosted officers' awareness that they may have to answer for their actions. And with the recent overhaul of the former Internal Affairs Division, misconduct investigations have improved markedly. Indeed, if the investigation protocol and expertise levels observed by this Panel in the Devin Brown and Stanley Miller investigations were the norm, the perennial alarms over the quality of LAPD investigations and accountability for excessive force would become unnecessary.

With all of this progress, the department should be well on its way to operating as an effective crime fighting organization that has public trust and cooperation—even in troubled high crime divisions. But far too many community interviewees from high crime divisions report continued friction, open hostility and no evidence in their streets of these top tier changes. More importantly, many officers and key players in the criminal justice system warn that current reforms have not sufficiently addressed problems that drove the CRASH scandal and are not robust enough to solve longstanding problems or implement the Rampart transformation department-wide.

So why can't these reforms definitively correct problems that drove the CRASH scandal or fix other longstanding problems that block moving to the policing showcased by the Rampart turnaround?

There are many reasons, starting with the fact that several key problems identified as factors in the Rampart CRASH crisis have not been sufficiently fixed.

Conclusion III.2.

Supervision Has Improved in Specific Divisions but Not Sufficiently to Prevent Scandal Recurrence

Supervision, the *sine qua non* of the Rampart CRASH crisis, is the one factor that absolutely must be fixed to avoid another scandal. The primary reason that CRASH misconduct metastasized into a crisis was “a systematic failure of supervision.”⁴⁶ Prior reports determined that Rampart Division supervisors were absent, burned out and conflicted. Some CRASH supervisors lacked sufficient experience to exert control over the renegade gang unit, others ignored warning signs, and others simply deferred to peer leaders and allowed the unit to police itself. When interviewed for this report, former Central Bureau leaders accepted responsibility after the fact for failing to transfer burned out supervisors and rein in supervisors who shielded misconduct at Rampart Division. These division-wide failures evident in supervision at Rampart Area in 1998 are not evident in any division today. But today’s supervision picture is mixed.

“If I’d known that a ‘by the book’ sergeant could have turned up on my street action at any given time, I wouldn’t have tried to get away with a third of what I did.”

Convicted former Rampart CRASH officer

LAPD SUPERVISION IN 2006

Top commanders and leaders of the rank and file know the importance of not fixing supervision and see Consent Decree provisions on supervision as the beginning of what’s needed to bring LAPD supervision to a satisfactory state. They also agree that controlling officers in specialized units is important and are aware that there are too few supervisors for adequate coverage and that the quality of field supervision remains a problem. The good news is that key leaders in the current command know what effective supervision is. And, more importantly, they have identified the exceptional supervision showcased in the Rampart Division transformation as the new standard and are rapidly promoting such supervisors to entrench their supervision ethos.

The majority of officers and supervisors down the chain of command, however, had little positive to report about the current state of department supervision. They detailed multiple problems that some contend pose threats similar to the dangers of the CRASH failures. They unanimously reported that too many supervisors still are driven more by the values of “wanting to be liked” and “go along to get along” than by the values of holding officers accountable. Many supervisors continue the LAPD tradition of “passing the lemons”—transferring problem officers rather than taking responsibility for retraining or firing them. And supervisors who enforce policy and correct bad attitudes complain that they too often receive inadequate support from superiors.⁴⁷ All supervisors from high crime divisions reported they are too overwhelmed by

paperwork and the challenges of the compressed work schedules to properly supervise officers. As one twenty-year veteran supervisor described what he views as a crisis, “We are so under deployed, so tied to the desk. As a Watch Commander,

if you are one of my supervisees, you could be doing strong-arm robberies and I wouldn’t know it until the feds walk in.”

MANY OFFICERS REPORTED THAT PEER LEADERS STILL CHALLENGE AUTHORITY

On another dynamic that was central to CRASH officers’ resistance to supervision, supervisor and officer interviewees confirmed that troops still look to veteran members of the rank and file who are viewed as more knowledgeable and qualified to lead than higher ranked but less experienced supervisors. The rank and file argue that supervisors who have never done the actual police work or completed the relevant training cannot be trusted to manage units to ensure officer safety, so they listen to the watch veterans. They also note that supervisors like the Rampart Division change agents who mentor, teach and invest in their officers are the exception to

the LAPD supervision norm. Although supervisors and officers disagreed on whether peer leaders play a positive role, they agreed that the department has not decoded or addressed the underlying mistrust that drives the power of peer leaders to continue to undermine supervision.

**FIRST LINE SUPERVISION MAY STILL FAIL TO
CORRECT SCANDAL RELAYED BEHAVIOR**

First line supervision, the supervisors who monitor officers' daily actions in the field, remains too weak. On the general state of this level of supervision, interviewees agreed that first line supervisors remain the source of controversial street confrontations caught on videotape. Officers urged concentrated training, better grooming

“There has been a hell of a lot of improvement in supervision. But in our view, there is still potential [for it to happen again] if the same mistakes are made.”

LAPD Supervisor, more than 20 years on force

and selection of first line supervisors. They strongly urged department brass to join rank and file leaders to find ways to increase training and rewire incentives so that first line supervision attracts and keeps a high level of performance.

The Panel heard four examples of supervision lapses that, if true, suggest that the lessons of CRASH scandal supervision failures have not been adequately learned at this key level of department accountability.

They involve signature behaviors of the scandal that failed to provoke strong intervention from first line supervisors. In the first incident, despite evidence that rogue CRASH officers carried replica or “throw-down” guns to plant on framed suspects, a supervisor in 2005 apparently saw no need to file a complaint against an officer whose replica gun was discovered in his squad car. The supervisor allegedly accepted an explanation that the gun was for

“play shooting,” and filed a comment card, but no complaint. Although a command officer later intervened for stronger action, a replica gun in this setting should have triggered a stand down alert and unit review by the officer's immediate supervisor. It did not. In a second incident three weeks later in the same Bureau, maintenance crews discovered another unauthorized weapon in another squad car. Both matters remain unresolved with investigations pending.

In the third example of first line supervision lapses, fewer than four years after the scandal that ruined its name, the new gang unit in Rampart Division bought black hats with symbols to wear off duty. Although this was identical to Rampart CRASH behavior tied to the mindset that fueled the crisis,⁴⁸ first line supervisors raised a question but did not halt the activity or order an immediate review of the scandal's lessons. Again, it was only command level supervisors who recognized the magnitude of the danger or saw the nexus to the scandal. And in a fourth example, a videotape of an officer pepper spraying a handcuffed suspect in the back of a squad car contradicted arrest reports that portrayed an “aggressive combative” suspect had provoked the spraying. The field supervisor who was present at the arrest did not require that the arrest reports be corrected or discipline the officers. The city attorney, who also did not report the officers' apparent misconduct, had to drop the case.

While overwhelmed supervisors cannot be expected to stop every instance of misbehavior, they should be expected to intervene in clear misconduct when they see it. This Panel cannot determine

“We have heard this conversation about weak supervision since 1981. You hear talk of forgiveness, allowing mistakes, but this is 2005. Same conversation, same place. Everyone here knows what good supervision should be. At some point, look at the guy who is hiring the supervisors and see whether he will hire the right people.”

Retired LAPD Command Staff, more than 20 years on force

if these examples indicate a broader problem. At minimum, if they are confirmed as accurate, they indicate that the most basic lessons of the scandal about the need for strong supervision have not taken hold on the ground level in some divisions with some first line supervisors. The department needs to consider that, while the provisions of the Consent Decree⁴⁹ have increased supervision presence and the timeliness of supervisor training, it will have to take more aggressive measures to reach the level of current problems reported to the Panel.

Conclusion III.3.

Investigation Quality Has Improved Significantly, but Remains Uneven

Investigation quality presents an example of a problem where the department has made significant improvement, but has a way to go before it is satisfactorily resolved. For example, after many years of LAPD failing to do so, PSB has substantially separated administrative investigations from criminal investigations. This separation enhances the integrity of each investigation and preserves a spectrum of options for ultimate resolution. PSB also has made significant strides in implementing the Consent Decree mandated officer integrity stings. Investigator training in PSB represents some of the best training in the department. And PSB has improved the training of departmental Boards of Rights advocates, despite the fundamental flaws with that adjudication system.

However, even in this better trained unit of investigators, problems remain. In January 2006, a limited sampling of citizen complaint investigations examined by the Inspector General found (i) significant omissions, (ii) summarized statements contradicted by taped evidence, and (iii) other indicia of investigation deficiencies serious enough to affect adjudication.⁵⁰ And department-wide, investigation quality is an even more serious concern. Neither the Police Commission nor the OIG can ensure the integrity, timeliness or quality of many investigations conducted by LAPD.⁵¹ Experienced LAPD detectives, FBI agents, JSID

investigators and sheriffs interviewed by this Panel confirm with specific examples that the quality of LAPD investigations and the skill levels of investigators remain very uneven and in some cases alarmingly deficient. And a review of civil lawsuits in which LAPD testimony appeared problematic and interviews with plaintiffs' counsel, public defenders and judges confirm continuing gaps in checks on officer veracity.

Conclusion III.4.

Cultural Factors that Contributed to the CRASH Mindset Remain

The Drooyan and Chemerinsky Reports concluded that the Rampart CRASH crisis was richly seeded by LAPD culture and mindset.⁵² This Panel agrees. The proximate causes of the Rampart CRASH crisis were LAPD's codes of "warrior policing," loyalty, silence, retaliation, control and aggression. LAPD hero worship of officers viewed as hotshots propelled blind backing of Perez and other CRASH offenders. Officers aggravated the LAPD ethos of strong control—maintaining "the Grip"—with a warrior mentality that rationalized extreme responses to spiraling crime. And political pressure to reduce that spiral produced a distorted focus on recap numbers that fueled tendencies to use "any means necessary." The code of loyalty became a perverse shield of misconduct that almost all officers condemn. LAPD's reflexive retaliation against whistleblowers shut out early warnings and shut down good officers who tried to intervene in CRASH excesses. And the code of silence licensed many officers who may not have known about the drug crimes but did know of abuses, to look the other way. The code of silence also enforced another LAPD prime directive: protect the department's image at all costs.

“Investigations have gotten better, but a lot of them are still crap. And don't put pressure on 'em to get something closed; all kinds of corners get cut.”

LAPD Supervisor, more than 25 years on force

Almost no one interviewed thought that LAPD sufficiently understands the role that the department's reflexes, cues and customs played in the CRASH crisis or adequately counters their role in today's continuing deficiencies. The Panel agrees with the many interviewees who stated that the deeper cultural drivers of the CRASH crisis still pose a cloaked and present danger. The likelihood of scandal recurrence will not be adequately minimized until LAPD addresses the underlying codes, reflexes and customs that produce the following problems:

RETALIATION: "SHOOTING SERPICO"

Retaliation is so integral to LAPD culture that judicial notice of its role is in order.⁵³

This Panel found that when whistle-blowers, including supervisors, tried to intervene in renegade conduct of CRASH officers, they were removed, transferred, ostracized and/or investigated with unfounded complaints in retaliation for the objections they raised. When a supervisor on loan to Rampart Area in 1996 inspected the off site CRASH trailer and saw the "trophy wall" of suspects' belts, bandanas, and other belongings, he immediately reported, "Houston,

we've got a problem; these guys are out of control and are going to get us killed." Just as immediately, a captain removed him and he was facing several anonymous, baseless complaints and Internal Affairs investigations.

LAPD officers have used systems of performance evaluations, job assignments, transfers, promotions and even discipline as weapons of retaliation against officers whom

they view as breaking the code of silence, threatening the department's image or otherwise exhibiting "disloyalty."

Ongoing retaliation lawsuits and recent *Los Angeles Times* reports suggest that the department still does not understand this issue. The *Times* has recently published several reports about an Internal Affairs officer who alleges he was retaliated against for pursuing an investigation into whether LAPD had falsely arrested and helped convict a man for murdering his mother more than twenty years ago.⁵⁴

In 2006, the department issued a draft anti-retaliation policy and currently has two sergeants staffing the anti-retaliation efforts. The sufficiency of this response should receive close monitoring.

BUNKER MENTALITY: "US VERSUS THEM"

LAPD's "us versus them" outlook is receding with younger officers and in low crime divisions, but it is still prevalent in many high crime divisions where it is not recognized as a problem but as a necessary mentality for surviving the dangers. Rafael Perez testified to the extreme "bunker mentality" of the Rampart CRASH. For officers "in the loop," the "us versus them" mentality extended to all non-CRASH officers—in particular supervisors who tried to exercise authority.

WARRIOR MENTALITY

It is important to note that the hold of LAPD's old warrior culture is fading, but it is still a factor with which to contend. The "gangster cop" mentality portrayed in Perez' description of officers "in the loop" has its roots in LAPD's traditional warrior outlook. Most LAPD officers are not warrior cops. But most LAPD heroes are.

“ [T]he problems at the [LAPD]’s Rampart Division are cultural in nature, the result of an institutional mind-set first conceived... to survive repeated attacks from outside the department. Unless this police culture is overthrown, future Rampart scandals are inevitable. ”

David D. Dotson, former LAPD Assistant Chief,
"LAPD Corruption: A Culture of War," *Los Angeles Times*,
February 27, 2000

“ The culture hasn’t changed. We have ‘Rampart’ brewing in Southeast. ”

LAPD Sergeant, more than 20 years on force

The department's paramilitary bent, the "thin blue line" credo and society's framing of crime as war (the war on drugs, the war on gangs) are three drivers of the warrior mentality. With this outlook, crime fighting is not done by obeying rules; it is done by breaking them. As one officer stated, "We know what they [the public] want. They want to be safe in their beds at night, and they don't care how we make that happen." Officers with this mindset ignore rules for escalating force and have contempt for constitutional constraints. The department needs incentives that counter this mentality.

ENDS JUSTIFY THE MEANS: COMPENSATING FOR PUBLIC FAILURES

A corollary of the warrior mindset is the "ends justify means" attitude. Officers report that this outlook—documented in prior reports—is not as predominant as it was in the past, and is nothing close to the levels found in CRASH misconduct. A former Rampart CRASH officer testified that he planted evidence only on violent gangbangers who, if not guilty of the crime in question, were definitely guilty of prior violations. While perhaps not approaching this level of use, this kind of thinking still drives officers to compensate for prosecutors who won't file their cases and judges who are sticklers for constitutional constraints by exaggerating or fabricating probable cause and using other troubling tactics that they believe are needed to "get the bad guys." LAPD needs to confront this reality and figure out how to change the incentives that drive this conduct.

THE LOYALTY TRAP

Dozens of officers reported that one of the prime directives of LAPD's Academy instruction is to overemphasize loyalty to your partner. Indeed, loyalty to one's partner and to other officers becomes a trap in which officers elevate personal allegiance above loyalty to the Constitution, the truth and integrity. As one forty-year veteran summed up the dynamic: "'To protect and serve' is to

protect and serve your partner. All else is secondary. So whether he is stretching truth, you protect him." This dynamic is intertwined with police officers' view that they cannot depend on leaders in the department, politicians, prosecutors or the courts to protect officers or their cases so they must depend on each other—in the bunker.

EXCESSIVE FORCE AS THE NORM

The Board of Inquiry suggests a need to examine whether engrained abusive practices increase corruption.⁵⁵ When asked whether two of the department's hallmarks—aggressive use of force and relentless seeking of control in high crime divisions—greased the chute to the "gunslinger" mentality that led to CRASH abuses, a few officers said yes, but most said they were separate issues. This is a question that LAPD needs to look at because if the minority view is right, changes in the use of force culture will not be achieved with new tactics and policies but only with a recalibration of the use of force mindset. The correlation of engrained heavy handed or accelerated force in a police culture to corruption has not been sufficiently explored.

NUMBERS JUSTIFY THE MEANS

Several interviewees pointed out that the department is in danger of losing focus on another key lesson from the scandal that recap—LAPD's aggressive pursuit of measurable reductions in crime—if pushed too hard, can lead to a longstanding LAPD tradition of data cheating or shortcuts to achieve compliance.⁵⁶ Prior reports on the CRASH crisis all conclude that immense pressure to reduce gang violence produced an "any means necessary" and "no questions asked" mentality that seeded the CRASH storm clouds.⁵⁷ While

“The balance of ensuring productivity while not falling prey to a tyranny by the numbers is a precarious tightrope.”

Former FBI Special Agent

officers often find excuses to resist recap, better checks against recap abuses are a continuing need. The department needs to ensure that data are used as an effective crime fighting tool without creating policing by the numbers that elevates quantity over quality.

Conclusion III.5.

In Addition to Internal Barriers Posed by Unresolved Problems Stemming from the CRASH Scandal, Deeper Cultural Dynamics within LAPD also Block Solutions to LAPD's Longstanding Problems

Far too many officers interviewed delivered stark warnings that current changes are unlikely to stick, and that existing efforts will fail to alter the department's entrenched hard core or filter to LA's meanest streets. In scores of interviews, LAPD command, rank and file, leaders from the different police unions and retired officers of all ranks agreed: it will take a more radical and probing agenda to sufficiently fix the department's deepest problems.

This Panel concludes that these concerns must be examined and, if valid, fixed. If these critics are right, then the Consent Decree, efforts by capable change agents, innovative LAPD leaders, the Police Commission, the Inspector General, Public Safety Committee, special taskforces and others will fail to prevent another paralyzing scandal or install the policing showcased in the recent Rampart Division overhaul. The improvements noted in this report, in the Monitor's reports and elsewhere are important advances and should receive all due acknowledgement. But they are not enough. The testimony to this Panel—across the board—is that the improvements being forged, although necessary, welcome and overdue, will be insufficient to alter enough officer attitudes to sustain the progress, institutionalize it department-wide or substantially reduce the likelihood of scandal recurrence.

The question remains: Why do officers believe that recommended improvements will be insufficient to permanently fix the department's most basic problems? Or, more to the point, why

don't longstanding problems that everyone agrees need fixing get fixed?

Officers with decades of LAPD experience identified several dynamics that they believe block solutions to solving the department's problems and prevent the organization from moving toward different policing. Their blunt assessments should not be mistaken as condemnation of a department they have dedicated their lives to serving. Their observations were offered because all agree that in order for LAPD to function effectively in 21st century Los Angeles, the department must transform itself—and that a unique moment for charting that transformation is quickly closing. The following tally of dynamics blocking deeper change is not a definitive diagnosis, but is a preliminary overview of challenges the department has yet to meet.

FEAR

As noted above, many officers in high crime divisions point first to the dangers that, in their view, prevent them from risking a move from the shelter of intimidation paramilitary policing. The overwhelming majority of non-white officers interviewed in such divisions also acknowledge the increased danger, but do so secondarily. These officers point first to internal cues that aggravate the danger, to officer ignorance about how to assess threats in communities they don't understand and to longstanding LAPD customs that license "cowboy" and "gunslinger" policing in high crime divisions.⁵⁸ The contrast in these views was striking and warrants attention.

CAREERISM AND CONVENIENCE

Several influential officers from varying ranks pointed out that too many officers view their jobs primarily in terms of what it can do for their careers and retirement and not in terms of public service or public safety. As one veteran stated, "They simply don't want to change; they resist change because it's inconvenient and they'd

have to give up overtime and other perks.” One command level officer noted, “This department is organized more for officer convenience than for public safety, or even officer safety. That’s got to change.” Another high-ranking supervisor contended that convenience has warped the functionality of LAPD structure: “LAPD is built upside down. We give the hardest jobs and the least recognition to the youngest and least experienced officers. We’ve never fixed it.” In another example of inverted priorities, detectives’ access to overtime pay transforms it into an entitlement that can override common sense decisions about deployment and investigations. Similar observations from respected members of the rank and file echo the view that LAPD too often values inapt credentials, cronyism and convenience at the expense of more important matters.

THE “MEMENTO” DYNAMIC: NO INSTITUTIONAL MEMORY

Another dynamic that impedes change is LAPD’s inability to pass down institutional knowledge about past mistakes. The department often fails to even acknowledge past incidents, much less preserve, document, teach or otherwise transfer lessons learned, if any, from them. Indeed one officer remarked, “LAPD is like that movie ‘Memento.’”⁵⁹ Nothing sticks. We don’t even tell the guy coming behind us about known problems, never mind answers. We hand ‘em the keys and say good luck.” Another noted: “We keep re-creating the wheel and putting it back on a broken vehicle.” While most officers interviewed had heard the lore about LAPD’s heroes, few had read prior reports on LAPD problems or books about the department’s actual history that includes its scandals and high profile incidents.

ACCOUNTABILITY AVERSION

Even if recruits had been exposed to LAPD’s past problems, the department’s engrained aversion to reporting problems and taking responsibility for solving them would have presented another conundrum that officers testified blunts change: “We’re so bad at

solving problems that we think passing it out of the division or on to someone else is a solution.” LAPD assignments are often so short that trying to solve a long term problem seems at best a waste of effort and at worst foolhardy. Officers report little incentive to hold themselves or anyone else accountable for taking action that is likely to get reversed and almost certain to generate retaliation for rocking the boat. As one officer put it, “It’s just easier to let it go.”

HEADWINDS AND UNDERTOW

Analysis of LAPD problems too often misses the underlying cultural drivers and bureaucratic inertia that override change. Thus, repeated mandates to “improve supervision,” “end the code of silence,” “invest in patrol” or “end retaliation” are correct, but do nothing to reverse the cultural undertow drowning each change. Strong supervision requires rewiring the weak performance evaluation system and the pervasive cues that condition too many supervisors to seek approval rather than performance from their troops. Ending retaliation requires the department to admit that it exists, define it clearly and then recode and counter the unspoken codes that drive it—blind intra-officer loyalty, the grapevine culture, conformity, image protection—with aggressive sanctions and protections. In short, outsiders prescribe changes without understanding the internal headwinds that prevent them from happening and insiders are afraid to pay the price of countering the culture. The leaders of the Rampart Division transformation succeeded because they knew how to countermand the behaviors and mentality that would hinder the transition to collaborative, creative, problem solving policing.

“Everybody knows who the problems are. You see how they drive or you see how they talk to someone... You realize who are the problem children.”

LAPD Lieutenant, more than 20 years on force

REMEDIES MISS THE MARK

Another reason that longstanding problems do not get solved is that proposed remedies often address symptoms too late and miss the deeper problem. For example, the department is setting up a computer system that will track complaints, discipline and other actions that may warn of “problem officers.” With due process measures and proper safeguards against supervisor abuse, this tracking system could be a good way of identifying officers who have built a record of possible abuses. But this remedy misses the facts that many in LAPD knew the actual “problem officers” at Rampart Division before the scandal erupted, and the department knows the identities of most current “problem officers” now. The challenge is not in identifying “problem officers,” but getting officers and supervisors to agree on what behavior is problematic, interceding in “problem officer” conduct, ensuring fair treatment of such officers, and then reprogramming department rules and customs that shield them from intervention, retraining or removal.

REALITY TRUMPS RHETORIC

Recommended changes and proposed solutions often ignore or contradict existing incentives, rewards and conditions on the ground. Proposals to move to community or problem solving policing, for example, make no sense to officers whose promotions are based primarily on arrests and aggressive street tactics, whose training never included community policing approaches and whose supervisors view time spent investing in community relationships or helping victims as wasted overtime.⁶⁰ Until officers get promoted and otherwise rewarded for averting the right arrests instead of making as many arrests as possible, and for generating trust that helps to solve crime, the rhetoric will contradict practice and leave officers cynical and uncooperative. This is why upper management’s acknowledgement and promotion of Rampart Division leaders responsible for that division’s turnaround was critical to signaling that the path to advancement is changing.

INFORMAL PRACTICE TRUMPS FORMAL RULES

LAPD, like all organizations, has two cultures: formal and informal. And like most police departments, its informal culture—the unwritten cues, customs and codes that shape officer behavior—diverges from the formal. This is not problematic unless the gap between them is too large, creating irreconcilable duality. LAPD arguably crosses that threshold. For example, telling the truth is a formal mandate for LAPD officers in everything they do. But informal mandates thwart compliance with this directive. The informal mandate that forbids LAPD officers to admit mistakes (dubbed the “doctrine of infallibility” by one interviewee) leads to frequent lying: “Since we can’t admit we messed up, every mistake becomes a lie. It gets to the point when we don’t even know when we’re lying anymore.” Management’s inability to distinguish between serious offenses and honest mistakes also drives this dynamic—officers lie to protect themselves from systems they have concluded are arbitrary, draconian and/or unfair. In another example, the formal rule against fraternization is obliterated by widespread relationships between superiors and subordinates and among rank and file.⁶¹ Fraternization, one factor of many that undermined supervision at Rampart Division in the early 1990s, has trumped the rule that forbids it. LAPD’s informal prime directives to protect the image of the department and never admit mistakes also preclude the learning mentality that Rampart Division leaders used in its transformation.

“WRESTLING THE ANTI-CHRIST”:**CHALLENGING THE WARRIOR MENTALITY**

LAPD’s informal culture includes a subculture that prizes “warrior policing.”⁶² This hard-charging outlook that seeded and ultimately shielded the CRASH corruption is not nearly as predominant as it used to be. Nonetheless, it still holds tremendous appeal as LAPD’s core identity. The divide between this receding but still influential subculture’s view of policing and the view of Chief Bratton and the

Rampart transformation crew is wide. There is a struggle between officers who want to move the department toward the kind of policing showcased in the Rampart transformation and officers who do not. Of course, all police departments need a few “top guns” and all officers need the ability react to danger, but that is different from a pervasive mindset of war and intimidation. When asked what it is like to rein in the renegade warrior mindset, a veteran command officer responded, “It’s like wrestling the Anti-Christ.” Until that wrestling match is won by the vision that transformed Rampart Area, changes in LAPD mindset and policing will remain elusive.

DEFINITIONAL DRIFT

When Rafael Perez was asked in a deposition whether someone was a “good officer,” he replied, “My ‘good’, or your ‘good’?” A key barrier to department-wide change is lack of internal consensus on the meaning of terms. Within LAPD, basic definitions span an array of meanings and become code for unspoken and sometimes contradictory assumptions—and no one in the organization stops to clarify or reconcile the differences. For example, to the majority of officers, “Rampart” is code for the entire department getting tarred with the crimes of a few officers. In the minority view, it is code for the dangers of the “gunslinger” subculture and weak management. The definition of “community policing” ranges from “social work,” to occasionally talking to the Senior Lead Officers, to doing a few neighborhood meetings, all the way to completely revamping how officers view and do their jobs. Similarly, confused views of LAPD heroes create a vexing paradox. In the words of a former captain, “One officer was like a legend. He did all the wrong things, but he was idolized...It is a paradox; the people doing the most wrong are the most popular.” This paradox is just one reason that there is no consensus on what “problem officer” means; if the “problem officers” are the heroes, then there can be no consensus on what misconduct is or how to get officers to report it. Perhaps most damaging is the inability to agree on what constitutes excessive force. The internal definition of excessive force is all over the map,

with discipline decisions showing no consistent pattern and training that changes so often that at the Board of Rights in the Stanley Miller flashlight incident, the department could not establish which distraction strike rules the accused officer had been taught. And differing external definitions of excessive force create the damaging gulf between what poor black communities define as abuse but officers define as necessary, aggressive policing.

THE TRUST DEFICIT

It almost goes without saying that officers are wary of the department’s civilian overseers, but the lack of trust within LAPD is not as widely discussed. Over years of observing and interacting with LAPD officers and their commanders, members of the Panel have noted a deficit of trust within the department that botches communication and change. Academy recruits, pitted against each other and competing to get the “right label” and “rep” that will propel their careers, do not trust each other. Far too many LAPD rank and file officers do not trust department leaders to make the right decisions. Factions of LAPD officers do not trust each other, and some openly feud. While officers openly discussed department problems with members of this Panel, they had not done so with their superior command. Many rank and file, leery of some supervisor decision-making, do not report problems to their supervisors. Supervisors, skeptical about the ability of the bureau to solve problems, don’t report them up. And upper command staff, fearing repercussions as bearers of bad news, admit not telling the Chief what he needs to hear. An organization too riven with mistrust to communicate properly cannot achieve real consensus or earn community trust. Strategies to counter this dynamic are needed.

RESIST AND REVERT

One of the most important reasons that longstanding problems do not get solved is that LAPD is an internally conflicted institution primed to resist and reverse change. Officers learn through custom,

code and informal command to counter unwanted changes imposed from above or by outsiders. Rank and file officers, whom department leaders rarely consult about problems or solutions, feel ignored and swamped by conflicting, constantly changing directives. As a result, they automatically divert the impact of untenable changes, an attitudinal carryover from the old LAPD tradition of openly circumventing court opinions that restrained police actions.⁶³ That tradition still operates. Peer leaders and others reject unwanted changes and then revert to preferred practice after the change agents move on. The examples are endless. If a federal court “takes the chokehold” from them, LAPD officers reverse the loss by using the baton to the point of breaking bones, if necessary, to establish control. If police commissioners install an unwanted outside chief, the entire organization—from top to bottom—mobilizes for his removal. When ordered by courts to dismantle the department’s library of secret files on Los Angeles politicians and activists, officers moved them to a private garage and a secret vault. When voters installed an inspector general, LAPD leaders blocked the office’s ability to function. When the City imposed an unwanted decree in the wake of the Rampart scandal, before the new Consent Decree Bureau took control, supervisors openly disparaged the decree in roll calls. As a result of this endless chess game, LAPD reforms resemble California initiatives—fifty years of patches and unintended consequences with no solution in sight.

Conclusion III.6.

LAPD Can Fix Itself When Change Agent Officers Drive the Transformation Process

The same institutional will that can obstruct, however, works wonders when the department’s rank and file agrees with a change, or better yet, creates the change. In those cases, transformation is

swift, sweeping and sometimes sustained. In the early 1990s when LAPD K-9 officers accepted the challenge by civil rights litigators⁶⁴ to reduce the rates of dog bites and K-9 hospitalizations, the rates plunged from 80% to 12% and from 41% to less than 1% respectively—in less than a year. Over a decade later, plaintiffs’ counsel confirm that the K-9 Unit has maintained the 90% drop and the major changes in how they handle the dogs. The K-9 unit and the Rampart transformation are the most significant examples of LAPD change that both officers and outsiders agree advances the department a long way down the right road. The challenge is to get the rest of the department to buy into the outlook, skills and leadership used to achieve these successes.

“It was never a dog problem. It was a cop problem. When the cops changed their attitude, the hospitalizations plunged along with the volume of our complaint calls. That was a 90% reduction or more. This was major change.”

Plaintiffs’ counsel, K-9 litigation specialist

It is critical to move beyond syndromes of resistance and reversion. LAPD leaders from every echelon and veteran leaders of the rank and file union say they are willing to co-chart a new framework. The importance of this support cannot be underestimated.

The importance of key LAPD veterans from every rank and within leadership of the Police Protective League backing and fortifying change cannot be overstated. It is crucial for veteran leaders to push for the deeper changes that they testified are necessary to avert trouble and decreased public-police mistrust. LAPD veterans now state openly the need for LAPD to move decisively toward transparent, accountable, collaborative policing. It is veterans from these ranks who first pioneered collaborative policing and challenged LAPD ways decades ago; led the transformation at Rampart Division; and asked for this Panel’s investigation as a “last chance to get it right.” LAPD veterans, many of whom a decade ago would have condemned opening up to outsiders about department shortcomings, talked to this Panel with unstinting, sometimes searing, criticism about the deeper problems they fear will block the department they love from moving to a place where a consent decree is

unnecessary and community trust is a given. Many officers do not agree with this new direction, but the emergence of these leaders makes fixing the deeper problems possible. In LAPD, if officers don't agree to it, it doesn't get done.

THE NEW DEAL

When asked what it would take to get them to stop resisting the imperfect Consent Decree regimen, influential rank and file leaders replied nothing, as long as the Decree in their view threatened officers' due process and other rights. When asked what they'd do if they could start from scratch, they immediately stated they'd begin with the new deal that Chief William Bratton proposed when he first arrived in Los Angeles:

The era of playing 'gotcha' is over. If you make a mistake, we'll retrain you. If you commit misconduct, we'll punish you fairly. If you are brutal or corrupt, we will jail you.

Officers state that they are ready to negotiate a new policing framework that fixes the department's longstanding problems. They state that they are ready to end the cycle of reform, resistance and return to business as usual. The Police Commission should take up the offer and appoint an action group to implement the blueprint that change agent leaders from the department co-chart with this Panel.

Conclusion III.7.

The Office of Inspector General Is the Only LAPD Entity with the Potential Capacity to Effectively Enforce LAPD Accountability over the Long Term

The Office of Inspector General is the Police Commission's only full time professional position with a portfolio to actively check the integrity of LAPD investigations and systems of accountability. In 1995, voters enacted a City Charter amendment to create the Office of the Inspector General to give the Police Commission an inde-

pendent ability to assess the integrity of department systems for investigating citizen complaints and other duties as determined by the Commission. The first Inspector General encountered hostility and open efforts by department staff to undermine her investigations. The second IG faced less resistance but equally daunting challenges. The Drooyan Report confirmed LAPD's lack of cooperation with the OIG and also found that the office was severely understaffed and unable to conduct robust audits or investigations of the department's handling of officer misconduct allegations or monitor the complaint process.⁶⁵ Today the OIG enjoys acceptance as a legitimate part of LAPD and higher resource levels. But in order to reach its potential, the office requires a more tightly focused set of duties, greater independence, expanded staff, a requirement for mandatory audits, job security, and power to grant greater confidentiality and witness protection.

With the proper portfolio, the OIG has the potential to become an entity with the ability and power to adequately monitor LAPD's investigations and accountability mechanisms. As things stand, it is the only office within LAPD with the cultural independence and potential capacity to hold LAPD's self-investigation apparatus to the highest standards and performance.

Conclusion III.8.

The OIG Currently Operates Under Constraints that Prevent It from Functioning as the Potent Check It Should Be

We note above that the Office of the Inspector General has the "potential" to have the functional independence and capacity to hold LAPD's self-investigation apparatus to the highest standards and performance because currently the OIG is too overburdened, understaffed and restricted to function as the potent check it should be. The OIG does not have either the independence sufficient to ensure integrity of the mission or the capacity to cover its myriad responsibilities. As the only quasi-independent entity inside the department with the potential to get the resources, full-

“LAPD has oversight on demand. If they ask for a report then it’s welcome, but OIG-generated efforts to examine new areas still are greeted with aggressive challenges. And the only time the OIG gets more resources is if there’s trouble.”

Observer of OIG Operations.

matically increased to meet a new portfolio of responsibilities that better ensures department accountability.

Currently, the OIG has an overly broad portfolio and insufficient independence. Although resources have improved, the OIG lacks the resources, expert investigative staff and power to guarantee confidentiality and accountability, cover the needed range of investigations and ensure meaningful responses to its investigative and audit findings and recommendations.

Conclusion III.9.

Discipline Decisions by the Chief of Police Are Important Tools for Implementing the Policing Showcased by the New Rampart Model

The Chief of Police’s recent discipline decisions have reinforced two key attributes of the Rampart transformation model: fair treatment of officers and zero tolerance for excessive force or brutality. Chief Bratton’s decision in 2003 to fire two veterans of the vaunted Metro Division for lying sent a devastating and unmistakable signal that LAPD’s two-tier discipline system that exempts brass and top guns from discipline is over. To a police force used to the exoneration of elite officers or command staff, the impact of firing “untouchable” Metro veterans was tsunamic. And in dismissing an officer whose televised flashlight blows on a prone suspect sparked a political crisis, the Chief jolted officers unaccustomed to questioning what in their minds is a good response to “aggressive

time focus, department fluency and expertise required to really hold LAPD to rigorous and effective investigation and adjudication standards, this Panel concludes that the capacity of the Office of Inspector General should be dra-

combateness” but what appears to outsiders as mindless excessive force, or “chase rage.” Similarly, when the Commission and the Chief modified the department’s car chase policy, they re-emphasized that gunfire is a last resort for imminent threat of death or serious bodily injury. The rule that force must be proportionate to the threat requires reinforcement because it is often obscured by the department’s cultivation of aggressive responses. The gap between the public’s perspective on LAPD use of force and a majority of officers’ views is large and getting aggravated by recent high profile incidents and must be addressed if the department is to move beyond the trust gap.

The Panel would add two caveats to the Chief’s disciplinary decisions in these high profile matters. The first concerns how department management has handled the fallout within the department. Command and supervisors apparently have failed to explain the discipline decisions, allowing rejection to undermine the lessons that officers should be learning from them. Many patrol officers do not understand why an officer known for running sports programs for underprivileged kids and trying to do “community policing” was fired for administering “distraction strikes” with a flashlight to a combative car thief who endangered officers with car and foot chases. Many members of patrol view his firing as a betrayal of the rank and file, or as one patrol officer put it, “a political cave-in to rabble rousers in the community.” Department leaders must prevent the right actions by the Chief from generating the kind of backlash now brewing in squad rooms over high profile discipline decisions. The second caveat is that making changes in equipment, like the size of flashlights, and changes in car chase policy without simultaneously addressing why officers acted the way they did may be treating symptoms while leaving the underlying problem untouched. The Chief of Police knows that officer mindset on use of force and how officers assess threat response are equally, if not more, important as tools and policy compliance. But more focus on the former is needed.

Conclusion III.10.*The Federal Court and the Consent Decree Are Central to Department Advancement and Transformation*

The most important external consequence of the CRASH scandal is United States District Court oversight of LAPD reform. As noted above in the section of this report calling for changes in non-LAPD institutions, this Panel has concluded that the long history of ineffective oversight and passivity of Los Angeles criminal justice institutions and the short political attention span produced by term limits make the federal court the only entity with the independence, power and sustained focus capable of ensuring that the City and LAPD maintain current reform efforts.

The main instrument of the federal court's oversight is the federal Consent Decree. The Decree settled a lawsuit filed by DOJ Washington in the wake of the Rampart CRASH scandal against LAPD and the City of Los Angeles for engaging in a pattern and practice of unconstitutional and other illegal misconduct. The prime purpose of the Consent Decree is to prevent the abuses of the Rampart CRASH scandal from recurring. It is a set of mandates that echoes many of the recommendations of the Board of Inquiry to fix scandal related and other failures in LAPD management, supervision, risk assessment, discipline, investigations, specialized

unit operations, training, Police Commission oversight and Inspector General operations.

“The Decree makes us better. It has improved a lot of systems.”

LAPD Lieutenant, approximately 20 years on force

This Panel concludes that the federal court is the singular entity capable of keeping the

City and the department focused on taking the steps necessary for forging permanent changes capable of significantly reduce undetected corruption and public-police confrontations. Without the changes in the behavioral codes, mindset and informal norms for use of force that officers and other experts identified as the hidden

drivers of department problems, the purpose of the Consent Decree cannot be fulfilled.

The Decree requires information collection for reports and audits designed to check the integrity and effectiveness of LAPD management. It imposes procedural changes, like removing complaint investigations from the chain of command and restricting the use of police informants that reduce conflicts of interest. It requires more rigorous investigation protocols for serious crimes and uses of force, tighter constraints on abuse prone areas like informants, and specific actions to counter racial profiling and mishandling of the mentally ill. Perhaps most importantly, it requires LAPD to shift from a reactive to a preventive outlook by developing risk assessment and early intervention systems.

The process of compliance with the Consent Decree is moving the department into habits of data collection and monitoring that increase supervisors' ability to pre-empt and inoculate against unchecked misconduct. If Rampart supervisors had been required to review data and audit officer activity in the street, they may have been forced to see the suspicious pattern of identical incident reports and incredulous stories of suspects repeatedly dropping rocks of cocaine on the ground in front of officers.

The importance of the Decree is that it is forging a mindset of more rigorous accountability, transparency, and automatic checks—behaviors that are not LAPD customs and that officers testified are not consistently or sufficiently present in today's LAPD. Perhaps most significantly, the process of self-examination forced by the Decree undercuts the “ends justify the means” and “gunslinger” mentalities that warp police conduct.

The majority of rank and file officers interviewed disagrees with this catalytic view of the Decree. Negative and inaccurate presentations about the Decree by prior LAPD management fueled views that it was unfair collective punishment for the isolated crimes of a

few former CRASH officers. And the predominant view of the City is that the Decree is an expensive gauntlet of checklist compliance, not a vehicle for transforming LAPD's culture to prevent scandal recurrence and advance department effectiveness. In the face of such views, it has taken creative and aggressive efforts by the Consent Decree Bureau—strongly backed by the Chief of Police—to neutralize hostility and galvanize the department to achieve Decree compliance. Ambivalence toward the Decree stymies its ability of turning into a force multiplier for improvements that LAPD's leaders are forging at the top of the department and for changes in the frustrating conditions that officers believe block them from doing their jobs on the ground floor of the department.

Officer complaints about the burdens of Decree compliance should not be dismissed. The City and department can seek technology, reasonable modifications and other ways of reducing the burdens of the current compliance regimen. And this Panel again urges the court, the Monitor and the department to incorporate achievement of the deeper cultural changes urged in this report into Decree compliance.

The Independent Monitor for the Consent Decree has consistently focused on increasing the department's accountability and public trust.⁶⁶ In its quarterly compliance reports, the Monitor has noted significant improvement in a number of areas, including the selection criteria for gang units and improved supervisory training. However, the Monitor has repeatedly expressed concern about the department's intake and disposition of complaints, its inability to implement the computerized officer tracking system TEAMS II and the slow pace of internal investigations of use of force incidents and officer-involved shootings.⁶⁷

“The Monitor will tell you the Decree is not about checking boxes and I agree that it shouldn't be. But the reality is that with the boots on the ground, it is about auditing and checking boxes. [T]his Decree is either going to help LAPD or it's going to fail and here's why: If the Decree is continued without modifications... people will give up. They'll say, 'we have extraordinary administrative burdens, we have tried to comply, but we're still failing.'”

LAPD Command staff, more than 20 years on LAPD

In sum, the federal court is critical to ensuring that the City and the department do not again fail to reform LAPD. Compliance with the Rampart CRASH Consent Decree is a process that is helping to move department operations and thinking toward built-in, automatic accountability. And the parties should find ways to reduce the burdens of that process and to make the Decree more of an asset in moving the department toward the Chief's vision as demonstrated in the Rampart transformation. Above all, however, is the overriding purpose of the decree, which, as Judge Feess has stated, is to install the actions needed to foreclose LAPD-sparked crises that imperil the integrity of Los Angeles' criminal justice system:

There has been 40-plus years of debate in this community about how it is policed... And time after time after time, those reports were nodded to and nothing was ever done. This consent decree is going to effect real reform and it's not going to be extinguished until that happens.⁶⁸

Recommendations For Removing Internal Barriers To Rampart Transformation

Recommendation III.1.

LAPD Leaders Need to Forge a Clear Consensus among Officers to Permanently Transition to the High Road Policing Showcased in Rampart Division Turnaround

Department leaders must chart with rank and file leadership a transition plan that officers can understand and accept. The department will have to identify in detail the attributes, skills and elements of

the policing and leadership approach that achieved the Rampart turnaround and then teach it and change department operations to meet its standards.

New funding sources should continue to be pursued. The City and the department should develop a budget for citywide public safety that reflects better use of current resources and new sources of funding.

The Chief of Police should continue to fast track promotions of officers who have demonstrated the kind of thinking and action showcased in the Rampart Division.

Recommendation III.2.

The Police Commission Should Significantly Expand the Independence and Resources of the Inspector General

The Office of Inspector General needs more independence, focus and expert staff to hold LAPD's self-investigation apparatus to the highest performance standards. As the only quasi-independent entity inside the department with the potential for full-time focus, department fluency and expertise required to hold LAPD to rigorous and effective investigation and adjudication standards, this Panel concludes that the capacity of the Office of Inspector General should be dramatically increased to meet a better defined portfolio of responsibilities that helps ensure department accountability.

Specifically, the Police Commission should take the following steps:

- Limit the OIG's scope of work to critical areas;
- Give the Inspector General a fixed term of duty with removal for cause;
- Confer power on the Inspector General to offer confidentiality and limited immunity and procedures for criminal referral;

- Increase protections for OIG investigations;
- Allocate sufficient resources to the OIG to conduct expert pattern and practice investigations, cultural audits, use of force stings, discrimination stings, surprise spot audits and other proactive inspections.

Recommendation III.3.

LAPD Leaders Should Continue to Use Discipline as a Tool for Implementing the Policing Showcased by the New Rampart Model

LAPD leaders should continue to break down the dichotomous discipline between brass and the rank and file. Insulation and immunity from accountability and discipline based upon rank should no longer be tolerated. LAPD should continue developing fair and consistent enforcement of force limitations, prohibitions against lying and other regulations that have received uneven enforcement in the past.

The department should improve communication with rank and file officers regarding standard changes and discipline actions. LAPD supervisors should teach the lessons of high profile incidents, explain discipline decisions and policy changes, and forge consensus on what the new standards mean to officer actions.

Recommendation III.4.

Federal Court Enforcement of the Consent Decree Should Continue the Current Focus on Achieving "Real Reform" to Remedy the Underlying Causes of the CRASH Crisis

The federal court is the singular entity capable of keeping the City and the department focused on taking the steps necessary for forging permanent changes capable of significantly reducing undetected corruption and public-police confrontations. As the federal court has recognized, the purpose of the federal Consent Decree is to achieve "real reform." This must include addressing LAPD

“There has been 40-plus years of debate in this community about how it is policed... Time after time after time, those reports were nodded to and nothing was ever done. This consent decree is going to effect real reform and it’s not going to be extinguished until that happens.”

U.S. District Judge Gary A. Feess (“Plan to Change LAPD Consent Decree Rejected,” *Los Angeles Times*, March 22, 2006)

of strengthening the Court’s role in remedying the underlying cultural causes of the CRASH crisis and in aiding the department’s transition to the policing demonstrated by Rampart Division’s new leadership.

Recommendation III.5.

An Expedited Joint Action Taskforce Should Chart Actions Needed to Move LAPD to High Road Policing

An expert taskforce should quickly develop a blueprint and action agenda to achieve the Chief’s policing vision as showcased in the recent Rampart Division transformation. The plan should be jointly developed by department change agents, rank and file leaders, outside experts that know LAPD systems and members of the Blue Ribbon Rampart Review Panel. The transition plan should address the issues raised in this report, build on Chief Bratton’s *Plan of Action for The Los Angeles That Is and The Los Angeles That Could Be*, and chart steps to achieve the transition to high road policing.

The blueprint the task force charts to transition to the Chief’s vision of policing as demonstrated in the Rampart Division

behavioral codes, outlooks, incentives and informal norms for use of force that officers and other experts identified as the hidden drivers of the CRASH crisis and other department problems.

The Court, Monitor and Consent Decree Bureau personnel should review the Consent Decree and enforcement strategies to recommend ways

recovery will be a complex document. It will require negotiated changes in almost every LAPD system. Solutions should be calibrated to impact areas that will require examination, including: mindset and outlook, LAPD informal culture; use of force; training; recruitment; supervision; discipline; patrol; specialized units; operations; deployment; crime fighting strategies; performance evaluations; retaliation and whistleblower protections; conflicts; racial tensions; immigrant community agendas; and telemetry for measuring desired outcomes in each area of LAPD’s operation.

SUPERVISION

Current problems with supervision are discussed above at length. In order to address these problems, the taskforce should:

- Identify the steps needed to establish the advanced supervision are discussed above demonstrated in Rampart Division and a few other places as the department standard.
- Determine whether the specific supervision incidents discussed in the report are isolated incidents or indicia of brewing corruption.
- Establish rules that all investigations of misconduct will include a review of command failures.
- Determine what impact, if any, the 3/12 and other flex schedules have on supervision. If adverse impact exists, fix the systems so that the flex schedules work to strengthen supervision, not weaken it.
- Prescribe actions needed to replace weak supervision with effective supervision that rank and file officers respect, including identifying what factors create weak supervision and the “dance of the lemons” practice of transferring problem officers rather than retraining them and avoiding problems rather than solving them.

MINDSET AND CULTURE

The taskforce should identify and decode the cues, customs and codes of behavior that aggravate public-police interactions in high crime areas, keep the majority of officers from speaking up when they should, prevent supervisors from reining in top guns who get out of control, and block effective checks against misconduct and abuse of force. The taskforce should at minimum:

- Dissect conflicts between paramilitary policing and the strategic collaboration model showcased in the Rampart Division recovery.
- Identify the most effective strategies for moving LAPD from a culture that emphasizes control and compliance to a culture that emphasizes effective collaboration and creative problem solving.
- Reprogram who is a hero. Identify ways of teaching lessons from high profile incidents and mistakes.
- Include strategies that seek rank and file ideas for reversing longstanding problems described above.
- Identify steps that remove pressures on officers to remain silent and to elevate loyalty to each other above loyalty to the mission of the department or to standards in the Constitution.

PUBLIC-POLICE ALIENATION

LAPD is not coming to grips with the magnitude of its trust deficit in low-income, high crime, predominantly black neighborhoods and the different but equally strong barriers to productive interaction with the police that immigrant and non-English speaking communities face. The taskforce should, at minimum:

- Determine why incidents that the minority public views as excessive force often are seen by officers as good, aggressive policing. Address how to bridge that gap.

- Identify community actions, conditions and behaviors that alienate officers and foster some officers' hostility toward high crime communities. Develop strategies with other entities to change these dynamics.
- Identify officer conduct and attitudes that alienate the public and foster public-police hostility. Create programs to counter these reactions.
- Explore establishing a panel of trusted community representatives who can receive complaints from immigrants and others who are too intimidated to interact with officers or other officials.
- Consult with immigrant advocates to find more comprehensive ways of identifying the public safety concerns and needs of immigrant communities—including vastly increased translation capacity, sheltered interaction, cultural translators and high officer intercultural competence.
- Identify steps to provide officers with information about the communities they serve and to facilitate relationships they need to carry out strategic collaborations that help solve crime and increase public trust.

OFFICER ALIENATION

In order to achieve department-wide buy-in for the reforms the taskforce proposes, the taskforce should:

- Identify and address the factors that will block officers from accepting the movement from what they know to a new policing model.
- Identify crime fighting policies that alienate or frustrate officers.
- Identify factors that lead to officer cynicism and corruption (e.g., futile crime fighting strategies).

INVESTIGATION QUALITY

In order to improve investigation quality, the task force should:

- Identify everything that adversely impacts high quality investigations—including policies, training practices, career path problems, consent decree provisions, cases, CBA provisions, supervisor practices, lack of equipment, witness reluctance, evidence processing backlogs, etc.
- Identify everything that blocks reducing the backlog of unsolved murders including all factors that limit witness cooperation and testimony.

USE OF FORCE

The taskforce should go beyond tactics and policy to examine LAPD's use of force culture and the factors that drive officer decisions on appropriate levels of force. Several key interviewees noted that department training fosters a paranoid, action-oriented mindset that can distort threat assessments. Other experts point out that LAPD use of force culture, as contrasted with policy, does not equate excessive force with serious misconduct, or abuse of force with corruption. In addition, rank and file officers complain that use of force training does not prepare them for real life threats or create a policing context in which they feel safe enough to act with greater restraint. Use of force investigations are incident driven and focus on tactics and policy compliance; they rarely delve into why officers use force or the factors that drive that decision. The taskforce should, at minimum:

- Determine why within the department there is lack of consensus on the extent to which excessive use of force is a problem. Examine the gap between officer and public perceptions of this issue.
- Define officer understanding of what constitutes excessive force.

- Identify strategies for high crime divisions to reduce the dangers posed to officers and to counter the alarming rise in sniper fire on officers.
- Identify probable cause and use of force policies that officers ignore as too impractical or dangerous to obey. Find a process that gets officers to agree on lines that will be self-enforced, consistent with the law and should not be crossed.
- Identify external drivers of excessive force—including the conditions in high crime divisions, lack of back up, fear of the community, officer attitudes about what they can get away with in high crime divisions and LAPD training that may contribute to disproportionate paranoia and inappropriate force response.
- Identify internal factors that aggravate officers' paranoia and can lead to disproportionate force response.
- Reconcile conflicting definitions of excessive force and abuse of force, identify the gray areas and clarify the bright lines that all officers should agree not to transgress.
- Define abuse of force as corruption and train accordingly.
- Identify steps that help officers evaluate and meet threats with appropriate levels of force including tools and techniques that reduce the need for force and offer alternatives.
- Clarify what is misconduct and why. Identify the gap between formal definitions of misconduct and informal practices that actually determine how officers view misconduct.
- Determine whether post-shooting support systems and policies adequately help officers recover and whether cultural taboos reduce officer use of post-shooting support and recovery systems.
- Identify steps needed for LAPD to move from emphasizing rote learning of rules for using force to emphasizing the thinking and judgment needed to know when it's needed and, if possible, how to avoid using it at all.

TRAINING

LAPD training reform currently focuses on best practices, interactive teaching of tactics and state of the art equipment but not on codifying the policing pioneered at Rampart Division and in other innovative collaborative policing pilots. In addition, LAPD officers with expertise in training testified that stress simulations in LAPD training do not prepare officers for the stress they will face in the street. The taskforce should add to ongoing training reforms the following items:

- Identify the leadership skills, mindset and other attributes of the policing showcased by the team that transformed Rampart Division. Identify where current training would have to change to reflect this model and the curriculum needed to align training with these practices.
- Create leadership and supervision training for first line supervisors and sergeants. The curriculum must go beyond checking the box compliance.
- Develop apprenticeship and mentorship programs that develop leadership and determine suitability for supervisory positions.
- Identify policies, customs or other barriers that hinder moving to the policing showcased in the Rampart Division recovery.
- Identify steps needed to end the view of training as a punishment and begin the view of training as an investment. Put an end to the scarlet letter “T” of training.
- Allot training allocations beyond required POST minimum levels to reflect the priorities of academic strength, legal knowledge, rules of evidence, collaboration, community demographic knowledge and problem solving. Teach the skills of critical thinking and managing in the manner showcased in the Rampart recovery.
- Identify training strategies that counter the behaviors that produce losses in criminal cases, create civil liability and result in the corrosion of public trust.
- Create training and educational programs that instill skills and confidence that obviate the perceived need to fabricate probable cause, create misleading reports and give false testimony.
- Develop training protocols that teach management how to communicate productively with officers and the community after high profile incidents or discipline decisions so that officers learn the right lessons and tensions with the community are reduced. Instruct on the “why” in addition to the “what.”
- Develop a curriculum to study LAPD’s past high profile incidents and scandals and teach the issues and lessons attached to each. Balance post-critical incident review training with problem solving, legal remedies and community knowledge as well as tactics.
- Develop a plan to rewrite the LAPD manual so that it makes sense to the average officer.

RECRUITMENT

The taskforce should examine whether LAPD looks for Police Academy candidates with the judgment, independent thinking, high emotional intelligence (“EQ”) and problem solving abilities showcased in the Rampart turnaround. The taskforce also should address any gaps between the policing vision and recruit selection criteria used by the Personnel Department.

DISCIPLINE

Since the scandal, discipline systems have undergone significant streamlining and quality improvement. However, many officers still complain about unfair punishment for honest mistakes where training would have been more appropriate. In other words, LAPD supervisors still too often fail to distinguish between mistakes and malfeasance. In order to build on these improvements, the taskforce should at a minimum:

- Identify the curriculum that teaches the investment supervision showcased in the Rampart turnaround.
- Identify steps to get officers to engage and learn the lessons of discipline decisions.
- Identify where LAPD discipline conflicts with the Chief's vision as expressed when he told officers: "The era of playing 'gotcha' is over. If you make a mistake, we'll retrain you. If you commit misconduct, we'll punish you fairly. If you are brutal or corrupt, we will jail you."
- Identify the factors that contribute to officer distrust of and disdain for discipline and counter them.
- Review recent changes in discipline to determine whether additional steps are needed to increase consistency, fairness and alignment with new policing vision.
- Examine how to replace the existing Boards of Rights system with another more effective and fairer discipline system.

PATROL/INCENTIVES

Everybody interviewed agreed that patrol remains the most critical function in the department. However, years of LAPD and blue ribbon admonitions that it is critical for LAPD to elevate and invest in LAPD patrol have gone unheeded. The taskforce should, at minimum:

- Reconfigure current career paths, coveted positions, paygrade advancements and other perks to attract and keep a high level of performance at patrol.
- Rewire career paths to require multiple tours of duty in patrol before promotion.
- Use reality-based assessments to ensure that excellent officers who may not test well on oral or written exams are recognized and promoted appropriately.

- Develop promotion criteria that expressly incorporate the characteristics of policing demonstrated in the new Rampart Division.

OPERATIONS AND STRUCTURE

The Rampart Division success is due in part to success in minimizing the drag of bureaucracy. LAPD has had many plans over the years that propose streamlining, flattening and other methods of cutting red tape and configuring the department to enhance effectiveness. The task force should examine these and other strategies for reducing bureaucracy. The task force should also address the problem that several senior officers noted: LAPD is structured upside down. The department assigns the least experienced, least paid and least appreciated officers to the most dangerous jobs requiring maximum skills.

TECHNOLOGY

The taskforce should consider ways to leverage technology to compensate for low numbers of officers and resources, and to improve crime fighting strategies, as was done in the 10% strategy and Compstat and the Rampart turnaround. Technology should also be used to increase collaboration and interaction with the community and help the community back officers.

CRIME FIGHTING STRATEGIES

The taskforce should map the factors that frustrate officers daily, including lack of local booking systems, limited jail capacity and friction with prosecutors who decline to file cases.

Officers complained that LAPD does not evaluate the effectiveness or impact of longstanding approaches to crime that do not seem to reduce the problems. The taskforce should examine policing strategies for crime reduction and long-term effectiveness and consider innovative approaches that reduce incarceration and generate community crime suppression responses.

PERFORMANCE EVALUATIONS

Prior reports noted serious deficiencies in LAPD performance evaluations. Interviewees for this report repeated the same observations that useful evaluation is rare to non-existent. The taskforce should untangle the structural and cultural barriers to solving this longstanding critical path problem or find another system for defining success and evaluating performance.

RETALIATION AND WHISTLEBLOWER PROTECTION

In late 2005, LAPD drafted and issued the department's first anti-retaliation policy with whistleblower protection systems. Implementation of the policy should resolve conflicting views of the existence, definition and scope of retaliation. The policy should be vetted by outside experts who have studied this problem, and it should be closely monitored for effectiveness and for abuse by officers seeking to use the policy as a shield against deserved discipline and for adequacy of enforcement staff (currently only two sergeants have this duty). At the same time, LAPD needs to examine how its systems for job hiring, discipline and promotion get hijacked to support retaliation against officers viewed as disloyal or otherwise labeled as rejects. Taskforce members should examine the capacity, skills and placement of staff assigned to carry out the new retaliation policy.

CONFLICTS

The problems with conflicts within LAPD are discussed in detail The Road Behind section of this report. The taskforce should examine current conflicts policies and develop a conflicts policy that ends the kind of alarming conflicts documented in this report.

RACIAL TENSION

The taskforce should examine internal racial rifts and find ways to decode and defuse them with creative approaches that close rather than widen the gaps or aggravate the tensions. Strategies to defuse perceptions and realities of public-police racial friction also should be explored. LAPD needs new tools, like the Implicit Association Test, that can help the department productively reframe and reduce racial and other cultural conflicts.

TELEMETRY

The taskforce should consult with internal and external experts in every policing specialty and area of LAPD operations to develop the right measures of outcomes and early warning criteria for each specialty and critical function in LAPD, and the questions that should be asked for each by officers, the IG and the Police Commission. Currently, the most useful measures of success and indicators of problems are not used in all cases.

The Road Behind

This section of the report scans immediate responses to the CRASH crisis by major non-LAPD institutions. It is based on an exploration of institutional actions with the individuals who reacted to the crisis on behalf of their agencies. This is not a detailed assessment of each institution's response. It is an overview of major mistakes to avoid in the next Los Angeles criminal justice scandal.

The criticism in this section does not negate in any way the extraordinary efforts by scores of dedicated LAPD investigators, District Attorneys and others. In the wake of a crisis of unprecedented magnitude and overwhelming scale, they did their utmost to carry out difficult duties. Many LAPD officers who were drafted to investigate allegations of corruption against fellow officers and to help free the wrongly convicted did so diligently despite duress. Investigators reported receiving harassing phone calls and one investigator reportedly received threats so serious that he was assigned SWAT officers to guard his home. District Attorneys who prosecuted officers also confronted obstacles that rarely occur in routine prosecutions of non-officer defendants. The people who were normally prosecution witnesses (officers) had become the defendants; the people normally prosecuted (gang members and criminals) had become the witnesses; and none of the usual presumptions applied. One prosecutor described this upside down and surreal ordeal as an Alice "through the looking glass" experience that caused her to question her own sanity. And another described the suspicion and solitariness that come with prosecuting cops.

The Panel documented many such instances of individual dedication and even heroism. Notwithstanding the valiant efforts of these and many other individuals, the systemic picture leads to one overarching admonition for the next Los Angeles criminal justice crisis: repeat very little done in response to the Rampart CRASH crisis.

LAPD and the other criminal justice institutions that failed to protect the integrity of the Los Angeles criminal justice system against CRASH crimes also failed to adequately investigate the scandal and its causes.

Major Institutions Caught in CRASH Crossfire

In 1999, the Rampart CRASH corruption crisis compelled immediate responses from several institutions beyond the Los Angeles Police Department. Multiple city entities, including the City Council's Public Safety Committee, City Administrative Office, Personnel Department, the City Attorney's Office and the Mayor's Office, scrambled for answers to the latest police scandal. Uncoordinated city investigations, rival reports, turf wars and dueling press conferences did little to dispel the City's reputation for inept oversight of law enforcement.

At the County of Los Angeles, the Office of the District Attorney struggled with the fallout from the Perez revelations. Prosecutors had no prior experience with a crisis that threatened the integrity of hundreds, possibly thousands of cases. District Attorneys sorted through an unprecedented number of wrongful conviction petitions by criminal defendants also claiming to be victims of CRASH excesses. And in a laudable effort to release the wrongfully convicted, the DA's Office filed dozens of "People's writs." At the same time, the District Attorney charged a team of prosecutors with the job of prosecuting the police officers they normally worked with. In their efforts to transform mountains of investigation material into prosecutions, these DAs confronted the conflicts that come with using LAPD investigators in cases against their fellow officers. Most LAPD investigators worked like Trojans to support the prosecutions, but a few apparently withheld investigation findings and, in at least one instance, gave information to the defense. And once LAPD's top leaders decided to wrest control of the investigations from the District Attorney, even dedicated investigators found themselves torn between conflicting mandates from the two offices.

That conflict erupted politically at the executive level when the Chief of Police dismissed District Attorney efforts and declared his preference for working with the United States Attorney's Office.

The California Attorney General intervened in the dysfunctional feud between LAPD command and the District Attorney's Office, issuing a statement calling the LAPD's refusal to cooperate with the DA's Office "unfortunate, counter-productive and without legal authority." The California legislature subsequently enacted a law authorizing the California Attorney General to bring civil actions against police departments to eliminate pattern and practice civil rights violations.

Dealing with scores of writs, the Los Angeles Superior Court had to examine its role in accepting pleas from innocent defendants and failing to detect police perjury or the conviction of the innocent. Public Defenders saw their long ignored complaints about incompetent investigations, routinely fabricated probable cause, frequent police perjury and excessive force briefly acknowledged, but had to confront their inability to effectively check the abuses they observed.

And at the federal level, Rafael Perez had implicated the federal Immigration and Naturalization Service ("INS") in CRASH schemes to preemptively deport witnesses to silence their testimony about CRASH misconduct. Although the former INS⁶⁹ declined to make its response to these charges public, other federal agencies' responses to the crisis were highly public. After concluding that the scandal confirmed the City's inability to provide constitutional policing, DOJ Washington, the United States Attorney's Office in the Central District of California and the Federal Bureau of Investigation intervened. In 2000, DOJ Washington threatened a lawsuit charging the City and LAPD with pattern and practice civil rights violations stemming from the CRASH corruption and other LAPD failures. The City avoided litigation by settling the case later that year, and in 2001, the United States District Court for the Central District of California assumed jurisdiction over LAPD reform through the ensuing Consent Decree.

Los Angeles Institutions Failed to Respond Adequately to the CRASH Crisis

The facts that best support this conclusion are that a federal court had to take over Los Angeles police reform and that no public entity conducted an independent investigation with the capacity, authority and resources to properly investigate the extent of the alleged corruption or its causes. In addition, after numerous scandal related criminal trials and pleas, multiple LAPD investigations and over 80 internal Boards of Rights, four major reports and a failed civil grand jury inquiry, the following basic facts about the Rampart CRASH corruption remain unknown or disputed:

- Whether the scandal was about two officers guilty of isolated criminal misconduct or about policing systems that tolerated routine abuse and criminality by a significant subcult in its ranks.
- How many officers committed crimes or serious misconduct.
- The scope of misconduct at issue (ranging from unjustified shootings, framings and beatings to falsifying arrest reports and fabricating probable cause).
- The extent of Rampart CRASH-like misconduct in the CRASH units of other divisions, other specialized units and LAPD policing generally.
- The extent of corrupt acts, if any, by Rampart CRASH alumni who graduated into Metro, Internal Affairs and other coveted and specialized units.
- Why CRASH supervisors and others in LAPD silenced whistleblowers who tried to warn about CRASH insubordination and misconduct.
- How many of Perez' specific allegations were fully investigated and verified.
- Why the DA's declination memos explaining the reasons for not charging Rampart related cases submitted by LAPD did not

address a number of cases of alleged misconduct, including several allegedly unjustified shootings.

- How many officers were administratively investigated or sent to Boards of Rights as a result of Perez' allegations.
- Why an after-action report on LAPD's response to the CRASH crisis could not get written.
- Why the Boards of Rights were allowed to fail on such a large scale.
- Whether the USCIS (formerly known as the INS) investigated Perez' allegations that its agents helped deport gang members or others who filed complaints against LAPD officers.⁷⁰

Why the Investigations Failed

Seven years after the scandal erupted, definitive answers to these questions are unlikely to be established. Some of the reasons for the failures—like the fact that LAPD botched the Perez polygraph exam—are simple to discern. Other reasons—like those that stem from the overwhelming dynamics of a large scandal—are complex. Concepts like these sound like excuses for incompetent investigation or, worse, cover-ups. But the Panel found them useful in examining how crisis distorts the decisions of people who feel they did their best to survive chaos:

The “Event Horizon” Effect: Crises that imperil not just individuals but entire systems can trigger an autonomic shutdown response. One criminal justice expert termed it the “event horizon effect”—the result of looking over the brink of an abyss (or the edge of a black hole known as the event horizon) and realizing “you just can’t go there.”

When events threaten the viability of an entire system, the tropism of containment kicks in. The Panel found several specific events that may be examples of this effect. During Rafael Perez' interro-

gation sessions, when he began to discuss his awareness of corruption by CRASH units in other divisions, interrogators failed to follow up with additional questions. The questioners moved onto another topic and nowhere else in the volumes of transcripts did they fully pursue the opening Perez had made to explore the most important question at hand. To do so would not just complicate an already overwhelming crisis; it could precipitate catastrophe. If Perez' contentions were true that CRASH-like corruption⁷¹ was not limited to Rampart CRASH but endemic to other CRASH units and common in broader swaths of LAPD policing, then thousands of cases could fail.

While the criminal justice system could sustain overturning scores of criminal prosecutions tainted by Rampart CRASH corruption, thousands could have meant the collapse of the entire LA County criminal justice apparatus. As one former federal prosecutor who assessed the magnitude of such a threat put it, “Rampart was ‘Chinatown’—potentially too big for the truth” (referring to the scandals of the Los Angeles water wars). Similar evidence of containment also emerged during interviews exploring the Board of Inquiry investigations. Members of the Board of Inquiry's work product working group reported that when they pursued the records of Rampart CRASH alumni who had graduated into Metro, they found sergeants' logs missing. When they asked to launch a broader inquiry into Metro, they were told it would not happen because Metro was untouchable.

Facing a choice between containment or catastrophic failure, the operators of any system—law enforcement, prosecutors and judges—inexorably choose containment. It is not that individuals or entities conspired to cover up corruption; it is that when a window on its true extent opened, they simply closed it.

Inertia of Self Preservation: A related dynamic is what one expert called the “inertia of self preservation.” Witnesses confirmed the view that they had to protect themselves from panicked responses

that were sweeping innocent people into the scandal's vortex. As one civilian employee of LAPD summed it up, "Why should a criminal like Rafael Perez be allowed to damage my career when I didn't do anything wrong?"

The Impact of Media Saturation: Saturation coverage of a metastasizing scandal creates political dynamics that affect decision makers and what they do. Indeed, prior to the scandal, headlines about spiraling gang crime prompted the politicians and LAPD to respond with the "no holds barred" policing that provided cover for CRASH antics. And after the scandal erupted, headline pressure affected leaders' responses and foreclosed some options. For example, to stem mounting damage from daily headlines, LAPD leaders diverted the focus of LAPD criminal investigations to begin projects like the Board of Inquiry designed in part to regain department control, staunch the mounting negative press coverage and stave off intervention by outside agencies or federal authorities. And, while it does not explain the failure to do so before the media frenzy, any possibility of mounting an effective systemic corruption probe, like that conducted for the Mollen Commission,⁷² drowned in the deluge of sensational headlines.

Big Cultural Blindness: The cultures of several institutions stymied effective responses to the CRASH crisis. A few examples: most federal and state prosecutors interviewed stated that police must police themselves and rejected a more active role for their agencies in preventing police misconduct. A few even acknowledged the passive posture their prosecutorial offices adopt toward checking police misconduct.⁷³ Because police are usually part of their prosecution teams, prosecutors often do not bring a skeptic's eye to police conduct. County criminal court judges remain ambivalent about the risks of overtly reporting officers they suspect—but have no proof—have lied on the stand; many do not believe it is feasible or appropriate to report such officer witnesses. And neither elected judges nor prosecutors interviewed had considered the possibility of the latent fear of losing law enforcement endorsements to win

elections, or the impact of having disproportionate numbers of former prosecutors on the bench. The passive culture of politicians toward checking police misconduct has been documented for decades; while they are quick to decry scandals, the actions needed to produce different behavior from the community and the police somehow never pass. And finally, LAPD's norms, such as its codes of silence, loyalty, control, retaliation, accommodation of excessive force and weak investigations, and glorifying "hard chargers," shielded CRASH misconduct and blinded investigators to the full scope of the crisis and the underlying drivers of the problems.

Assembly Line Justice: Problems in the Los Angeles County criminal justice system also fueled the scandal. The assembly-line nature of the Los Angeles criminal justice system is one of those dynamics that warrants further examination. Under the current system, defendants faced with tough sentences if they go to trial feel forced to plead guilty even if they are innocent. Their overworked public defenders may even counsel taking a plea—knowing they would be punished with a draconian sentence if they drained judicial resources by demanding a trial. Prosecutors pressure defendants to accept plea deals in extremely short time frames before their lawyers can get facts needed to assess the risks of trial or even their client's guilt or innocence. And even after the Rampart CRASH record of routine lying and fabrication by some officers, prosecutors assert that officers rarely commit serious misconduct to obtain convictions.⁷⁴ Officers testified to the Panel that while LAPD investigation training is improving, there is a long way to go until confidence in investigations across the board will be justified. And judges, burdened with overwhelming caseloads, are unwilling or unable to pursue their own suspicions of police perjury or misconduct.⁷⁵ This is not a system with sufficient integrity to ensure that the innocent are not convicted.

Cumulative Mistakes: As discussed in more detail below, some of LAPD's key decisions hindered competent and comprehensive investigations designed to establish the full extent of corruption.

For example, decisions to divert scarce resources from criminal investigations to the Board of Inquiry and administrative inquiries hindered criminal investigations to the point where allegedly unlawful shootings languished without investigators while a team pursued allegations of an on-duty beer party at the Police Academy. The failure to properly contemplate the potential scope of the alleged corruption precluded investigation designs capable of determining whether multi-defendant, systemic corruption was at issue, or whether it was the crimes of just two officers. And the refusal to grant officer witnesses administrative immunity suppressed officer cooperation in investigations.

The failures noted above prevented the Los Angeles criminal justice system from sufficiently determining the extent of the CRASH corruption, understanding its causes or documenting lessons learned. The successes—dedicated investigators and prosecutors, the aggressive pursuit of writs of habeas corpus and completed prosecutions to name a few—deserve full credit and should not be overlooked. But the state of the post-scandal record—in particular, the basic questions about the scandal that remain unanswered—speaks for itself.

I. LAPD

Conclusions Regarding LAPD'S Handling Of The Rampart Crash Crisis

Early Warnings of the CRASH Crisis

Conclusion I.1.

LAPD Leaders Knew of Renegade Policing, Exclusive of Drug Crimes, in Rampart Division and its CRASH Gang Unit Years Before the CRASH Crisis Erupted

Current and former LAPD command staff acknowledged that by the early 1990s, the Rampart Division was “active” from a risk

management standpoint. Several officers stated that Rampart Division was renown for its “cowboy” style of policing. Indeed, officers nicknamed Rampart Area “‘Rampage’ Division.”

Years before the CRASH crisis exploded, one officer recalled that a command officer in the Central Bureau, which oversaw Rampart Division, forbade one of his protégés from working there because it was “out of control.” A former staff commander recalled that other command staff described the Rampart Division as “a mess.”

“It was acceptable from top to bottom—Rampart CRASH can do whatever they want to do.”

LAPD Supervisor, 20 years on the force
(describing the attitude toward Rampart
CRASH before the scandal broke)

Conclusion I.2.

Other CRASH Units Had Similar Renegade Subcults

The record establishes voluminous complaints from suspects and gang members about excessive force abuses (but not drug crimes) from subcults within several CRASH units, including 77th, Southeast and Wilshire Divisions. While such witnesses are problematic, the volume and pattern of their complaints should not have been routinely ignored by LAPD. Credible officer witnesses who observed or were members of these other CRASH units in action during the early to mid-1990s also corroborate these gang member reports of routine abuse. Being “in the loop” may have been a sub-culture norm for CRASH.

Conclusion I.3.

LAPD Leaders Did Not Adequately Address Specific Warnings of Illegal Policing Tactics by Rampart CRASH Officers before the Scandal Erupted Publicly

More than a year before Perez made his allegations, LAPD leaders had specific knowledge of Rampart CRASH misconduct. A veteran supervisor in Central Bureau recalled complaining to Rampart CRASH supervisors and other LAPD command staff about Rampart CRASH's failure to respond to calls for assistance from

officers in other divisions. Other supervisors had reported concerns to Rampart and Central Bureau command staff regarding Rampart CRASH's "trophy wall," which included gang paraphernalia illegally confiscated from gang members by Rampart CRASH officers.

In addition, gang members in Rampart Area had been complaining vociferously about mistreatment and abuse by Rampart CRASH officers. In the mid-1990s, the chair of this Panel attended a community meeting convened by California Senator Tom Hayden to discuss the Rampart community's concerns with LAPD mistreatment. Rampart CRASH officers lined the walls of the meeting and tried to take down the names of everyone in attendance. The department took no action in response to the hearing.

The department's Internal Affairs Division had received and investigated several specific complaints of officer misconduct in Rampart Division. For example, one police officer whom Perez subsequently identified as a participant in illegal activity had been administratively punished for two separate incidents in February 1999. In one incident, this officer was found guilty of dissuading a gang member from making a complaint against the officers who beat him. The officer was only suspended for ten days for this misconduct.

Conclusion I.4.

Fraternization and Conflicts of Interest Undermined Effective Supervision and Accountability in Rampart Division

A number of persons interviewed by the Panel described how fraternization and conflicts undermined supervision at Rampart Division. One of the Rampart Division officers convicted of misconduct told the Panel that his supervisor could exert no control over him because he knew that the supervisor was having an extramarital affair with another officer.

In one example of the conflicts undermining accountability, a CRASH sergeant who Perez identified as "in the loop" subse-

quently worked as the Rampart Area complaint sergeant. Perez and many other officers who had been supervised by the sergeant in Rampart CRASH remained in the division.

Conclusion I.5.

Whistleblowers Who Intercepted and Challenged Rampart CRASH Officers Were Punished or Ignored

The Panel learned of several instances of retaliation against or reversal of supervisors who tried to intervene or blow the whistle on Rampart CRASH misconduct. For example, one CRASH sergeant who tried to move Perez out of CRASH for insubordination was overruled; Perez remained in CRASH and the sergeant was transferred out. Another sergeant who tried to impose discipline on CRASH officers and force them to obey regulations was passed over as the officer in charge of Rampart CRASH and left the division soon thereafter.

A lieutenant who wanted CRASH excesses investigated recalled that other supervisors complained to the Rampart captain when he took the complaint of a gang member who claimed CRASH officers had beaten him. When the lieutenant later spoke out at a supervisors' meeting and urged completion of the gang member's complaint investigation, the captain said nothing to defend the lieutenant and left him to face the stony silence of the other Rampart supervisors present. A patrol gang sergeant who operated in Rampart Division tried to convene a meeting with Rampart CRASH to complain about their arrogant attitude and their failure to assist other LAPD officers in the field. Most of the CRASH

“ [H]e said I was fired from the unit. And I told him, no... The next day... before I came to work, I got a call from [another sergeant]... He told me, 'You report to roll call as scheduled, per me. I'm coming to that unit. He's out. Don't worry about it. He's out of there.' ”

Transcript of November 22, 1999 interview with Rafael Perez (describing how supervisor who tried to transfer him out of CRASH was transferred out)

officers did not even attend the meeting and the patrol sergeant's complaints were ignored.

Conclusion I.6.

Evidence Controls Lacked Adequate Safeguards to Prevent Theft

Perez' theft of cocaine revealed significant weaknesses in LAPD's evidence controls. In 1998, when Perez stole narcotics from LAPD storage facilities, it was common practice for LAPD officers to check drugs out to bring to court. LAPD policy required that an officer checking out narcotics provide proof of identity and sign out the drugs. However, no one crosschecked the signature sheet and identification. Moreover, an officer did not have to demonstrate that he had authority to check out the narcotics. Perez checked out three kilograms of cocaine from the Property Division by signing the name of another officer.⁷⁶

The Evidence Control Unit ("ECU") had even fewer safeguards. In 1998, an officer could call the ECU and have narcotics from a particular case sent by courier to his or her station. The officer did not have to demonstrate that he had authority to check out the narcotics. Indeed, the ECU did not check whether the narcotics were from a closed or open case or whether the drugs were slated for destruction. Investigators subsequently discovered that several packages of cocaine from closed cases had been ordered by a Rampart Division officer. When they sampled the contents of these packages, they found that almost all of them no longer contained cocaine and had been replaced by some other white powdery "bunk" material. Before a more extensive sampling could be conducted, the department ordered much of the ECU inventory destroyed.

Although evidence safeguards have increased, the Property Division and ECU remain vulnerable. The most significant factor reducing the risk of officers illegally checking out narcotics resulted from the courts' decision to cease bringing narcotics into courtrooms as evidence. As a result of this development, the volume of narcotics

checked out of ECU or Property Division has greatly decreased. The department has added some safeguards against theft. Now, an officer checking out narcotics from Property Division must provide a fingerprint. An officer can no longer order a package of narcotics for delivery from ECU. Moreover, an officer could no longer check out narcotics that have been slated for destruction.

However, the Property Division and ECU still lack significant safeguards. For example, neither the Central Property Division nor the ECU is equipped with cameras. The Property Division does not have any staff to conduct regular audits or inventories of its narcotics. While the department conducts pre-destruction audits, examining packages of narcotics before disposal to make sure that the package is what it purports to be, these audits do not include any testing of the substance.

LAPD'S INITIAL INVESTIGATIONS INTO ALLEGED DRUG THEFT BY RAFAEL PEREZ

In March 1998, LAPD launched an internal investigation into the theft of three kilograms of cocaine from LAPD's Property Division. Their investigation quickly identified Rafael Perez, an officer in the Rampart Division's CRASH unit, as the prime suspect. Investigators subsequently learned of Perez' relationship with former LAPD officer David Mack, who had been arrested in November 1997 for robbing a bank.

In May 1998, the department established the "RHD Task Force." The RHD Task Force's initial assignment is open to some debate. The LAPD's *Board of Inquiry into the Rampart Area Corruption Incident* states that LAPD created the RHD Task Force to investigate the cocaine theft, the bank robbery, and the beating and false imprisonment of a gang member by LAPD officers assigned to the Rampart Division. Other persons who worked on or with the Task Force maintain that it was initially assigned to investigate the cocaine theft, the bank robbery and the March 1997 killing of hip-hop star Biggie

“ I had no reason to think LAPD was acting with anything but the best motives. All members of the group were dedicated.”

Deputy DA (describing initial RHD Task Force)

Smalls, but not the beating and false imprisonment of a gang member by Rampart officers. Under either scenario, everyone interviewed agreed that the investigation into Rafael Perez and the cocaine theft quickly became the RHD Task Force’s primary focus.

Conclusion I.7.

LAPD Failed to Approach the Investigation of Drug Theft as a Police Corruption Case with Systemic Implications

In staffing the RHD Task Force, the Department primarily assigned detectives with narcotics experience. By all accounts, the RHD Task Force did excellent investigative work in investigating Rafael Perez and his involvement in stealing drugs. However, the Task Force approached Rafael Perez and the cocaine theft as a discrete incident of criminal activity, and did not examine the supervision failures and cultural systems that shielded and possibly gave rise to the corruption.

Conclusion I.8.

Internal Leaks Jeopardized the Investigation of Rafael Perez

Rafael Perez stated that he received warnings from at least two CRASH sergeants that he was being investigated and that his logs had been requested. While a subsequent Board of Rights refutes this allegation, the undisputed fact that several officers close to Perez who should not have known about the investigations also knew about them makes Perez’ awareness highly probable. The fact that people close to Perez knew about the investigation illustrates the lack of any meaningful understanding of conflicts of interest. Additional problems with conflicts of interest are discussed below.

LAPD’S INITIAL INVESTIGATION AFTER RAFAEL PEREZ BEGINS TO DISCLOSE MISCONDUCT

In September 1999, Rafael Perez pleaded guilty to narcotics charges. At that time, Perez received criminal immunity for disclosing that he and his then partner, Nino Durden, had shot an unarmed man named Javiar Ovando then planted a gun on him to cover up the shooting. As a result of the shooting, Ovando was paralyzed from the waist down. Moreover, as RHD Task Force investigators soon learned, Perez and Durden’s perjured testimony about the shooting had landed Ovando in prison for twenty-three years for assaulting a police officer and brandishing a weapon. His sentence reflected his refusal to express remorse for a crime he had not committed.

Following Perez’ plea, which included a state grant of immunity for additional misconduct disclosed,⁷⁷ a Deputy District Attorney and members of the RHD Task Force began to interrogate Perez. In the first of many interrogation sessions, Perez began to describe widespread misconduct in Rampart CRASH and other CRASH units. As he put it, “I would say that ninety percent of the officers that work CRASH, and not just Rampart CRASH, falsify a lot of information. They put cases on people.”⁷⁸

Over the next year, Perez sat for thirty-two interrogation sessions—the transcripts of which make up more than 4,000 pages. As allegations of misconduct grew, the members of the RHD Task Force grew in number and eventually became the “Rampart Task Force.” The Rampart Task Force had responsibility for investigating Perez’ allegations of corruption. They worked on both administra-

“ The day after (Perez disclosed) Ovando, I said to Perez, ‘Is there anyone else wrongly in custody?’ Perez said, ‘I’d have to see the logs.’ And I said, ‘There were so many people framed you don’t know?!’ ”

Deputy DA who worked on Perez case

tive and criminal investigations. As detailed below, the department's work on both the administrative and criminal investigations resulted in significant problems that undermined subsequent prosecutions, Boards of Rights and the ability to discern the extent of corruption.

Conclusion I.9.

LAPD's Rampart Task Force Failed to Design an Investigation Appropriate for a Complex, Multi-Defendant Police Corruption Case

The Panel spoke to many investigators from LAPD and other agencies, as well as current and former federal and state prosecutors. All agreed that an investigation of a multi-defendant police corruption case designed to find out how far the corruption spreads should operate like a "widening net" where individual perpetrators are caught through wire-tapped conversations, taped interactions, paper trail evidence, witness statements and other evidence. The RHD Task Force employed some of these methods when investigating Rafael Perez for the cocaine theft. However, the Task Force did not design such an investigation when following up on Perez' allegations of misconduct. The Task Force investigations consisted primarily of ascertaining whether there were witnesses or other evidence to corroborate or refute Perez' allegations of wrongdoing. There were, for example, no stings or surveillance of officers implicated to determine whether they were still engaging in misconduct. The department appeared to lack a clear and well-defined investigative approach and strategy and did not establish a plan for inter-agency coordination.

Conclusion I.10.

As the Rampart Task Force Grew, Many Investigators Did Not Have Adequate Skills and Experience to Conduct Investigations into a Complex Police Corruption Scandal

Many of the members of the growing Rampart Task Force were younger detectives with little relevant experience. Senior detec-

tives recalled that captains seemed to choose Rampart Task Force members "arbitrarily," without consulting detective supervisors as to who had the best skill sets for the job. Some command staff recalled that some supervisors seemed to volunteer officers they wanted to get rid of for Rampart Task Force duty.

The problem of inadequate investigative skills multiplied as the size of the Task Force grew. Almost all of the Task Force members interviewed by the Panel stated that they did not know why they were selected to join the Task Force. They did not believe that they were selected due to any particular skills they maintained. Indeed, a Deputy DA recalled that an officer from the Metro Division was assigned as the lead investigator in one case; he had never conducted an investigation before.

Conclusion I.11.

LAPD Failed to Assign Case Responsibility to One Individual and Used a Team Approach that Diluted Focus, Direction and Results

Typically, senior RHD detectives have responsibility for running the case they are assigned. Although a captain or commander may oversee the case, the RHD detective has all of the relevant information and handles the day-to-day operations of the case, including making decisions regarding staffing. This was not the case in the Rampart Task Force. The senior RHD detectives on the Rampart Task Force were not allowed to select their own investigators. Task Force members recalled receiving conflicting directions from LAPD command staff regarding investigative priorities.

“ [T]hey assigned an officer from Metro Division as a lead investigator. He had never done an investigation in his life... He was a good man, but when you assign someone with no training, how can he succeed?”

Deputy DA who worked on Rampart cases

Conclusion I.12.

In Conducting the Polygraph Examination of Rafael Perez, LAPD's Polygrapher Employed Flawed Techniques that Undermined the Validity of the Examination

Rafael Perez' allegations impugned the integrity of the entire Los Angeles criminal justice system. The veracity of his allegations was central to the criminal prosecutions, administrative discipline and every other response made in connection to the CRASH crisis. LAPD's steps in attempting to establish the veracity of Perez' allegations were therefore critical to the success or failure of the CRASH crisis response. Most taskforce investigators and prosecutors interviewed by the Panel concluded that much of what Rafael Perez alleged was supported by independent facts. One supervisor familiar with the CRASH investigation testified under oath at a Board of Rights that approximately 70 to 80% of Perez' allegations had been corroborated. However, regarding the polygraph exam that was meant to determine Perez' veracity, the Panel's findings are disturbing.

LAPD administered five multi-issue polygraph examinations of Rafael Perez over several days in late November and early December 1999. LAPD's polygraph examiner subsequently concluded that Perez had tested "deceptive" on every exam.

At the request of Perez' attorney and the District Attorney's Office, polygraph experts reviewed the transcripts and results of the Perez polygraph examinations. Both the experts for Rafael Perez and the District Attorney found fundamental errors that effectively nullified the examinations. For example, LAPD's examiner used a "directed lie" approach for some of the most critical parts of the examinations. In a "directed lie" format, the examiner directs the examinee to tell a lie so he can compare his reactions when lying to his reactions when answering the other questions. The United States Department of Defense Polygraph Institute states that the "directed lie" format is not acceptable for specific incident examinations such as those given to Perez. Moreover, the polygrapher

used improper comparison questions, which are designed to cause the examinee to lie. If the comparison questions are not properly framed to cause the examinee to lie, the polygrapher will not have an adequate basis on which to compare the examinee's answers to the relevant questions.

The experts concluded that the number and magnitude of errors made in the Perez polygraph examinations were serious enough to preclude their validity. Indeed, one expert found the mistakes egregious enough to wonder whether they were deliberate. After reviewing the first polygraph examination of Perez, the expert concluded in his report: "Two assumptions could be drawn. One, that the examiner has no idea how to properly conduct a zone comparison examination[;] or two, that the examiner was trying to ensure a false positive result."

Despite the serious questions raised about the validity of the result, the polygrapher's initial conclusion that Perez tested "deceptive" appeared to have had a devastating effect on the investigations of Perez' allegations. "The longer things went on and the more problems continued, the more I began to look back and see that Perez [purportedly] failing the lie detector test had colored our view of Perez and lessened our will to pursue the cases because it made you wonder whether any of it was true," one Deputy DA recalled. "The lie detector test was a shock; it took the wind out of our sails. I think a different result would've colored the whole investigation differently."

Conclusion I.13.

LAPD's Failure to Offer Administrative Immunity Limited Effectiveness of Investigations

LAPD command staff refused to consider offering administrative immunity for officers who had witnessed wrongdoing but failed to promptly report it. A command staff officer who worked on LAPD's Board of Inquiry recalled that they had to tell every police

officer they interviewed that they could be subject to administrative action if they disclosed that were involved in or aware of misconduct that they had failed to report earlier.

This failure to offer administrative immunity discouraged officers from coming forward to provide information and assist investigations. Prosecutors felt hamstrung. “We knew that in a grand jury, the guys who were present at an alleged incident would take the Fifth [Amendment],” one prosecutor recalled. “Not because of criminal conduct, but because they knew they would get fired for failing to report the misconduct.”

Even officers who committed relatively minor misconduct would not come forward for fear of administrative action. For example, a Task Force investigator recalled discovering that an officer who probably had information about misconduct did not come forward because he had once drank a beer with Perez while in uniform.

“I understand the general purpose of the failure to report rule [administratively sanctioning officers for failing to report misconduct], but I felt here it was used as a sword not as a shield.”

Deputy DA who worked on Rampart cases

Had the department been willing to provide administrative immunity for relatively minor infractions, officers with information would likely have come forward to assist in the investigations.

Conclusion I.14.

Conflicts of Interest Undermined the Investigations

When making assignments to the RHD Task Force (and subsequently the Rampart Task Force), the department did not screen personnel for potential conflicts with the investigations’ target officers. As a former command staff admitted, “We were just thinking about how to do it, not who was doing it.”

The persons overseeing the investigations had numerous conflicts. For example, a lieutenant assigned to the Task Force was the patrol watch commander at Rampart Division when much of the misconduct occurred. While this does not in and of itself indicate any misconduct, it illustrates the department’s failure to recognize the inherent conflict of occupying both of those positions. In addition, a command staff officer assigned to supervise the Task Force had sat on the Use of Force Board for one of the officer-involved shootings that Perez subsequently identified as bad. The Use of Force Board had found the shooting “in policy.”

A number of the investigators assigned to the Rampart Task Force had conflicts. In one instance, two Metro officers assigned to interview a potential victim of misconduct had worked with the target of the investigation. A Task Force member familiar with the interview recalled that tapes of the interview revealed that these officers were questioning the victim “not to discern real truth but to confront him with things to muddle the real truth.”

Conclusion I.15.

LAPD Focused Disproportionately on Pursuing the Board of Inquiry and Administrative Investigations to the Detriment of Criminal Investigations

In early 2000, when prosecutors needed criminal investigators as they raced to complete criminal investigations and prepare for prosecutions, the department was allocating significant resources toward pursuing administrative cases. At the same time, the department diverted significant resources to its internal Board of Inquiry into the CRASH crisis. Deputy DA’s recalled that crim-

“If we knew someone had just come from [Rampart Division], we wouldn’t put them on [Rampart Task Force]... But here, we didn’t have the luxury [to do more substantial vetting for conflicts].”

LAPD Command Staff who worked on Rampart Task Force

inal investigations languished as investigators were pulled off their cases to pursue Boards of Rights or work on the Board of Inquiry. “It was maddening,” one Deputy DA recalled. “We would lose them for weeks at a time while they worked on the Board of Inquiry... We were trying to do criminal investigations. We felt that the Board of Inquiry could be done a year from now.” The DA’s office repeatedly requested that LAPD assign more officers to the criminal investigations.

“We continue to be concerned that the number of detectives on the ‘criminal’ investigation side of the RHD/Rampart Task Force remains depleted at a time when our investigative needs are increasing.”

April 18, 2000 letter from DA’s Office to Command Staff in Rampart Task Force

Rampart Task Force command staff and supervisors who spoke to the Panel stated that they felt compelled to aggressively pursue administrative cases because, at that time, the City Charter provided that all administrative investigations must conclude within one year.⁷⁹ They also conceded, however, that the department

should not have devoted so much energy to pursuing relatively minor infractions like drinking on duty at “mug parties” when allegations of shootings went neglected.

Conclusion I.16.

The Department’s Disproportionate Focus on Pursuing Administrative Cases Resulted in Contamination of Criminal Investigations

Trying to satisfy the one-year limitations period for administrative actions, the department treated many investigations as administrative inquiries at the outset, then had to convert them to criminal investigations when it became clear they entailed criminal misconduct. This often led to the criminal investigations being tainted with compelled statements made in the course of the administrative phase of the investigations. Although police officers can be compelled to provide a statement in administrative

investigations, that statement, and any information stemming from it, cannot be used in a criminal investigation.⁸⁰ Thus, if an investigating officer learns of information from a compelled statement, that officer cannot conduct a criminal investigation where he or she could use the compelled information.

When LAPD submitted criminal investigative materials to the DA’s Office and the U.S. Attorney’s Office, prosecutors found much of the information was included in or stemmed from compelled administrative statements and therefore had been contaminated. Prosecutors had to delay proceeding with criminal cases until they ensured the cases were clean of all tainted information. Indeed, in mid-March 2000, the DA’s Office described its investigations as “frozen” due to their realization that virtually every investigating officer on the criminal cases had been exposed to administratively compelled statements.

Shortly after the United States Attorney’s Office and the FBI became involved in the investigations, in early March 2000 — almost six months after Perez’ allegations launched the DA’s criminal investigative efforts — the U.S. Attorney’s Office provided roll call training to Task Force members on separating administrative and criminal investigative information. Some officers on the Task Force maintain that they had not heard about the importance of this issue prior to the U.S. Attorney’s involvement. However, several members of the District Attorney’s Office stated that they had repeatedly stressed to the department the importance of separating administrative and criminal investigations.

“LAPD didn’t grasp, or willfully refused to grasp, Lybarger problems.”

Deputy DA who worked on Rampart Investigations

Conclusion I.17.

Most LAPD Rampart Task Force Investigators Did a Professional Job Investigating Perez' Allegations of Police Misconduct, Despite Challenges

Rampart Task Force investigators faced significant challenges, including witnesses with criminal backgrounds, cold trails of evidence, massive political pressure conducting investigations in

“I wouldn't put myself through it [again], I wouldn't require anyone who worked for me to do that and I wouldn't put my family through that.”

LAPD Lieutenant (describing his experience on the Rampart Task Force)

the middle of a scandal and the resentment and non-cooperation of fellow officers. The Panel spoke to several current and former officers who described these challenges inherent in investigating these allegations of police misconduct. Many of the incidents being investigated were several years old. The investigators were under heavy pressure to complete their investigations before statutes of limitations expired and precluded prosecution of the alleged misconduct. Many of the victims of the misconduct were gang members with substantial criminal histories. Their credibility problems increased the pressure on investigators to find independent corroborating evidence. Moreover, many potential victims and witnesses had moved in the intervening years since the incident and could not be located. When they were found, many witnesses had problems remembering details of years old incidents.

The investigating officers also described the hostility they encountered within the department. They received harassing phone calls, and one investigator reportedly received threats so serious that he was assigned SWAT officers to guard his home. One Internal Affairs officer recalled that others in the department felt that “Perez was a liar [and] for us to take him seriously and ruin the lives of so many officers was typical of what IA investigators were doing.” The investigators themselves were ambivalent about their

mission. “You could see them struggling,” one Deputy District Attorney who worked with them recalled. “[The misconduct] wasn't right, but he is a cop.” The investigators' reactions illustrate the conflict of interest inherent in the department attempting to investigate itself.

Conclusion I.18.

A Small Number of LAPD Investigators on the Rampart Task Force Undermined the Criminal Investigations

Although the vast majority of Task Force members were honest and hardworking, witnesses in the department and the District Attorney's Office observed that a small number of officers appeared to undermine the criminal investigations. Several expressed their belief that these officers were trying to protect their fellow officers under investigation. “Normally, working with an investigating officer, you are on the same ” “[In this case,] we found they were conflicted. It was like prosecuting a family member.” Others observed that some investigating officers were so disgusted by Perez' misconduct, they rejected anything he said out of hand. As one member of the Task Force put it, “In the minds of some investigators—and many in the Police Department—Perez was a liar who could not be trusted. No matter what he said, they would not believe him.” As a result of their emotional rejection of Perez, they failed to objectively ascertain whether his allegations held any truth.

Several members of the District Attorney's Office blamed LAPD command staff for the problems their office encountered with the LAPD investigators. For example, when they tried to get LAPD to assist in getting a search warrant of several suspect officers' homes,

“The detectives, LAPD, during the trial were sitting on the opposite side [of the courtroom], behind the defendants. And at the [guilty] verdicts, I saw a detective shaking his head. He was supposedly helping us.”

Deputy DA who worked on Rampart cases

the Task Force lieutenant refused to fulfill his normal role as the affiant. Eventually, a Deputy DA signed the warrant application himself, and the DA's Office used its own investigators to execute the warrant. An LAPD command staff member called the officers' attorneys and tipped them off regarding the warrant's execution. The department took no disciplinary or criminal action against the person or persons responsible for the leak. Law enforcement experts agreed that in any other circumstance, leaking a search warrant would have been considered obstruction of justice and risking the safety and well being of officers charged with executing the warrants in a safe and timely manner.

On the eve of the criminal trial against four officers, the court precluded the prosecution from introducing numerous witnesses because LAPD had not turned over their names in a timely fashion. Defense attorneys for the accused officers obtained information that the prosecution did not receive. One expert witness familiar with the prosecutions stated that a few LAPD investigators had passed material to defense counsel for the officers. Some of the investigating officers working with prosecutors during the trial failed to carry out basic duties they normally did in other criminal prosecutions, such as protecting testifying witnesses to shield them from angry bystanders. During the trial, some of the investigating officers sat on the defendants' side of the courtroom—a clear breach of courtroom protocol during a criminal prosecution.

Several members of the DA's office observed that as the scandal grew, and the DA's prosecutorial efforts increased, LAPD appeared to focus on containing the scandal rather than conducting a thorough investigation. The DAs found the lack of cooperation from some LAPD investigators and LAPD command staff so disturbing that they reportedly convened a grand jury to investigate.

Conclusion I.19.

The Lack of Cooperation between LAPD and the DA's Office Hindered Progress in the Investigations

The Deputy DAs who worked on the Rampart prosecutions recalled that in mid-March 2000, they stopped receiving information and materials from LAPD investigators. "I had a case," one prosecutor recalled. "I asked for discovery from an investigator I had worked with for many years. He said, 'I have been ordered not to give it to you.'" Deputy DAs began writing formal correspondence memorializing LAPD investigators' refusal to turn over materials.

This Panel interviewed several Rampart Task Force members, many of who expressed confusion regarding whether they had been

ordered by LAPD command to stop cooperating with the DA's Office. All of the Task Force members agreed, however, that the breakdown in the relationship with the DA's office — and the accompanying correspondence between the DA's Office and the department — was unprecedented and damaging. They believed that the

correspondence demonstrated a high-level management conflict between the DA's Office and LAPD.

After the City Attorney's Office, the Attorney General's Office and the Mayor's Office intervened, LAPD agreed to provide materials simultaneously to the DA's Office and the U.S. Attorney's Office.⁸¹ Although LAPD command staff subsequently denied that it had stopped cooperating with the DA, an investigation by the Office of the Inspector General found that LAPD did stop cooperating with the DA's Office. The OIG further found that the then Chief unnecessarily criticized the DA in violation of LAPD policy, made misleading statements when he said that the DA had deliberately fabricated the dispute and during the course of the OIG's investigation.⁸²

“ I think the goal of LAPD was damage control. They wanted to continue to avoid outside influences... I think they were confident they could weather the storm and minimize liability... If along the way we get a prosecution, fine.”

Deputy DA who worked on Rampart cases

Regardless of who bore responsibility for the breakdown, there is no dispute that it severely hindered prosecutorial and investigative efforts. The March 2000 breakdown is the most egregious example of the failure by the department to focus on the larger mission of the prosecutions and determining the full extent of the scandal.

Conclusion I.20.

Many Believe that Justice Was Not Served

Several officers told the Panel that they believe that officers who were culpable in the CRASH corruption escaped sanction; they remain in the department and, in some cases, have been promoted. Many also believe that innocent officers were unfairly investigated or prosecuted and the lives of several officers were arbitrarily destroyed.

Unanimously, criminal defense attorneys and civil plaintiffs' attorneys believe that the extent of the corruption was covered up, guilty officers got away and innocent people remain in prison. Indeed, the record is so muddled that one of the most knowledgeable judges in the CRASH crisis questioned why if there were so many other culpable officers, so few were prosecuted.

LAPD'S BOARD OF INQUIRY

LAPD convened the Board of Inquiry in September 1999, shortly after Perez' allegations became public. The Board of Inquiry published its report in March 2000. The department dedicated a significant amount of its resources to the Board of Inquiry. The Board of Inquiry Acknowledgements list over 200 command staff and officers who worked on the report and recognize that many other LAPD officers and employees provided input into the Board of Inquiry.

Conclusion I.21.

Conflicts of Interest Ran through the Board of Inquiry

The department did not screen officers to ensure that people working on the Board of Inquiry did not have actual or apparent conflicts of interest. Indeed, one police officer whom Perez had identified as being "in the loop" and knowing about police misconduct was acknowledged in the Board of Inquiry as a contributing staff member.

Some of the conflicts appear to be deliberate. For example, the Board of Inquiry assigned the then head of LAPD's Personnel Group to head the Subcommittee on Personnel Profiles. The department probably assigned these people because of their expertise, but failed to acknowledge the potential conflicts in assigning individuals to review their own work areas and possible mistakes. Thus, the deputy chief and commander in charge of operations for an LAPD bureau headed the subcommittee investigating the existing management and structure for LAPD's areas and bureaus; the commander in charge of the detective divisions headed the subcommittee on corruption investigative protocol; and the commander in charge of the Internal Affairs Group reviewed LAPD's criminal and administrative investigations of officer-involved shootings.

In several instances, officers interviewed their superiors on critical issues. For example, a sergeant from Internal Affairs interviewed the Internal Affairs commander and captain regarding corruption

“The scope of the [Board of Inquiry] interview [of me] was very elementary. I was surprised. No one would conduct a credible investigation like that. The purpose of the Board of Inquiry was to get the Chief of Police as much information as quickly as possible to manage the scandal.”

Retired LAPD Command Staff

investigative protocol. Given their subordinate positions, and the fact that their superiors may determine their future career prospects, the subordinate interviewing officers may not have been willing to confront their supervisors or ask the kind of penetrating questions that were necessary. This is particularly so given the paramilitary culture of LAPD.

In another example, a former command staff recalled that the Board of Inquiry interviews regarding Rampart Division's supervision and management were conducted by the former adjutant and lifelong friend of the deputy chief in charge of Central Bureau—the bureau responsible for Rampart. In fact, although it acknowledges a failure of leadership at Rampart Division, the Board of Inquiry does not assign any blame to bureau command.⁸³

Conclusion I.22.

The Board of Inquiry Report Omitted Critical Information in Its Discussion of Personnel and Hiring

Chapter 2 of the Board of Inquiry Report discusses hiring practices and identifies issues in the backgrounds of four police officers whom Perez identified as having committed misconduct. The Board of Inquiry implies that the City's Personnel Department should bear the brunt of the blame for hiring problematic applicants who should never have been deemed qualified for hire.⁸⁴ Among other things, the Board of Inquiry recommends that the Chief of Police, rather than the Personnel Department, be granted ultimate authority to deem a candidate qualified and suitable for hire.

The Board of Inquiry's discussion of hiring practices fails to mention, however, that prior to 1992, the Personnel Department only reviewed the files of candidates that LAPD had recommended for disqualification, and did not review the files of those candidates deemed qualified by LAPD. The large majority of officers implicated in the CRASH crisis were deemed qualified by LAPD and hired before 1992. Similarly, the Board of Inquiry fails

to mention that at the time of its report LAPD officers themselves conducted all background investigations.⁸⁵ Moreover, the Personnel Department has publicly disputed the Board of Inquiry's specific findings regarding the background and hiring of the four officers discussed in the Board of Inquiry Report.⁸⁶

Conclusion I.23.

"Affirmative Action" Did Not Cause the Rampart CRASH Crisis

Perhaps due to the Board of Inquiry's discussion of hiring practices, several persons who spoke to the Panel speculated that the CRASH crisis was due in large part to poor hiring standards and the department being forced to hire unqualified candidates under an "affirmative action" mandate. However, an analysis by the City Personnel Department, conducted at the request of this Panel, suggests that this contention is unfounded. Experts in the Personnel Department reviewed the background investigation and psychological evaluation files of randomly selected recruits hired in 1989-90, 1992-93 and 1996-97, years in which CRASH suspects entered the department.⁸⁷ In addition, the experts reviewed the background investigation and psychological evaluation files of seventeen current or former LAPD officers implicated in the CRASH crisis. The Personnel Department experts found no instance where a candidate failed to meet the LAPD's background or psychological standards. Moreover, the experts found no meaningful difference in the application of background and psychological standards to candidates of varying race or ethnicity. In any case, "affirmative action" could not explain white CRASH officers involved in misconduct or the conduct of others hired prior to the use of "affirmative action."

A summary of the Personnel Department analysis is included as Appendix D.

Conclusion I.24.*The Board of Inquiry Limited Investigations into the Extent of Misconduct*

In assessing the extent of police corruption, the department limited its analysis in the Board of Inquiry to conducting selected interviews and reviewing arrest reports and use of force reports. The department did not track complaints, conduct stings or do any other investigations to identify possibly corrupt officers.

Persons who worked on the Board of Inquiry described for the Panel their methods of identifying and investigating potential misconduct. They reviewed prior cases and search warrants involving selected Rampart CRASH officers. If the reviewer found a report that looked suspect, LAPD investigators would take the report to Rafael Perez and question him about the case. They did not conduct any independent investigation into the matter prior to consulting with Perez. Veterans of LAPD and other law enforcement experts advised the Panel that—particularly in this case where Perez’ credibility was a key issue—investigators should have conducted an independent investigation so they knew more about the case than Perez before consulting him.

According to the Board of Inquiry, the department also conducted “a trend analysis of sample cases of other specialized units throughout the department to determine if patterns emerged similar to those that occurred in Rampart Area.” (Board of Inquiry at 22.) The Board of Inquiry’s report did not contain any analysis of several specialized units, including Metro Division. According to people who worked in the Board of Inquiry’s work product working group, staff attempting to review Metro Division files to pursue the records of Rampart CRASH alumni who had graduated into Metro found that sergeants’ logs for two months were missing. When they asked to launch a broader inquiry into Metro, they were told it would not happen because Metro was untouchable.

The department did not conduct any investigation into these missing logs but contends that it recompiled the information contained therein. The Board of Inquiry states that an audit of Metro Division was begun but not completed in time for the report. That audit was apparently never completed.

Conclusion I.25.*LAPD Failed to Issue Follow Up Reports on Incomplete Investigation Areas*

The Board of Inquiry stated that the department would issue follow up reports that, among other things, would include the results of the audits left unfinished by the Board of Inquiry, including the audits of Metro and other specialized units. As discussed below, these follow-up reports, collectively referred to as the after-action report, were never issued. The reasons for this failure remain unexplained, notwithstanding the value such audits and analyses may have had in illuminating systemic problems or issues and the obvious bearing on preventing another scandal.

The After-Action Report**Conclusion I.26.***LAPD Failed to Fulfill Its Commitment to Produce an After-Action Report on the CRASH Crisis*

When LAPD issued its Board of Inquiry, it stated that it was “the first of at least two reports.” (March 1, 2000 Memorandum from Chief of Police to Board of Police Commissioners, accompanying Board of Inquiry.) The department stated that it would release a second report publicly disclosing the “exact nature and disposition of each allegation” of police corruption. (Id.) The department expected to issue this follow-up report approximately one year after publishing the Board of Inquiry Report.

More than six years after publication of the Board of Inquiry, no after-action report has been published. It is widely accepted that no such report will ever be released by LAPD. As a result, the public will never know whether or to what extent the allegations of corruption and misconduct were investigated and what the department learned. Indeed, this Panel's report will be the closest thing LAPD has to an after-action report. No one accepts responsibility for this failure. However, it appears that the blame must be shared among the Police Commission, prior LAPD leadership and other City officials who may have had the power to get the report finished. It appears that nobody had the desire or political will to complete the after-action report and address the questions that would have obviated the need for this Panel.

In the spring of 2002, the *Los Angeles Times* published an article reporting that the promised after-action report, originally to be published in early 2001, was now more than a year overdue.⁸⁸ At that time, LAPD officials stated that the report was "weeks, if not longer, away from completion." The article quoted the LAPD commander in charge of writing the after-action report as saying, "The chief committed to [issuing the report], and that commitment will be met."

Following the *Los Angeles Times* article, the Police Commission made repeated requests for the after-action report. However, by the time William Bratton took over as LAPD Chief in October 2002, no report had been issued. In February 2003, Chief Bratton called the department's effort to account for its handling of the Rampart scandal "totally inadequate," and called for an independent blue ribbon panel to address the issue. The Police Commission agreed and, in July 2003, appointed this Panel "to investigate and review the response by the City and others to the Rampart Area scandal in order to determine the extent to which the underlying causes for the scandal have been identified and addressed."⁸⁹

Conclusion I.27.

LAPD Cannot Provide an Acceptable Explanation for the Failure to Produce the After-Action Report

The Panel attempted to discern why the department was unable to issue an after-action report. Panel investigators interviewed the former LAPD command staff who had been responsible for writing the report. He told investigators that he had envisioned the need for an after-action accounting soon after the department began investigating the Rampart scandal. Accordingly, he reported that he had told managers in charge of the department's administrative and criminal investigations to keep track of what they did and why. Eventually, he did receive three draft reports: one discussing LAPD's handling of administrative investigations related to the Rampart scandal; one discussing the department's handling of Rampart criminal matters; and one discussing the department's handling of Rampart related Boards of Rights. He recalled, however, that these draft reports were totally unacceptable in that they had little or no factual support for their conclusions.

He recalled that the Police Commission and the Interim Chief had been asking for the draft report. Eventually, he provided the draft reports to the Interim Chief. He recalled that the Interim Chief was similarly unhappy with the drafts. He believed that the Interim Chief showed or circulated the drafts to the Commission and discussed them with them in closed session.⁹⁰

Although he recalled being unhappy with the draft reports he received, the former commander asserted that he could not remember who had responsibility for completing the drafts or who provided them to him. Given the pressure he reportedly received from the Interim Chief and the Police Chief, and the negative reaction he described upon reviewing the drafts, the Panel cannot accept this assertion and does not find it credible. As a result, this refusal to identify the persons responsible for drafting the various sections of the after-action report limited the Panel in its investigation of this issue.

Rampart Boards of Rights

Conclusion I.28.

The Rampart Related Boards of Rights Largely Failed

The Panel identified approximately 400 internal investigations commenced by the department relating to the CRASH crisis. Approximately eighty-six of these investigations resulted in internal Boards of Rights. These numbers are approximate because the Panel was unable to obtain complete information regarding the Rampart related Boards of Rights. The department's failure to maintain any kind of centralized repository of Rampart CRASH material forced the Panel to reconstruct the profiles of Rampart related administrative investigations and Boards of Rights, including complaint file numbers and names, before Professional Standards Bureau could provide the Panel with any Rampart related Boards of Rights material. PSB subsequently expended over three hundred hours overtime to provide the Panel with as much Boards of Rights information as possible, but had this information been properly maintained, such an effort would not have been necessary. The Panel was forced to cobble together the relevant Boards of Rights information from disparate offices including the District Attorney's Office, the City Attorney's Office, LAPD's Risk Management and the files of private attorneys. Through these efforts, the Panel obtained information for eighty-six Rampart related Boards of Rights. LAPD does not know how many such Boards it conducted, but the Panel estimates that this is constitutes most of the cases tried.

The vast majority of the Boards of Rights the Panel identified stemming from the Rampart CRASH crisis resulted in findings of not guilty.⁹¹ In many instances, the department convened Boards of Rights against officers for conduct that was relatively minor

compared to the criminal misconduct alleged. For example, the department proceeded against a number of officers for failing to report misconduct.

The City Charter required that the department charge administrative matters involving no criminal misconduct within one year of discovering the conduct. The department's rush to complete these administrative cases within the limitations period drained valuable resources from criminal investigations. Moreover, the department sent several of these matters to Boards of Rights before it had completed their investigations.

The Panel reviewed transcripts from a number of the Boards of Rights related to the CRASH crisis. Based on its review, the Panel identified numerous disadvantages faced by the advocates prosecuting these cases on behalf of the department. In many instances, the department advocates—mainly sergeants with no formal legal training—were simply outmatched by the seasoned private defense attorneys representing accused officers. The advocates found themselves unable to effectively

respond to many of the legal arguments made by defense counsel, including such basic issues as whether the statute of limitations precluded the charges. In some cases, it appeared that the advocates had not received adequate time to prepare their cases. Their main witnesses were often gang members with long criminal histories or, in some cases, Rafael Perez himself. Even absent their credibility problems, these witnesses posed challenges due to memory lapses regarding incidents that occurred years earlier. An advocate in a Board of Rights often found himself unable to produce police officer witnesses who had resigned and refused to appear.

In addition, the Panel noted that several Boards of Rights members seemed inclined against finding officers guilty in these cases.

“ [A captain who reviewed the Rampart CRASH Boards of Rights] said, ‘These Boards of Rights are asking for 78% not 51%.’ ”

Lieutenant who worked on Rampart Task Force (discussing burden of proof for Rampart Boards of Rights)

Although a Board of Rights is supposed to apply a standard of preponderance of evidence, many of these Boards of Rights seemed to apply a much heavier burden. In several instances, the Boards of Rights would discount testimony given against an accused officer by witnesses with criminal histories. Yet, the same Boards found jailhouse snitches testifying against Perez “very credible,” despite their criminal histories.

The Boards seemed to discount any testimony provided by Rafael Perez. At least one Captain announced before a Board of Rights began that he would not make any finding of guilt based on Perez’ testimony. Task Force investigators who testified at Boards of Rights recalled that they were attacked for taking Perez’ allegations seriously enough to investigate. “They were putting my character on the stand,” one investigator recalled. “Asking would I side with a ‘pathological liar.’”

Everyone interviewed agrees that the Boards of Rights process has improved significantly. Under Chief Bratton, the department has reserved the Boards of Rights process for only the most serious cases. As a result, the number of Boards of Rights has decreased dramatically—from 151 in 2002 to forty-five in 2004. Training and skill levels for department representatives have improved markedly. Even defense attorneys who represent accused officers admit that the cases the department presents at Boards of Rights are more thorough in terms of investigation and presentation.

However, the Boards of Rights still appear problematic in consistently and fairly establishing the guilt or innocence of an officer and assessing appropriate penalties. Members of the Panel personally observed selected Boards of Rights and reviewed transcripts and rationales of others. Sergeants who serve as department advocates still appear outmatched by private defense attorneys representing accused officers in some cases. Despite PSB’s training efforts, there still appears to be some confusion among those who sit on Boards of Rights as to whether legal arguments (such as statutes of limitations or hearsay rules) should be considered.⁹²

Moreover, the Panel is aware of several recent Boards of Rights that have reached troubling outcomes. For example, last year, a Board of Rights found a former Rampart officer not guilty of misconduct for which a jury had found him guilty.⁹³ The Panel reviewed the Rationale of that Board’s finding and concluded that the Board appeared to strain to reach for that finding—stating incorrectly that the officer had been found not guilty at trial, discounting several witnesses who testified against the officer and relying heavily on the testimony of the accused officer who claimed innocence and another officer who had also been criminally charged and found guilty by a jury for his conduct in the incident.⁹⁴

LAPD Self-Investigation

Conclusion I.29.

LAPD Failed in its Attempt to Investigate Itself in Connection with the Rampart CRASH Crisis

As the above findings make clear, LAPD failed in its attempts to conduct its own investigations into the CRASH crisis. Indeed, if the department had intentionally tried to develop a plan to mask the extent of CRASH corruption and limit the number of officers punished, it could not have had a better plan.⁹⁵

LAPD is not unique in its inability to investigate itself. No institution can investigate itself during a crisis of the magnitude of the CRASH crisis. The intense vortex of fear and pressure during such a high stakes, high profile crisis would produce reactive and defensive responses from any agency which would preclude the objective and clear-eyed perspectives needed to properly frame the investigations.

“ We are not going to cause injury to ourselves in an investigation... That is not just in our organization. In medical or teaching professions, there is a practice of protecting your own.”

LAPD Supervisor who worked on Rampart Task Force

Even assuming an agency could adequately investigate itself, its investigations would never have the credibility afforded to an outside investigation.

It is the Panel's view that institutional pride can breed institutional denial. This denial is evidenced in the conflicts that the department's investigating officers felt in pursuing fellow officers during the CRASH crisis.

Recommendations For LAPD'S Prevention Of And Response To The Next Large-Scale Corruption Crisis

Recommendation I.1.

The Department Should Not Ignore Early Indicators of Larger Problems

The department cannot ignore early warnings such as those evident leading up to the CRASH crisis. As discussed in the Road Ahead above, the Panel became aware of several recent troubling incidents involving signature behaviors of the CRASH crisis that failed to provoke strong intervention from first line supervisors. The department must examine these incidents and take appropriate action to ensure that they are not indicators of larger problems and examine the possibility that department norms may also be part of the problem.

Recommendation I.2.

Develop Conflicts of Interest Policy

As discussed above, conflicts of interest not only contributed to the CRASH corruption crisis, they hindered the department's ability to investigate and respond to the crisis. Conflicts of interest ran

through the department's criminal and administrative investigations and its internal Board of Inquiry.

In order to prevent actual and apparent conflicts of interest such as those that occurred during the CRASH crisis, the department should develop a written conflicts policy. The policy should provide guidelines for staffing officers to divisions, specialized units and special task forces such as the RHD/Rampart Task Force. For example, the guidelines should prohibit an officer from working on an investigation involving any officer with whom the investigating officer has previously worked.

Recommendation I.3.

Implement Anti-Retaliation and Whistleblower Protections

The department must implement effective anti-retaliation and whistleblower protection systems to be run by a dedicated office within LAPD. The department recently released a new anti-retaliation policy with explicit whistle-blower protections. Creating a dedicated office to investigate retaliation complaints and enforce whistleblower protections would allow retaliation investigators to develop special skills, and receive training from anti-retaliation experts. Current staffing levels and resources for the new policy do not appear adequate.

Recommendation I.4.

Dedicate Additional Resources to Protecting Evidence Storage Facilities

Although safeguards at evidence storage facilities have improved since the Rampart CRASH crisis, vulnerabilities remain. At a minimum, the department should equip its evidence storage facilities with cameras for continual monitoring. Moreover, the Property Division should be given adequate staff to conduct regular audits and inventories, particularly of its narcotics.

Recommendation I.5.

Develop Protocol for Investigating Serious Police Misconduct Cases as Police Corruption Cases with Systemic Implications

When investigating serious misconduct by a police officer, the department should from the outset treat the case as one with possible systemic implications. Thus, for example, in addition to investigating the discrete criminal activity of the target officer, the department should examine the supervision failures and cultural systems that shielded and possibly gave rise to the corruption. The department should immediately develop a protocol for conducting such investigations; it should not wait until the next misconduct case arises.

Recommendation I.6.

LAPD Should Transfer Investigation of the Next Large Corruption Crisis over to a Properly Resourced, Independent, Multi-Agency Investigation Force

Given the results of the response to the Rampart CRASH crisis, investigation of the next LAPD corruption scandal should be handed over to a fully resourced, independent taskforce of outside experts who receive full cooperation from the Chief of Police and the department. The taskforce should include relevant expertise from the LAPD Inspector General, LAPD leaders without conflicts or possibility of involvement in the alleged corruption, FBI police corruption investigators, LA County District Attorney's Office, the United States Attorney's public and police corruption units, the State Attorney General's office, expert police reform investigators like the Police Assessment Resource Center, and the LA County Sheriff's Office of Independent Review.

The investigations should be designed to capture widespread, multi-defendant criminal activity, with stings, wiretaps and field investigations. Several LAPD veterans and law enforcement experts cited the Los Angeles Sheriff's Department's "Big Spender" scandal of the late 1980's as a model of this open approach. In that

instance, the Sheriff's Department immediately invited federal authorities in to investigate potential criminal misconduct by its officers and cooperated fully with the federal investigation.

Recommendation I.7.

Prioritize Criminal Investigations

The department has substantially separated administrative and criminal investigations. In the next police corruption crisis, the department should prioritize the investigations of potential criminal misconduct. Thus, the department should dedicate adequate staff and resources toward assisting in the criminal investigations and should defer administrative investigations and inquiries until the criminal investigations are substantially completed.

In addition, the Chief of Police should consider offering limited administrative immunity for less serious administrative infractions to assist in building criminal investigations.

Recommendation I.8.

Defer Conducting Internal Analyses, such as the Board of Inquiry, Until Criminal Investigations Are Largely Completed

The department's prioritization of criminal investigations should include deferring internal analyses if necessary. Internal analyses of systems, while important, are not as time-sensitive as criminal investigations and should therefore be deferred until criminal investigations are largely completed.

Recommendation I.9.

When Conducting an Internal Analysis of a Large-Scale Corruption Crisis, the Department Should Conduct an Unlimited Assessment of Systems and Should Bring in Outside Experts

The department's internal analysis of a large-scale corruption crisis should consist of a wide-ranging, department-wide assessment of

systems and patterns. Outside police experts should be brought in to consult with LAPD on how to structure and plan its internal systems inquiry. Moreover, outside experts could review the department's assessment before completion to identify areas of inquiry the department may have missed.

Recommendation I.10.

Produce a Thorough and Credible After-Action Report for Public Distribution

The next time a large-scale corruption crisis occurs, the department should produce a credible and thorough assessment of its own response to the crisis. The report should include, if appropriate, set forth the resolution of all allegations of misconduct. The report should be publicly available.

Recommendation I.11.

The Current Boards of Rights System Should Be Replaced

The current Board of Rights system that pits officer representatives with no legal training against seasoned defense attorneys and under which the department lost approximately two thirds of the CRASH-corruption cases, to be replaced by a system which prosecutes the most serious cases of misconduct with department attorneys who are experts in police policy and culture. This new prosecution function should be assigned to a new Police Commission unit.

The Panel also recommends that captains should be assigned to a full year of exclusive Boards of Rights duty to avoid the drain on other captains' responsibilities and the debilitating delays that undermine timely prosecutions.

II. PROSECUTORIAL AGENCIES

Conclusions Regarding Prosecutorial Agencies And The Rampart CRASH Crisis

The District Attorney's Office

Conclusion II.1.

At the Time of the CRASH Crisis, the DA's Office Was Not Sufficiently Proactive in its Approach toward Police Corruption in Los Angeles County

At the time of CRASH corruption crisis, the Los Angeles DA's Office was not proactive enough in its approach to police corruption. Generally, at that time, the DA's Office would wait for a "crisis," such as the CRASH corruption scandal, then scramble to put together a task force to deal with it. As one member of the DA's Office described their approach to police corruption at that time, "we sit on our bottoms until something is reported in the LA Times or someone brings us something and then we say to LAPD, 'hey bring us something.'" Other members of the DA's Office acknowledged that, perhaps by necessity, the DA's Office must work on the assumption that each police department can prevent corruption and, except in unusual circumstances, can adequately investigate such corruption when it occurs. Indeed, some members of the DA's Office observed that the decision to dedicate significant resources to the CRASH crisis was itself unusual.

“ The DA, in Los Angeles and throughout State, [traditionally] act almost helpless in the face of police corruption. ”

Deputy DA who worked on Rampart cases

In December 2000, the DA's Office created the Justice System Integrity Division ("JSID") to handle all police corruption investigations in addition to crimes affecting the integrity of the justice

system. The establishment of a specific unit to address police corruption is a significant improvement. It is important, however, particularly in light of the fact that JSID investigators presume that police police themselves, that JSID be proactive and use a variety of investigative techniques to root out corruption before it becomes a crisis.

Conclusion II.2.

The DA's Office Did Not Adequately Staff the RHD Task Force Prior to Perez' Disclosure of Widespread Corruption

LAPD formed the RHD Task Force in May 1998. At that time, LAPD asked for assistance from the DA's Office. A veteran prosecutor from the DA's Office briefed the Task Force on some of the more challenging aspects of a complex narcotics investigation (e.g., the required showings for obtaining a wiretap). However, the DA's Office did not get involved in the Task Force on an ongoing basis at that time.

In early July 1998, a Deputy DA joined the RHD Task Force. As discussed above, the RHD Task Force was investigating several issues. However, the Deputy DA assigned to the Task Force worked exclusively on Rafael Perez' theft of narcotics. No one from the DA's Office worked closely with the Task Force regarding the other issues under the Task Force's purview. The Deputy DA who worked with the Task Force stated that he did not feel that he needed additional staff. He acknowledged, however, that Task Force investigators expressed frustration with the lack of DA staffing.

Judging from the resources it dedicated to the RHD Task Force, the DA's Office did not focus on the systemic implications of Perez' cocaine theft and the other areas of police corruption investigated by the RHD Task Force.

Conclusion II.3.

The DA's Office's Did Not Adequately Staff and Supervise the Trial, Plea and Subsequent Interrogations of Rafael Perez

The Deputy DA assigned to the RHD Task Force had never before taken a police corruption case to verdict. Although he had worked in the DA's public corruption unit, most of his public corruption experience related to judges and other non-law enforcement officials. Working with little or no supervision, this individual tried the initial drug case against Perez, subsequently negotiated and accepted Perez' plea, and led the interrogations of Perez on behalf of the DA's Office.

“ [One of the RHD Task Force Detectives] kept saying, ‘We have 20 or 40 detectives and one f---ing DA.’ ”

Deputy DA who worked on Rampart cases

The criminal narcotics trial of Perez ended in a mistrial after the jury deadlocked. As the Deputy DA prepared for a retrial, the RHD Task Force uncovered additional narcotics thefts likely committed by Perez. The Deputy DA continued to add charges to the indictment. Before the retrial began, the Deputy DA offered Perez a deal of five years in prison and immunity for undisclosed criminal misconduct, if he pled guilty and cooperated with authorities. The deal included a condition that if Perez were involved in any acts of violence, the deal would be off and Perez would receive no immunity. Initially, Perez did not accept the deal. As the retrial began, however, Perez advised the court and the Deputy DA that he wanted to accept the plea deal but there was a problem. The Deputy DA agreed to grant Perez limited use immunity for purposes of disclosing the problem. At that time, Perez stated that he and his partner had shot Javier Ovando and covered it up, but that Ovando had not died from the shooting. After discussing it by phone with his bureau director, the Deputy DA agreed to grant Perez immunity for the shooting and grant derivative use immunity for other uncharged criminal acts (provided Perez was involved in no other use of force incidents resulting in great bodily injury or death).

In accepting the plea of Rafael Perez and granting him derivative use immunity for uncharged criminal acts, the DA's Office failed to fulfill the procedures necessary for Perez to be immunized from federal prosecution. Indeed, the United States Attorney subsequently prosecuted and convicted Perez under federal law. The former Deputy DA who was involved in the plea maintained that all of the parties and the judge taking Perez' plea believed that the DA's grant would immunize Perez from federal prosecution. However, several current and former prosecutors told the Panel that they would have known that additional steps would be required to secure immunity for Perez under state and federal law. It does not appear that the issue was seriously considered by any of the parties involved, and the DA's Office apparently had no protocols in place regarding how to handle immunized testimony that might implicate federal crimes.

Only after Perez entered his guilty plea did the Deputy DA realize that Ovando had been criminally prosecuted based on Perez and Durden's cover up. The Deputy DA recalls being "completely speechless" when he learned that the DA's Office had charged Ovando with assaulting a police officer and brandishing a weapon. He soon learned that Ovando had been convicted by a jury after Perez and Durden testified. The judge had sentenced Ovando to more than twenty-three years in prison, in part due to Ovando's apparent lack of remorse.

Almost immediately after taking Perez' plea, the Deputy DA and RHD Task Force members began to interrogate Rafael Perez. Perez began to describe alleged misconduct among officers in Rampart CRASH. The Deputy DA present at the interrogations recalls that he and the RHD Task Force members were shocked by Perez' disclosures. They had not conducted any proffer prior to entering the plea agreement to determine what information Perez might disclose. They had expected Perez to disclose additional narcotics activity and possibly provide additional information about bank robber David Mack, but had not anticipated the litany that Perez produced.

Despite Perez' revelations, the Deputy DA who had been assigned to the Task Force remained the primary DA working on the case for almost three more months. He maintains that he worked with virtually no supervision or direction as he developed protocols for interrogating Perez and served as the DA's Office representative in the interrogations.

Conclusion II.4.

The Interrogation Process of Perez Was Flawed

The Deputy DA recalled that he asked Perez whether any other persons were wrongly in prison. Perez responded that he would have to see the arrest reports to refresh his recollections. The Deputy DA directed RHD Task Force detectives to bring Perez piles of arrest reports and have Perez identify problematic reports. Investigators recalled that they eventually showed Perez over 1500 arrest reports. Perez eventually sat for more than thirty separate interrogation sessions.

The District Attorney's Office and department's focus on getting innocent people out of jail is commendable. In retrospect, however, nearly every- one agrees that providing Perez with the arrest reports to assist him in disclosing misconduct hampered investigative efforts. Law enforcement experts agree that some independent investigation should have been conducted before interviewing Perez. Instead, the DA and department made Perez their primary source of investigative information. Perez had admittedly lied under oath about his narcotics theft and the Ovando shooting, which gave him obvious credibility problems as a witness. Giving Perez the opportunity to review the arrest reports before disclosing the misconduct made Perez more vulnerable to charges that he fabricated tales of misconduct based on his review of the reports.

“There was no reason to give Perez a stack of reports and let him identify which were bad. That is not an investigative tactic... You ask what they know.”

LAPD Veteran Detective

“They kept going back to [Perez]. It was a mess. There were so many incidents that he brought up. Just reading the transcripts was mind-boggling.”

Deputy DA who worked on Rampart cases

Having a single Deputy DA in charge of the Perez interrogations may have exacerbated these problems. Obviously, the DA's Office had to allocate its limited resources efficiently. And persons present during the Perez interrogations would likely have been exposed to administratively

compelled statements and therefore precluded from working on criminal cases.⁹⁶ In addition, having a single DA present for all the interrogations may have made it easier to build a rapport with Perez. However, having only one Deputy DA interrogating Perez makes it difficult for that Deputy to make objective decisions regarding Perez's credibility. Indeed, several members of the DA's Office expressed their belief that the Deputy DA in charge of the Perez interrogations became too entangled with his witness.

Conclusion II.5.

The DA's Office Worked Quickly to Develop a Fair Standard for Determining whether Convictions Should Stand

The DA's Office should be commended for quickly working to develop a fair standard for determining whether a conviction should be overturned based on Perez's allegations of misconduct. As Perez began disclosing misconduct, the DA's Office developed the approach that they would seek to set aside a person's conviction if they lost faith in its integrity, regardless of the person's actual guilt or innocence. Eventually, more than 150 felony convictions were overturned—more than 100 as a result of the DA filing its own motion or conceding to those filed by defense counsel.⁹⁷

Conclusion II.6.

Members of the DA's Office Recall Feeling Overwhelmed by the Scale of the CRASH Crisis

As the scope of the CRASH crisis began to unfold, members of the DA's Office found themselves overwhelmed by its scale. “There were too many targets,” one Deputy DA recalled. “We were looking for provable cases using one standard, and yet using another standard for deciding which cases to dismiss because we had no confidence in the convictions.”

At the time the scandal exploded into the headlines, the DA's Office had a relatively small number of attorneys responsible for all of the police misconduct and other public corruption cases in Los Angeles County. Senior members of the DA's Office recalled that they quickly realized they would have to add staff, but found that it took some time to develop a strategy and put a team together.

The DA's Special Prosecution Team eventually took shape in mid-December 1999 — more than three months after Perez's initial allegations of misconduct. The Special Prosecution Team included a group to review convictions, a group to pursue criminal prosecution of officers and a small group to review administrative records and clean them of compelled information before providing them to criminal prosecutors for review.

Conclusion II.7.

The DA's Special Prosecution Team Worked Hard in Challenging Environment to Pursue Cases They Thought Viable

The Special Prosecution Team worked well together to pursue the cases they thought viable. Although many team members did not know each other before they were assigned to the Special Prosecution Team, they quickly bonded. The team worked in a separate area of the DA's Office. Team members maintained that they always felt supported by the DA himself and the head of the

Special Prosecution Team. However, some team members recalled feeling that other DAs did not support the CRASH prosecutions. One team member recalled: “There was a definitive attitude that [the officers under investigation] are not bad. ‘You are buying Perez’ story and we know he was a bad cop.’”

Conclusion II.8.

Many Prosecution Team Members Recalled Being Unaccustomed to the Challenge of Prosecuting Police Officers.

The attorneys assigned to the Special Prosecution Team were personally selected by the head of the Special Prosecution Team and the DA himself. Several of the team members came from prosecuting gang members, which gave them significant experience trying difficult cases. However, most of the team members did not have experience trying police officers. Moreover, they did not receive any significant training on handling police corruption cases before joining the team. Several recalled being surprised by the challenges police prosecutions presented. “You had to change the whole mindset,” one DA recalled. “The experience was completely foreign to how a prosecutor normally approaches a case.” Another prosecutor compared the CRASH prosecutions to Alice in Wonderland because it was the reverse of what a prosecutor usually expects in trial.

In some instances, the prosecutors failed to anticipate problems that can arise in police prosecutions. For example, one DA recalled being surprised to discover that their investigating officers did not follow the standard practice of isolating prosecution witnesses. As a result, police officer prosecution witnesses were left sitting in the hallway, subject to hostility by other officers and others in the crowd.

“It was like it was through the looking glass.”

Deputy DA who worked on Rampart cases (comparing the prosecution of police officers to other prosecutions)

Conclusion II.9.

The DA’s Office Did Not Appear to Adequately Consider the Merits of Turning these Cases over to an Independent Prosecuting Agency

Several DAs who worked on the Rampart Special Prosecution Team acknowledged that the CRASH prosecutions were particularly challenging because the DA’s Office normally works so closely with LAPD. However, no one from the DA’s Office seemed to seriously consider handing the prosecutions over to an agency that does not work as closely with LAPD, such as the U.S. Attorney’s Office.

The DA’s Office apparent resistance to turning the cases over to federal authorities may owe in part to historical tensions between federal and state prosecutors. Several members of the DA’s Special

Prosecution Team stated that they did not feel the U.S. Attorney’s Office supported them during the CRASH crisis. In addition, the District Attorneys unanimously reported that the U.S. Attorneys office would have taken far too

long to complete the investigations. Nevertheless, virtually all of the members of the DA’s Office who spoke to the Panel acknowledged the unique challenges they faced working with LAPD to prosecute their own officers. The lack of cooperation between the DA’s Office and the LAPD, discussed above, were well publicized. Handing the cases to an outside agency that does not work closely with LAPD on a regular basis could have facilitated the CRASH crisis investigations.

Conclusion II.10.

The DA’s Office Did Not Follow Up on All of Perez’ Allegations, in part because LAPD Did Not Submit Full Submissions

In December 2000, a new District Attorney took office. In early 2001, the DA assigned a new team, the “Ad Hoc Rampart Task

Force,” to take over the CRASH prosecutions. Ad Hoc Task Force members recalled that soon after they took over, they discovered that LAPD had not followed standard procedure in formally submitting the CRASH cases to the DA’s office for filing consideration. In fact, they learned that LAPD investigators had recorded many cases as submitted and rejected for filing by the DA’s Office when members of the DA’s Office had never considered the cases submitted. For example, one member of the DA’s Office — who was not on the Special Prosecution Team or the Ad Hoc Task Force — recalled that an acquaintance on LAPD’s RHD Task Force telephoned him and asked whether, assuming certain facts, there would be enough evidence to file charges. The LAPD investigator never disclosed that it was a real case, let alone one that related to the Rampart. When the DA said he did not think there would be sufficient evidence to charge, the LAPD recorded the case closed on this DA’s recommendation.

The Ad Hoc Rampart Task Force required that LAPD follow a formalized procedure for submitting Rampart related cases. They informed LAPD that for every case, the department must submit a completed case file to the DA and receive a form from the DA’s Office acknowledging submission. LAPD subsequently submitted many cases under this formalized process. However, members of the DA’s Ad Hoc Rampart Task Force acknowledge that some cases may not have been formally submitted by LAPD. The Ad Hoc Rampart Task Force did not believe it had sufficient information to enable it to follow up with LAPD to ensure that the department formally submitted all of the cases it had earlier recorded as submitted. As a result, it appears that a number of the criminal incidents alleged by Perez were never formally submitted to or considered by the DA’s Office.

In November 2002, the DA issued its declination memoranda, setting forth the reasons for declining to prosecute the eighty-two cases that LAPD had formally submitted to the DA’s Office. As the *Los Angeles Times* has reported, the DA’s memoranda did not

address eight of the ten unlawful shootings Perez had identified.⁹⁸ The *Times* reported that one shooting had since been submitted and rejected due to the statute of limitations having expired. Members of the DA’s Office informed the Panel that at the time of the declination memoranda, an investigation was ongoing in at least one shooting. The Panel learned that the DA’s Office formally closed that case (and declined to prosecute) in late 2004. The Panel was unable to definitively account for the remaining shootings. However, based on interviews, the Panel surmises that the investigations of these shootings were never formally submitted to the DA’s Office by LAPD.

Conclusion II.11.

The County’s Civil Grand Jury Failed to Produce an Assessment of the CRASH Crisis

As an initial matter, the Panel notes that it had limited access to the Rampart civil grand jury materials. The chair of this Panel joined with the District Attorney, City Attorney, the *Los Angeles Times* and other interested parties to request the grand jury transcripts or draft grand jury report regarding the Rampart CRASH scandal. The Court declined the requests. The findings below are based on information the Panel derived from interviews and a review of a limited number of non-confidential documents.

In early 2002, the DA came before the Los Angeles County civil grand jury and asked it to consider certain aspects of the CRASH crisis. Against the recommendation of county counsel, the grand jury agreed to consider the issue. Over a period of two and one-half weeks, the grand jury heard from several witnesses, including current and former LAPD Chiefs. At the close of testimony, the grand jury asked the DA’s Office to draft a report of their findings. After receiving the draft report, however, the grand jury foreperson informed the DA’s Office that the grand jury declined to publish a report. Despite urging from the DA and the City Attorney that the grand jury release its report or release the transcripts of testimony,

the grand jury stated that it would not authorize release of the report and directed that the transcripts remain sealed in perpetuity. A short time later, the DA's Office discovered that transcripts of the CRASH crisis grand jury testimony were missing. The transcripts subsequently reappeared, but their disappearance was never satisfactorily explained.

The civil grand jury itself disintegrated into dysfunction. Apparently, unrelated to the Rampart matter, two of the civil grand jurors were charged with criminal law violations unrelated to their service on the grand jury, but arising from their personal relationships while members of the grand jury. This diversion added to the confusion and confidence in the grand jury process.

The public will never learn the insights shared by the witnesses who appeared before the grand jury.

Conclusion II.12.

The DA's Office Did Not Conduct any Detailed Assessment of its Response to the CRASH Corruption Scandal

The DA's Office did not conduct any detailed assessment of its response to the Rampart scandal. No one convened the prosecutors who worked on the Special Prosecution Team or the Ad Hoc Rampart Task Force to discuss lessons learned. Members of the Special Prosecution Team recalled feeling that they were not able to share the insights they gained with the Ad Hoc Rampart Task Force or the rest of the office.

At the time it released the Rampart declination memoranda, the DA's Office issued a five-page document with attachments titled "Rampart Review." The Rampart Review briefly summarized the DA's work in connection with Rampart and summarized the reasons for declining to prosecute the eighty-two Rampart cases. However, the DA's Office did not issue any detailed after-action report assessing its response to the CRASH crisis. Members of the Special

Prosecution Team recalled that the former DA had told them that they would conduct an "autopsy" on the crisis. That assessment was never done. One deputy district attorney recalled that he began drafting a summary of the DA's Rampart response, but was told to stop writing. "I guess everyone thought it was too politically divisive," the prosecutor recalled.

Federal Investigative and Prosecutorial Agencies

Conclusion II.13.

The U.S. Attorney's Office in Los Angeles Has Historically Approached Police Misconduct Cases as Isolated Cases that Can Be Addressed with Traditional Investigative and Prosecutorial Measures

Generally, the U.S. Attorney's Office does not view their mandate as proactive intervention for prevention of local police misconduct. Criminal prosecutors in the U.S. Attorney's Office for the Central District of California acknowledged that they focus on bringing individual criminal cases of police misconduct. They do not pursue cases against police departments unless those departments are found to have conspired with the individual police officer to commit criminal misconduct. Thus, prosecutors would not address a police department's "lack of oversight," even if it enabled the officer to commit criminal misconduct.

Prosecutors in the Los Angeles U.S. Attorney's Office observed that the Civil Rights Division of DOJ Washington generally handles systemic problems in law enforcement agencies. Thus, the U.S. Attorney's Office in Los Angeles does not conduct any regular monitoring of police departments in Los Angeles County. For the most part, they do not assist DOJ Washington in their police misconduct monitoring efforts.

Conclusion II.14.

The U.S. Attorney's Office Did Not Devise a Coordinated Multi-Agency Strategy to Address the CRASH Crisis

The U.S. Attorney's Office criminally prosecuted Rampart officers Rafael Perez and Nino Durden, and they eventually coordinated with the DA's Office in the prosecutions of several other officers. However, the U.S. Attorney's Office did not devise or implement a coordinated, multi-agency strategy to address the CRASH crisis.

Members of the U.S. Attorney's Office in Los Angeles identified several challenges they faced when becoming involved in the CRASH case. First, the DA's Office did not give the U.S. Attorney's Office any advance notice of Rafael Perez or his disclosures of criminal misconduct. Indeed, members of the U.S. Attorney's Office recalled learning of the "Rampart scandal" when it was publicly reported. Thus, the U.S. Attorney's Office was not involved in any of the initial decisions regarding how to investigate or interrogate Perez or other officers suspected of misconduct.

Members of the U.S. Attorney's Office recalled meeting resistance from the DA's Office when they tried to get involved. According to them, representatives of the DA's Office did not express any willingness to allow the U.S. Attorney's Office to direct the investigation and initially resisted the U.S. Attorney's Office's efforts to get involved in any way.

When the U.S. Attorney's Office did become involved in the criminal prosecutions, they had to spend significant effort vetting the information they received from LAPD to ensure that it was not tainted with information gained from compelled statements given in the course of administrative investigations.⁹⁹ This vetting process caused a significant delay in prosecutors receiving information for their investigations and prosecutions.

Nevertheless, given their relative independence from the LAPD, their resources and their experience using investigative techniques such as the grand jury, the U.S. Attorney's Office could have developed and proposed an effective overall strategy for coordinating with the DA's Office and other agencies in investigating and prosecuting the CRASH crisis.

Conclusion II.15.

Initially, the Los Angeles U.S. Attorney's Office Did not Effectively Communicate or Coordinate with the Los Angeles County DA's Office

As noted above, the U.S. Attorney's Office faced several challenges when they became involved in the CRASH crisis, including the perceived resistance by the DA's Office toward their involvement. However, once federal prosecutors did become involved, they apparently did not communicate effectively with members of the DA's Office.

Members of the Los Angeles U.S. Attorney's Office recalled that they strove to maintain independence from the DA's Office. However, several members of the DA's Office recalled feeling that the U.S. Attorney's Office was not supporting their state prosecutions. "They went off on their own tangent," one Deputy DA recalled. "It was at cross-purposes [with our work]." Several prosecutors recalled feeling frustrated when the U.S. Attorney's Office and the F.B.I. began pursuing the allegations of Sonya Flores—who claimed that she witnessed Rafael Perez and David Mack kill two people and bury their bodies. Flores subsequently recanted her allegations, and the U.S. Attorney's Office prosecuted her for making false statements to federal authorities.¹⁰⁰ However, in the fall of 2000, as the DA's Office prepared for trial against four Rampart officers, the U.S. Attorney's Office actively pursued Flores' investigations. Members of the DA's Office recalled feeling frustrated that the U.S. Attorney's Office would not share any information regarding the Flores investigation, even as the DA's Office was deciding whether to call Perez as a witness in the

criminal trial. In fact, as the State’s criminal trial began, the press published stories of Mexican authorities digging for bodies in Tijuana in connection with the U.S. Attorney’s Office Flores investigation. “It was not helping us at all,” one DA recalled. “What caused them to go off like that, I don’t know. We never did hear from them.”

By all accounts, the relationship between the DA’s Office and the U.S. Attorney’s Office improved dramatically in early 2001 when the new DA took over and assigned a new “Ad Hoc Rampart Task Force” to handle the Rampart investigations. Following that transition, the DA’s Office and the U.S. Attorney’s Office worked closely in the prosecution of Perez’ former partner Nino Durden and several other former Rampart Officers. However, the failure to effectively communicate earlier in the investigation may have hampered both the U.S. Attorney’s and the DA’s investigative efforts and damaged relations between the two prosecutorial offices.

The Criminal Justice System Today

Conclusion II.16.

A Significant Gap Exists between how Criminal Defense Attorney and Prosecutors Perceive the Los Angeles Criminal System Working

Criminal defense lawyers—even those who acknowledge that LAPD has improved in specific areas—unanimously report that since the Rampart scandal, the integrity of investigations and compliance with the duty to turn over exculpatory evidence in their cases has not improved. Public defenders reported routinely confronting serious problems with erroneous arrests, inability to get evidence necessary to do their jobs, and alarmingly flawed investigations.

The City Attorney maintains they have an effective system in place for identifying and turning over *Brady* material.¹⁰¹ Yet, defense

attorneys believe the City Attorney’s Office has no system. “We took an informal survey whether city prosecutors were sending *Brady* letters [disclosing the existence of exculpatory material],” one Deputy Public Defender noted. “We didn’t find a single one sent since Rampart. They’re not even looking.” As a result, defense counsel report they must resort to filing *Pitchess* motions.¹⁰² They complain that the City Attorney’s Office fights every *Pitchess* motion—even those that are clearly meritorious.

Even when *Pitchess* motions are granted, defense attorneys report, the City Attorney often fails to turn over responsive materials. “I was told by a [Deputy] City Attorney that they are perfect—they do not make any mistakes, and the custodian of records always finds everything responsive and turns it over,” a Deputy Public Defender stated. “But when particular cases come up, they admit. ‘Oh we missed that.’” These failures are often the result of LAPD failing to turn over materials to the City Attorney’s Office. For example, defense counsel reported that LAPD withholds information on criminal investigations of officers because they are deemed

“‘I have worked in [one division] for 8 years—before and after Rampart. I’ve seen no change. It’s the same officers again and again. There are certain judges where DA’s won’t put certain officers up before the judge; they always put up the partner. The DA’s know, the judges know... [N]othing has changed.’”

Deputy Public Defender

“‘We are worse off than we were four years ago because there was a *Brady* frenzy after Rampart. Then, when they thought they were done, we get nothing.’”

Deputy Public Defender

confidential “personnel” material. Moreover, when LAPD and the City Attorney do turn over *Pitchess* material it is often totally disorganized and unreadable. A defense attorney recalled that one judge got angry at her for filing a successful motion because she did not have time to

review the box of disorganized documents. “I told [the judge] that she could order LAPD to bates stamp the materials,” the defense attorney recalled. “She said, ‘I can’t tell the department to do that.’... The hearing on the case kept getting delayed because the judge hadn’t reviewed the materials.” Eventually, the case got re-assigned out of that judge’s courtroom for trial and the defense attorney had to make the motion all over again.

These defense attorneys voice similar complaints about unwillingness on the part of the DA’s Office to turn over exculpatory material. For example, they note that even when officers are found guilty in

“As long as LAPD considers itself insular, not responsible to anyone, this will continue... Unless we have some special insight to figure out where evidence is hidden, we are none the wiser. [There will be] Innocents pleading guilty, tainted evidence, false confessions, false testimony by officers. They are counting on judges and DA’s to look the other way.”

Deputy Public Defender

administrative Boards of Rights for making false statements or false statements, the DA does not disclose this information as *Brady* material.

Most of all, defense counsel express frustration that nobody pursues incidences of suspected officer perjury or misconduct. One deputy public defender claimed that the DA’s office replaced a well-respected, experienced prosecutor on a case because she refused to prosecute based on concerns with the officer’s credibility.

When the public defender raised concerns about the officer’s credibility to the Deputy DA in charge, he dismissed the idea that officers ever lie on the stand. “I know you’ll bring up Perez — your favorite,” the DA reportedly stated, “But he was only one guy.” Another defense attorney stated, “It is the same officers [who cause problems]... I’ll go to trial and show the officer’s [arrest] report was false. The DA doesn’t care, the judge doesn’t care. And even the cops — they just say, ‘Boy, [the defense attorney] is a good lawyer.’”

Plaintiffs’ counsel, with the exception of those who specialize in LAPD dog bite litigation,¹⁰³ echo these concerns and report that complaints of callous mistreatment, harassment and civil rights violations by LAPD have not diminished since the scandal.

Prosecutors unanimously reject these contentions and report that the systems that ensure disclosure of exculpatory material and prevent conviction of the innocent work well.

The different roles of prosecutors on the one hand and counsel for defendants, plaintiffs on the other are expected to produce different views of the criminal justice and civil systems. But the gap in perspectives on the integrity of these systems was too large to ignore. There is a canyon, with one side of the bar believing that serious problems that undermine the integrity of criminal justice remain. This gap requires analysis and response.

Conclusion II.17.

The DA’s Establishment of a Brady Compliance Division and Database, While Commendable, Would not Identify Much of the Misconduct at Issue in the CRASH Crisis

Partly in response to the CRASH crisis, in September 2001, the DA established a *Brady* Compliance Division and *Brady* Database. The *Brady* Compliance Division works to assist in the gathering, reviewing and distribution of *Brady* material. However, as members of the DA’s Office explained to the Panel, only substantiated acts defined by case law as acts of “moral turpitude” would constitute *Brady* material subject to disclosure. If a court has not expressly categorized a particular act as an act of “moral turpitude,” it would not be deemed *Brady* material subject to entry into the Database. Thus, broad categories of police misconduct, including excessive force, would not be included. Members of the DA’s Office acknowledged that Rafael Perez’ narcotics crimes, excluding drug theft, would probably not be included in the *Brady* Database.¹⁰⁴

Moreover, some observed that the DA strictly construes what constitutes “substantiated” misconduct. One public defender recalled that the DA’s *Brady* Database did not include information on an LAPD officer who had had more than one case dismissed because of his false testimony. Specifically, the LAPD officer had claimed on more than one occasion that defendants were found with drugs in their mouths, which had been disproven by DNA testing of the drugs. The public defender claimed that although the DA’s Office had considered (and rejected) filing charges against the officer on four different occasions for planting drugs, the DA maintained the officer’s misconduct was not “substantiated” and therefore not *Brady* material subject to entry in the database.

Conclusion II.18.

Institutions of The Los Angeles Criminal Justice System Do Not Have Sufficiently Robust Checks and Interventions on Police Perjury and Misconduct

The Rampart CRASH scandal revealed the criminal justice system’s failure to prevent the conviction of innocent people. Every institution failed to take a proactive stance in preventing and prosecuting police misconduct and perjury that leads to such wrongful convictions.

Years after the scandal, virtually nothing has changed. The Office of the District Attorney and the Office of the United States Attorney continue to view police misconduct cases as isolated, historical cases that can be addressed with traditional investigative and prosecutorial measures.

The DA’s Office establishment of JSID is a significant improvement in the office’s capacity to investigate and prosecute police misconduct. However, the DA’s Office does not conduct continual monitoring or independent investigations to uncover police misconduct. Moreover, the small staff of JSID investigators in the DA’s Office must routinely rely on each police department to

conduct its own investigation of alleged misconduct within the department.

The United States Attorney’s Office and the Department of Justice continue to defer to state prosecutorial officials to be the frontline in combating police misconduct. Federal authorities remain reactive only to problems that may arise in the LAPD and do not engage in ongoing monitoring of police practices. The Panel believes that, due to their unique resources and expertise, federal prosecutors and law enforcement agencies could do more to assist in the investigation and prosecution of police misconduct cases. Moreover, there still appears to be little cooperation between federal and state prosecutors in investigating and prosecuting police misconduct cases.

Recommendations For Other Prosecutorial Agencies For Prevention Of And Response To The Next Large-Scale Corruption Crisis

Recommendation II.1.

Conduct an Analysis of the Integrity of the Los Angeles County Criminal Justice System

An independent body should be appointed to conduct an analysis of the integrity of the Los Angeles County criminal justice system. Recently, the *San Jose Mercury News* published a series of articles disclosing problems in the Santa Clara County criminal justice system. The *News*’ findings, based primarily on a comprehensive three-year review of criminal jury trials where appeals were filed, uncovered numerous instances of innocent persons pleading guilty or being convicted by a jury due to questionable prosecutorial tactics, judges’ errors and defense counsel failures.

While most leaders in Los Angeles County’s criminal justice system acknowledge that some problems exist, no one understands the

true nature or extent of these problems. In 2003, the Los Angeles County Bar Association Task Force on the State Criminal Justice issued the Collins Report, which includes important recommendations for improving the criminal justice system to prevent wrongful convictions. However, it does not undertake any assessment of the breadth of problems in the system. The California Commission on the Fair Administration of Justice is conducting a statewide assessment of the administration of the criminal justice system.¹⁰⁵ However, its focus is statewide and primarily based on cases where a wrongful conviction had already been established (i.e., there was an official act, such as a pardon or dismissal, declaring a defendant not guilty of a crime for which he had previously been convicted).

The Panel proposes a more detailed assessment of criminal cases in Los Angeles County, similar to the study undertaken in Santa Clara County. An independent body of criminal justice experts should be convened to conduct this assessment.

Recommendation II.2.

Prosecutors Should Develop More Robust Checks and Interventions on Police Perjury and Misconduct

Prosecutors must be proactive, not reactive, in their approach to police corruption cases. For example, prosecutorial agencies should engage in continual monitoring for police corruption.

The DA's JSID should publish periodic reports generally describing the police corruption cases it is prosecuting and investigating. Such reports could assist prosecutorial agencies and other stakeholders in assessing whether seemingly small or isolated acts of police misconduct could constitute a more serious problem—a “tsunami network” of corruption. Several officers interviewed have warned the Panel of emerging problems in high crime divisions, but prosecutors have no information on these matters.

Prosecutors in the District Attorney's Office, the City Attorney's Office and the U.S. Attorney's Office also should be required to file regular reports with their superiors and LAPD regarding police perjury and misconduct. These prosecutorial offices should maintain records of citizen complaints and judicial allegations of perjury or misconduct against individual officers and create a database of officers against whom complaints or allegations have been made. The U.S. Attorney's Office should conduct periodic reviews of this database to identify potential police misconduct cases.

Recommendation II.3.

Prosecutorial Agencies Should Improve Inter-Agency Coordination

The federal and local prosecutorial agencies must develop better ways to coordinate investigation and prosecution of officer perjury and misconduct, including the use of state and federal grand juries. For example, the District Attorney's Office must cooperate in proper requests by federal authorities for information regarding police corruption cases. Likewise, federal authorities must not take investigative steps that intentionally or inadvertently impair investigations and prosecutions by the District Attorney's Office.

Recommendation II.4.

A Standing Task Force Should Be Created with Federal and Local Authorities to Coordinate Investigation of Police Corruption Cases

Federal and local authorities should convene a standing task force to coordinate investigation of police corruption cases. Most prosecutors the Panel interviewed did not express support for pre-set protocols dictating how agencies should coordinate in police corruption cases. Most agreed, however, that interagency coordination and communication could be improved. A standing task force of federal, county and city prosecutors and investigators would enable agencies to effectively communicate and develop plans for coordinating police corruption investigations and prosecutions on a case-by-case basis.

Recommendation II.5.

Prosecutorial Agencies Should Improve Training for Handling Police Corruption Cases

As discussed above, many of the Deputy DAs working on the Rampart CRASH prosecutions found themselves unprepared for the unique challenges attendant to prosecuting police officers. The District Attorney's Office should develop a protocol for investigating and prosecuting large-scale police corruption cases.

Moreover, the District Attorney's Office should improve its training for handling police corruption cases. All members of the District Attorney's Office should receive training regarding the unique challenges of investigating and prosecuting law enforcement officers. This training should include case studies and presentations by prosecutors who have handled police corruption cases, including those who handled the Rampart CRASH criminal cases. The training should also include discussion of how to effectively use the grand jury in investigating suspected officer perjury and other misconduct. In addition, the training should address the unique *Lybarger/Garrity* problems that arise in police misconduct cases. Moreover, the DA's Office should develop protocols for taking pleas and granting immunity for testimony that may implicate federal offenses.

Federal prosecutors and investigators should receive ongoing training on the operations of the LAPD so they can respond quickly to allegations of police misconduct.

Recommendation II.6.

Federal Prosecutors Should Be Prepared to Handle Local Police Misconduct Cases without Being Overly Reliant on DOJ Washington

The U. S. Attorney's Office in Los Angeles should be alert and be prepared to handle police misconduct cases involving LAPD or other local law enforcement agencies without being overly reliant

on DOJ Washington. The local U.S. Attorney's Office should be able to respond to police misconduct cases as quickly as possible in any manner it deems appropriate.

Recommendation II.7.

The LAPD and the City Attorney's Office Should Improve Information Disclosure Processes

In order to address the concerns about *Brady* and *Pitchess* motions discussed above, the LAPD and City Attorney's Office should expedite the release of materials ordered disclosed by the court and ensure that they are produced in a complete and organized manner. Moreover, LAPD must provide adequate and confidential access to its files for Deputy District Attorneys and their investigators.

Actions And Solutions

This section of the report is blank because while this Panel can point out missed issues, state findings and suggest recommendations, it cannot draft proposals to change LAPD systems that will be accepted by the rank and file and department leadership. Those changes must be co-developed with LAPD's leaders and officers who understand the direction that the department must move to chart its best future.

The Panel has recommended that the Police Commission direct the Chief of Police to immediately appoint and charge an Action Taskforce of LAPD change agents who already are forging significant changes in LAPD operations and culture, leaders of the rank and file and outside experts to co-draft with the Panel the blueprint that addresses the issues outlined in this report. That blueprint will become the action agenda and text for this section and the final chapter of Chief Bratton's *Plan of Action for the Los Angeles That Is and the Los Angeles That Could Be*. Then the work that will check corruption, fix LAPD's longstanding problems and permanently set a course toward the policing showcased in the Rampart transformation can begin.

“ I wanted to come back into policing, particularly in a large city, to show that police do count. Secondly, however, was the missed opportunity of New York City, where we got crime down so dramatically, we showed that with the right amount of police, policing in an appropriate fashion, you could not only reduce crime, but you could improve relations, particularly with the minority community, at the same time . . . You can have it both and at the same time. And I desperately want to be able to prove that concept. Because we have been the flash point, we the police, for most of the racial violence in the past century. Wouldn't it be wonderful if we were in fact the catalyst for the healing? ”

Chief William J. Bratton, *Primetime Thursday: LAPD*
(ABC Television Broadcast, June 1, 2004)

Afternotes

1. The acronym of LAPD's disbanded anti-gang unit stood for Community Resources Against Street Hoodlums, hereinafter in the report CRASH. In 1999, Rampart Area (also known as Rampart Division) and several other LAPD areas had CRASH units.

2. *Report of the Rampart Independent Review Panel*, November 2000 at 1. For a detailed description of the origins and context of the scandal, see *Report of the Rampart Independent Review Panel*, pp. XX.

3. See *United States v. City of Los Angeles*, Civil No. 00-11769 (C.D. Cal. 2000). The Decree, which became effective on June 15, 2001, settled a lawsuit filed in the wake of the Rampart CRASH scandal by the United States Department of Justice against LAPD and the City of Los Angeles for engaging in a pattern and practice of unconstitutional misconduct.

4. Los Angeles County Supervisor Zev Yaroslavsky, quoted in *An Independent Analysis of the Los Angeles Police Department's Board of Inquiry Report on the Rampart Scandal*, September 2000, published in 34 Loyola L.R. 545, 550.

5. See David D. Dotson, "LAPD Corruption; A Culture of War," Los Angeles Times, February 27, 2000.

6. Several officers pointed out this factor to the Panel with quotes similar to this one: "When [cops] use force that is not necessary-because they devalue people-it doesn't matter. It may not just be race-may just be issues of a drug dealer, gang-banger, thief, murderer. In their minds, you are worthless-devalued as a human because 'you don't live up to my standards; you are a preying mantis'"

7. Letter from Chief William J. Bratton, introducing *Plan of Action for the Los Angeles That Is and the Los Angeles That Could Be*, October 24, 2004 ("Plan of Action") at 2.

8 *The Beat*, Vol. LII No.1 at p.6.

9 For example, investigations conducted by the department and the Police Commission by definition were not independent. As discussed more fully in "The Road Behind" section of this report, a range of investigations conducted by the department in connection with the administrative reviews like the Board of Inquiry did not go much beyond paper and interview audits. Disciplinary investi-

gations for the Rampart Boards of Rights were rarely adequate even for the limited purpose of establishing proof of misconduct. And no investigation designs by various Rampart investigation taskforces were structured to capture complex, multi-defendant police corruption conspiracies. Reports by outside groups were too limited and without the capacity for the scale of investigation needed.

10. A former member of LAPD's highest command staff explained officer silence to the Panel as a persistent gap between what outside critics view as misconduct and what officers view as misconduct: "We are incorruptible in taking bribes. But if my partner got an extra lick in, would I report that or not? Probably a lot of officers would ignore that. If my partner said there was a bit more probable cause than he has, I would probably let him write the report that way. A lot of officers wouldn't see that those are two aspects of corruption. Taking money is bad, but this is also. We have got to get away from that. We have to let them know that corruption is a two-sided coin. It's how you do it when no one is looking."

11. These reports, discussed more fully below, are: *The Report of the Rampart Independent Review Panel*; *Board of Inquiry on the Rampart Area Corruption Incident*; *An Independent Analysis of the Los Angeles Police Department's Board of Inquiry Report on the Rampart Scandal*; and *A Critical Analysis of Lessons Learned: Recommendations for Improving the California Criminal Justice System in the Wake of the Rampart Scandal*.

12. The Police Commission appointed Constance L. Rice, Panel Chair, and members Erwin Chemerinsky, Jan Handzlik, Steve Mansfield, Maurice Suh, Andrea Ordin, Edgar Twine, Carol Sobel and Laurie Levenson. Erwin Chemerinsky resigned from the Panel shortly after it became operational and became an advisor. Andrea Ordin and Maurice Suh became advisors after joining Mayor Villaraigosa's administration as a Police Commissioner and Deputy Mayor for Homeland Security, respectively. Edgar Twine passed away in late 2005.

13. Los Angeles Police Commission Resolution, July 22, 2003, at p. 2. This and other documents relating to the establishment of this Panel are included as Appendix A.

14. City Council Public Safety Committee Report 04-0053, adopted by City Council on February 11, 2004, included in Appendix A.

15. Three appointed members of this Panel participated in the drafting of the Chemerinsky Report: Constance Rice, Carol Sobel and Erwin Chemerinsky who resigned from the Panel in 2004.

16. Other public reports have been written in response to other LAPD crises. *Violence in the City—An End or a Beginning: a Report of the Governor’s Commission on the Los Angeles Riots* (the “McCone Report”), published in December 1965 in the wake of the Watts riots, discussed the social and economic inequities that contributed to the riots and the need for improving LAPD’s relationships with the poor minority communities it polices. In July 1991, *The Independent Commission on the Los Angeles Police Department* (the “Christopher Commission”), chaired by Warren Christopher, issued a report recommending a seminal change in LAPD policing from paramilitary policing to community policing in the wake of the March 1991 Rodney King beating. The following year, a Commission appointed by the Los Angeles Police Commission and chaired by William Webster (the “Webster Commission”) issued *The City in Crisis: A Report by the Special Advisor to the Board of Police Commissioners on the Civil Disorder in Los Angeles*, which explored the LAPD’s response to the riots that followed the verdicts in the Rodney King beating case. In May 1996, police reform expert Merrick Bobb, along with Mark Epstein, Nicolas Miller and Manuel Abascal, authored *Five Years Later: A Report to the Los Angeles Police Commission on the Los Angeles Police Department’s Implementation of Independent Commission Recommendations* (the “Bobb Report”), which analyzed LAPD’s progress in implementing the Christopher Commission reforms. A bibliography of past reports relating to LAPD is included as Appendix E. A list of past reports’ recommendations relating to LAPD and the criminal justice system is included as Appendix F.

17. See Scott Glover and Matt Lait, “LAPD Settling Abuse Scandal,” *Los Angeles Times*, March 31, 2005 (quoting the Los Angeles City Attorney as stating that “we are thankful to put this chapter behind us”).

18. Drooyan Report at 2. See Board of Inquiry at 62 (Rampart CRASH “routinely made up its own rules and, for all intents and purposes, was left with little or no oversight”).

19. Rafael Perez’ testimony about these crimes and misconduct make up thirty-five volumes and more than 4,000 pages. The credibility of this testimony, obtained through interviews conducted by the Los Angeles District Attorney and LAPD, beginning in September 1999 and lasting through much of 2000, was hotly contested within LAPD and among prosecutors. However, it was found sufficiently credible to support the conditions of Perez’ plea agreement which required that Perez testify truthfully. Subsequent investigations by LAPD taskforces of Perez’ allegations resulted in an assessment by one task force lieutenant that evidence existed to corroborate 70-80% of the misconduct incidents that Perez alleged.

20. Perez identified an officer as being “in the loop” if he or she had been involved in or privy to enough unlawful misconduct so the officer could be trusted not to report another officer for misconduct. See e.g., Transcripts of Perez Interrogations at 856-57.

21. See Appendix C for a “Rampart CRASH Scandal Scorecard” that summarizes basic facts of the scandal and its aftermath.

22. See, e.g., Board of Inquiry at 69 (“Separate roll calls from the patrol division, a unique patch, jackets, an emphasis on narcotics enforcement, and an outward appearance of elitism were common CRASH traits that Rampart shared with other CRASH and specialized units.”)

23. Gang intervention workers reported that the transferred officers whom they view as abusive still drop gang members into rival territory to endanger them and still try to prevent them from doing their work of retrieving young people from gang life. One interviewee, an intervention worker who had exited gang life years ago and now worked for the City’s largest gang prevention program, testified that one of the transferred officers threatened to arrest him on trumped up charges if he set foot in the neighborhood again.

24. On May 12, 2006, LAPD relieved a 16-year veteran of duty after he allegedly lied about dropped drugs by a suspect who was really an undercover detective in a sting operation in Rampart Area. And in 2004, a sting operation resulted in criminal charges against another Rampart officer for charging a woman money to file a police report.

25. See, e.g., Christopher Commission Report at 74 (“Because of the concentration and visibility of gangs and street drug activities and the higher rates of violent and property crime in Los Angeles’ minority communities, the Department’s aggressive style — it’s self described ‘war on crime’ — in some cases seems to become an attack on those communities at large”); Drooyan Report at 2; Chemerinsky Report at 570-71 (Discussing LAPD’s insular “siege mentality”).

26. See, e.g., Domanick, Joe, *To Protect and to Serve: LAPD’s Century of War in the City of Dreams* (1994) (“Domanick”), note 24 at 114.

27. In 1968 former LAPD Chief William Parker warned white Angelinos, “It is estimated that by 1970, forty-five percent of... Los Angeles will be Negro. If you want any protection for your home...you’re going to have to get in and support a strong police department.” Domanick at 185. Of Latinos, the Chief stated to the US Civil Rights Commission in 1959, “Some of these people have been here since before we were, but some of them aren’t far removed from the wild tribes of Mexico.” Domanick at 163. *See, also*, Domanick at 31-33.

28. Domanick at 85.

29. The factors of good and bad profiling are complex and vary according to context. In the context of a low income, all minority, higher crime area, perceptions of class and perhaps even color caste resulted in a beneficial “driving while privileged” profiling that the same driver has experienced as the converse negative profiling when she is in a privileged, all white area like Beverly Hills. In both places, to officers, she was not where she was supposed to be.

30. “If you had fewer than five thousand men to police over 450 square miles of a city with a rapidly expanding population as was the case with the LAPD in the early fifties, you needed ...a strategy and tactics to deal with it. Which Bill Parker did. He took James Davis’ stop-and-search and dragnet techniques, and... Harry Chandler’s conception of a culturally limp, politically obedient city, put it all together, and gave it a name: ‘proactive policing.’” Domanick at 110.

31. “Its underpinning was dominion, control, The Grip. Walking a beat, knowing the residences of a neighborhood, using discretion in making arrests, serving as a safety valve, as mediator, as a social-agency facilitator or problem solver was out. Patrol cars with faceless occupants detached from the community; enforcing all laws and keeping an intense twenty-four-hour surveillance over an equally faceless population—The Grip was in. Authority would be centralized, tasks defined, discretion limited, arrests—the numbers—emphasized. Never should an officer be out there waiting for a crime... to happen. Instead he should be seeking one out or—and here was the key—stopping it before it happened.” Domanick at 111.

32. In June 2004, an officer struck Stanley Miller repeatedly with a flashlight following a chase in which Miller was driving a stolen car. In February 2005, following another car chase, an officer shot and killed Devin Brown as the 13-year old backed the pursued car into the officer’s patrol car. In July 2005, SWAT officers mistakenly shot 19-month-old Susie Pena when her father held her as a shield during a gun battle with police. The next month, Nation of Islam leader Tony Muhammad incurred injuries as a result of a scuffle with police that occurred at a community memorial vigil.

33. *See, e.g.*, Dairity, William Jr. and Samuel Myers, Jr., *Persistent Disparity, Race and Economic Inequality in the United States Since 1945* (1998) at 52 (Examining the continuing gap in economic status between white Americans and African-Americans, and noting that the “segment of the black population...experiencing perpetual deprivation and poverty... now is identified with the urban ‘underclass’”).

34. *See e.g., Id.* at 17.

35. *See The State of Black Los Angeles*, produced by Los Angeles Urban League and United Way of Greater Los Angeles, July 2005 at 26 (“At nearly 14%, unemployment for African-Americans is more than double the rate for Whites or Asians, with Latinos between the two—a longstanding pattern in Los Angeles”).

36. *See, e.g.*, Erik Eckholm, “Plight Deepens for Black Men, Studies Warn,” *New York Times*, March 20, 2006 (“In 2000, 65 percent of black male high school dropouts in their 20’s were jobless- that is, unable to find work, not seeking it or incarcerated. By 2004, the share had grown to 72 percent”).

37. *See The State of Black Los Angeles* at 52.

38. The UCLA’s Institute for Democracy, Education & Access and The UC All Campus Consortium For Research on Diversity reported that John C. Fremont High School has a graduation rate of less than 30%.

39. In 2004, Southeast experienced 72 homicides—more than all of the murders in North Dakota, Wyoming, New Hampshire, Delaware, South Dakota and Vermont. *See* FBI Report “Crime in the United States 2004,” available at www.fbi.gov.

40. Jill Leovy and Doug Smith, “Getting Away with Murder in South LA’s Killing Zone,” *Los Angeles Times*, January 1, 2004.

41. *Plan of Action*, Book II at 6.

42. *See* Mitchell Landsberg, “Majority of L.A. 6th Graders See Violence,” *Los Angeles Times*, March 4, 2005 (noting that in some areas, as many of 90% of all children have been subject to or witnessed violence; researchers determined that about one-quarter of the children exposed to violence can be expected to suffer from post-traumatic stress disorder or severe depression).

43. *See* Little Hoover Commission, *Back to the Community: Safe and Sound Parole Policies*, November 13, 2003 at i.

44. See, e.g., Dickey, Fred “Undermining American Workers,” *Los Angeles Times Magazine*, July 20, 2003 at 12.

45. See, e.g., *Plan of Action*, Book II at 32 (“[T]he FBI’s Uniform Crime Reports data suggests a strong positive correlation between unemployment levels and both violent crime and property crime. Another study shows that... ‘a sustained long-term decrease in crime rates will depend on whether the wages of less skilled men continue to improve’”) (citations removed).

46. Drooyan Report at 8. See Board of Inquiry at 331 (“[H]ad the Department and the Rampart management team exercised more vigorous and coordinated oversight of Area operations, and its CRASH unit in particular, the crimes and misconduct that occurred may have been prevented, discouraged, or discovered much earlier”).

47. As one LAPD lieutenant who spoke to the Panel put it, “It is hard to step up to the plate. As a supervisor, to do your job and not get your superior’s support because you stepped on toes.”

48. See, e.g., Board of Inquiry at 69 (“Separate roll calls from the patrol division, a unique patch, jackets, an emphasis on narcotics enforcement, and an outward appearance of elitism were common CRASH traits that Rampart shared with other CRASH and specialized units”).

49. Several different Consent Decree provisions mandate improved supervision. For example, Paragraph 106 of the Decree includes criteria for selection of gang unit supervisors and requires tightened management for gang units. And Paragraphs 121-23 mandate improved supervisory training.

50. In one complaint alleging officer perjury and planting of cocaine in the late 1990s, the IG found that investigators had failed to document the officer’s complaint history, misstated his complaint history by omitting prior misconduct and failed to explain why the superior court dismissed the underlying criminal case on a writ of habeas corpus. See OIG Fiscal Year 2005/2006 Complaint Investigations Audit at 14.

51. However capable its members, the Police Commission has long noted, inherent limitations. See, e.g., Drooyan Report at 15 (“Several factors undermine the Police Commission’s ability to exercise strong civilian oversight of the Department. Commissioners all serve part-time and are unable to bring their full attention to bear on the work of the Commission. Further, the Commission has no authority over discipline in cases that impact the community; it continues to be distracted by functions that have nothing to do with managing the Department and it continues to be understaffed”). While the Christopher Commission’s observation that “[i]n practice, the Police Commission’s authority has proved illusory” (Christopher Commission Report at 187) overstates today’s problems, this Panel concludes that a number of structural and operational constraints still impede effective oversight. In 2004, LAPD was still submitting to the Commission use of force analyses that omitted key facts, redacted incriminating interview segments and presented incomplete summaries of reports. See Matt Lait and Scott Glover, “Investigating Their Own,” *Los Angeles Times*, October 17, 2004.

52. See Drooyan Report at 48 (“To a troubling extent... the culture of LAPD remains committed to ‘top down management,’ rather than collaborative problem solving”). See Chemerinsky Report, Section III, 34 Loyola L.R. at 559, for extensive historical analysis of LAPD culture.

53. See, e.g., Christopher Commission Report at 170 (“Officers who do give evidence against their fellow officers are often ostracized and harassed, and in some instances themselves become the target of complaints”); Chemerinsky Report at 583-84 (“We spoke with several officers who related instances of officers who revealed wrongdoing being subjected to reprisals from supervisors and the Department”); Drooyan Report at 102 (“Sometimes petty complaints will be filed against officers who violate the code of silence and substantial Department resources will be utilized to investigate the complaints, which are often kept open for lengthy periods”).

54. See Scott Glover and Matt Lait, “New Light on a Distant Verdict,” *Los Angeles Times*, May 22, 2005. A U.S. Magistrate Judge reviewing the defendant’s claim of innocence recently concluded that he had “no confidence” in the guilty verdict rendered and that based on new evidence, “no reasonable juror” would likely convict the defendant today. See Scott Glover and Matt Lait, “Judge Recommends Lisker’s Claim Proceed,” *Los Angeles Times*, May 5, 2006.

55. See Board of Inquiry at 266 (noting that a U.S. Department of Justice report titled *Misconduct to Corruption. Avoiding the Impending Crisis* “found that complacency breeds misconduct, misconduct leads to corruption, corruption becomes corrosive, and corrosion becomes organizationally debilitating in its impact on agency morale and public trust”).

56. One veteran officer recalled the days when numbers of Field Incident Cards were the standard for success: “When we first used FI cards—there was pressure on everybody to write ten or fifteen a night. We would write names from the phone book... With numbers, people will find shortcuts.”

57. *See, e.g.*, Drooyan Report at 2; Board of Inquiry at 62-63 (noting “a clear impression within Rampart that, because it was an extremely busy place to work, officers and supervisors alike could circumvent established Department rules and procedures”).

58. White officers indirectly confirm such attitudes when describing the reality of how promotions happen. One officer with over twenty years on the force noted, “The way you get in a special unit is you go to South [Bureau] and grab all you can—you give a ticket, anything. That is how you get into Metro, Narcotics, Vice. It is productivity driven—they don’t care about the Supreme Court on a dark street. That is how we are driven.”

59. *Memento* is a 2000 movie about a man who has lost all short-term memory.

60. As one LAPD captain with over 25 years on the force put it: “For a recruit coming out of the Academy, the dynamic that training officers feel is important is aggression... We don’t treasure things like community based policing or caring what people are going through.” And another officer stated flatly, “we talk about community policing, but with Compstat, they don’t recap community contact. That is not evaluated.”

61. In describing the breadth of fraternization, a retired captain interviewed noted: “[W]hen I had to discipline, I found myself tempted to first ask, ‘Do you have relatives on the job, are you sleeping with somebody, what is their rank?’ Because there was so much intertwining—you slap somebody in 77th and somebody at Southwest yells out.”

62. *See* David D. Dotson, “A Culture of War,” *Los Angeles Times*, February 27, 2000.

63. “Each time a state or federal court expanded citizens’ rights and restricted unconstitutional police practices, the attitude and focus of the LAPD under Bill Parker and his successors would be not to find the best way to comply with the law, but the best way to work around it.” Domanick at 114.

64. The chair of this Blue Ribbon Panel, along with her co-counsel Donald Cook, Robert Mann, Paul Hoffman and Barry Litt, was one of the attorneys who sued the K-9 unit in the case, *Lawson v. Gates*, led by the Reverend James Lawson and the Reverend William S. Epps.

65. Drooyan Report at 32-34.

66. *See, e.g.*, “Report of the Independent Monitor for the Los Angeles Police Department, Report for the Quarter Ending December 31, 2004,” February 15, 2005 at 3 (“The very essence of the reforms envisioned by the Consent Decree is the goal of enhancing public confidence in the LAPD. We believe that it is consistent with the Monitor’s mandate to ensure, as best it can, that this goal is achieved”).

67. *See, e.g.*, “Report of the Independent Monitor for the Los Angeles Police Department, Report for the Quarter Ending September 30, 2005,” November 15, 2005.

68. “Plan to Change LAPD Consent Decree Rejected,” *Los Angeles Times*, March 22, 2006.

69. In 2003, the former INS was abolished. The former INS immigration services are now handled by the U.S. Citizenship and Immigration Services (“USCIS”).

70. The Panel tried unsuccessfully to contact officials in the Los Angeles office of the USCIS. No one outside USCIS knew whether USCIS had conducted any inquiry into Perez’s allegations.

71. Again, Perez contended that his drug crimes were solely his doing and not a part of LAPD culture, but that the fabrication of probable cause, shoddy investigations, evidence enhancement, evidence planting, gratuitous brutality, framing suspects, filing false reports, fixing internal investigations of misconduct, insubordination and perjury were common in CRASH.

72. The Mollen Commission (directed by former judge Milton Mollen) was implemented in 1992 to examine and investigate corruption in New York City’s Police Department and make recommendations for reform. The Mollen Commission Report is available on the Police Assessment Resource Center website (www.parc.info/index.html).

73. District Attorney investigators responsible for supporting public corruption prosecutions explained that they are too few in number to cover the dozens of police forces in LA County, and therefore must assume “that police departments police themselves.” Most District Attorneys interviewed had not read any of the prior reports documenting widespread problems in LA policing culture, from the McCone Report through the Christopher Commission Report and the Drooyan Report. Most prosecutors, in stark contrast to public defenders and other lawyers interviewed, testified that they had been shocked that police would lie or plant evidence.

74. Indeed, many members of the DA’s Office who spoke to the Panel expressed complete shock at the kind of conduct Perez alleged. “We as prosecutors knew probable cause is fudged on reports—we were not naïve about that,” one prosecutor recalled. “But planting evidence? We were offended; it shook my faith in police departments.”

75. *See* Collins Report at 2 (stating that reforming “the roles of the prosecutor and of the judiciary in better recognizing law enforcement and witness misconduct and providing greater accountability when that misconduct occurs... must be an integral part of any realistic attempt to avoid future injustices in our criminal justice system.”).

76. Although the City Controller conducted an audit of the Property Division in 1998, it did not focus on safeguards against LAPD officers illegally checking out narcotics; none of the audit’s recommendations would have prevented Rafael Perez from checking out the cocaine in the manner in which he did.

77. The plea agreement granted Perez immunity for uncharged crimes that he truthfully admitted, “based upon ... representations that he has not been involved in any criminal use-of-force activity which has resulted in the death of one person, but has been involved in one incident involving a potentially unlawful shooting of a criminal suspect [Ovando].”

78. Transcripts of Perez Interrogations at 49-50.

79. Specifically, Section 202(4) of the previous City Charter provided in relevant part: “No tenured officer of the Department shall be discharged, suspended, demoted in rank, or suspended and demoted in rank for any conduct that (a) was discovered by the Department and brought to the attention of the Chief of Police more than one year prior to the filing of the complaint against the officer [by the Chief of Police].” Los Angeles voters approved amendments to the Charter in 2000. Among other things, the amended City Charter removes this one-year limitations period for administrative charges.

80. *See Lybarger v. City of Los Angeles*, 40 Cal.3d 822 (1985).

81. On March 15, 2000, the California Attorney General issued a public statement calling the LAPD’s refusal to cooperate “unfortunate, counter-productive and without legal authority.”

82. *See* December 28, 2000 Report of Inspector General to Police Commission re CF No. 00-1736.

83. Specifically, the Board of Inquiry states: “It was almost universally reported that bureau commanding officers had little or no input on the appointment and assignment of new command officers during the tenure of Chief Willie Williams. Bureau C/Os frequently expressed their concern about the proper mix of command staff, particularly within Rampart. But, their concerns and those of several other high-ranking officers were ignored.” Board of Inquiry at 75.

84. *See, e.g.*, Board of Inquiry at 17. Stating that, “[u]nder the current and new City Charters, only the Personnel Department has the authority to disqualify a police applicant,” and maintaining that the department’s ability to hire the most qualified candidates has “mathematical limitations” due to hiring consent decrees. “If there are more than five candidates on a list who have negative background issues but have not been disqualified by the Personnel Department, the Police Department has two options: Non-select the five worst candidates and hire the remaining questionable candidates to fill the Academy class, which basically amounts to hiring the least unacceptable candidates, or reduce the class size so that no unacceptable candidate is appointed.”

85. In late 2001, the department began supplementing its investigators with experienced civilian staff, and in July 2004, the City’s Personnel Department took over the background investigation function. Now, all background investigations are conducted by experienced civilian investigators.

86. The relevant excerpt of the Personnel Department’s public report to the Board of Civil Service Commissioners that disputes the Board of Inquiry’s findings is included in Appendix D of this report.

87. The Personnel Department selected these three years because officers involved in the CRASH crisis were hired in each of these years, and they were years where LAPD hiring rates were particularly high or low. 1989-90 and 1996-97 were both years of heavy hiring, with 768 and 1258 officers hired respectively. 1992-93 was a year of low hiring, with 143 officers hired.

88. Scott Glover and Matt Lait, “Rampart Report Is a Year Overdue,” *Los Angeles Times*, March 30, 2002.

89. Los Angeles Police Commission Resolution, July 22, 2003, at 2. Obviously, it was understood that an outside panel formed almost four years after the scandal broke could not account for the “exact nature and disposition of each allegation” of police corruption, as the department had initially promised.

90. The Panel was unable to obtain copies of these draft after-action reports.

91. Of the eighty-six Boards of Rights relating to the CRASH crisis that the Panel identified, fifty-four of the Boards resulted in officers being found not guilty on all counts. Only nineteen of the Boards resulted in officers being found guilty on all counts. Twelve of the Boards resulted in officers being found guilty on some counts and not guilty on other counts. The verdict for one Board was unobtainable.

92. Although the Professional Standards Bureau maintains that such legal arguments should not be considered by Boards of Rights, the Panel witnessed instances where these issues were considered by the Board.

93. A judge subsequently overturned the guilty verdict, based primarily on her finding that she had given erroneous jury instructions.

94. Although a separate Board of Rights subsequently found the officer guilty of other misconduct and recommended his termination, this initial Board should not be ignored.

95. In fact, some officers expressed their opinion to the Panel that the goal of the department’s criminal and administrative investigations and its Board of Inquiry was not to get to the bottom of the scandal. Moreover, seven officer witnesses who spoke anonymously to the Panel in 2004 expressed fear of retribution for talking about the CRASH scandal. Two expressed fear of physical harm for talking, and one reported receiving in 2004 a verbal warning from a previous supervisor “not to wake sleeping dogs” by speaking to this Panel. The Panel concluded that the fears expressed appeared genuine, the testimony credible as evidence of their current states of mind and of what they believed happened in the wake of the scandal. However, the absence of corroborating evidence precluded using their information as a basis for findings or conclusions.

96. See discussion of compelled statements and *Lybarger v. City of Los Angeles*. As the transcripts of the Perez interrogations reveal, many administrative investigators interrogated Perez and presumably used information derived from administratively compelled statements.

97. The District Attorney’s Office expended significant efforts attempting to compile information concerning the number and results of Rampart related writs filed. They acknowledge, however, that to date they have not been able to compile a complete list. Initially, Rampart related writs were handled by a subgroup of the Special Prosecution Team specifically formed for Rampart. After the Special Prosecution Team disbanded, the writs were transferred to the DA’s HABLIT division. Although the DA’s Office had assigned a person to keep track of the Rampart related writs, the person assigned to that task left the Office. These changes in the divisions and personnel responsible for the Rampart related writs have thus far prevented the DA’s Office from compiling a complete list of Rampart writ information.

98. Matt Lait and Scott Glover, “LAPD Probe Fades Into Oblivion,” *Los Angeles Times*, August 11, 2003.

99. See *Garrity v. New Jersey*, 382 U.S. 493 (1967) (prohibiting the use of administratively compelled statements in a subsequent criminal proceeding).

100. Flores pled guilty; in February 2001, she was sentenced to fourteen months in federal prison.

101. *Brady* material consists of exculpatory or impeaching information material to the guilt or innocence of a criminal defendant. *Brady v. Maryland*, 373 U.S. 83 (1963), established that a prosecutor has a duty to turn over any such information to a criminal defendant.

102. A *Pitchess* motion, named after the California Supreme Court case *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, is a request made by a criminal defendant for access to information in the personnel file of an arresting police officer to support the defendant’s claim of officer misconduct. (The Pitchess process is now codified in California Evidence Code sections 1043-47.)

103. The transformation of LAPD’s K-9 division is discussed in *The Road Ahead*.

104. They explained that in instances where Perez admitted to committing perjury regarding those drug offenses, those instances would be in the *Brady* database. However, narcotics offenses that did not implicate theft or perjury or some other act of “moral turpitude” would not be included.

105. The California Commission on the Fair Administration of Justice, which was created by the California Senate in 2004, has been charged with: reviewing the administration of criminal justice in California and determining the extent to which that process has failed in the past, resulting in wrongful executions or the wrongful convictions; examining ways of providing safeguards to prevent the conviction of the innocent; and making recommendations for improving the fair administration of criminal justice in California. The Commission has stated that it will make recommendations regarding witness misidentification; false confessions; use of jailhouse informants; incompetence of defense counsel; prosecutorial misconduct; problems with scientific evidence; and the fair administration of the death penalty.

