

I. Introduction

Sometimes the most mistrustful relationship in a community exists between law enforcement and the greater society. We entrust police officers with the tremendous responsibility of enforcing our laws and grant them "the right to make an arrest [which may require the officer] to use objectively reasonable force."¹ We allow law enforcement officers to carry weapons to fulfill their responsibility, and the public expects them to use their power appropriately. Salvatore V. Rosano, former chief of police of Santa Rosa, wrote:

The law enforcement profession is imbued with a public trust that requires the demonstration of the highest degree of integrity and moral responsibility. The trust the public has provided requires that those employed in the law enforcement profession adhere to a code that establishes high standards of ethics and conduct.²

Community members have expectations of what good policing entails, including the appropriate use of force, and sometimes question the ethics and conduct of individual law enforcement officers and departments. Some members of the command structure and rank and file of police departments believe their experience, policies, and procedures make them the only experts. As a consequence, they are generally reluctant to entertain ideas, proposals, and criticism from those outside their structure.

¹ Sonoma County Law Enforcement Chiefs Association, Policy 92-4, Use of Force, Aug. 8, 1997. In determining whether force used by an officer is objectively reasonable, all the facts and circumstances with which the officer was confronted are considered, including: the information available to the officer at the time of the incident; the acts of the suspect; whether the suspect reasonably appeared to be a threat to the officer or to the other persons; and the severity of the crime that the individual was suspected.

² Salvatore V. Rosano, chief of police, Santa Rosa Police Department, Code of Conduct, General Order 81-2, Feb. 11, 1981. Mr. Rosano is no longer the police chief of Santa Rosa.

When a law enforcement event, whether an allegation of unnecessary use of force, or the use of force resulting in a fatality occurs in a community, the manifestations of this mistrustful relationship rise to extreme levels of charges and counter-charges. Emotions often run very high. For the most part, individuals are reluctant to get involved in police matters or oversight until such an event affects their immediate family or an acquaintance. By then the cumulative result of the community's neglect and the law enforcement department's veil of intended or unintended secrecy regarding its operations often divide a community. While recognizing the occupational hazards faced by officers in fulfilling their task, the responsibility provided law enforcement requires that communities demand accountability of the officers and those in command. Communities cannot abrogate their responsibility to demand accountability, and police departments that dismiss or ignore this vital community function create a climate of distrust and fear.

Through time the United States Commission on Civil Rights³ and its State Advisory Committees⁴ have studied the relationship of police and communities in urban and rural settings. The experience has shown that minority communities have been most vocal in their complaints about law enforcement practices they view as abusive or unnecessary, and those that have resulted in a fatality. Often one incident was the spark that prompted the involvement of the Commission. What has not been part of the Commission's general experience is indignation about police abuse of authority by the majority population. That appears to be changing.

³ The U.S. Commission on Civil Rights is an independent, bipartisan agency first established by Congress in 1957 and reestablished in 1983.

⁴ The Commission is mandated to establish State Advisory Committees in all States and the District of Columbia. These 51 Federal advisory bodies advise the Commission of civil rights issues within their States.

At its September 5, 1997, meeting, the Commission requested that the Western Regional Office investigate and report its findings regarding instances of alleged misconduct in Sonoma County, including the events surrounding the shooting death of Kuan Chung Kao, a 33-year-old Taiwanese national, by a police officer of the Rohnert Park Department of Public Safety. The Asian American community in the Bay Area had expressed concern over the possible violation of civil rights in the shooting and the implication of racial bias in the comments made by law enforcement and public officials following the incident.⁵

Pursuant to the Commission's request, Regional Office staff traveled to Rohnert Park and Santa Rosa, county seat of Sonoma County, to meet with officials and community representatives who wished to discuss their concerns over police-community relations throughout the county. While the results of the initial field trip were inconclusive regarding whether the Kao incident was a case of racial bias, the picture that emerged suggested that there was a serious deterioration of police-community relations throughout Sonoma County. Between April 1, 1995, and September 25, 1997, eight citizens within the county had been killed by law enforcement officers, and all were found to be justifiable homicide.⁶ In addition, community

⁵ The facts of the incident were not in dispute. Mr. Kao was killed in the early morning hours April 29 after returning home from an evening of celebrating with friends. Neighbors called police at approximately 2:00 a.m. to report that he was outside his home, yelling and creating a disturbance. Rohnert Park officers stated they were confronted by Kao waving a broom handle in a martial arts manner, and that he refused to drop the pole and began striking a patrol car. According to the investigative report of the Sonoma County Sheriff's Department, Kao walked toward one of the officers, a 25-year veteran, in a threatening manner and was shot once in the chest, dying within minutes. Asian American community members allege that following the shooting, the officers would not allow Mrs. Kao to approach her mortally wounded husband to offer aid. In addition to the Sonoma County Sheriff's report on the incident, the facts were reported in a number of media stories including: Mary Callahan, staff writer, "11 deaths likely to figure in hearings," *Press Democrat*, Feb. 19, 1998; and Paula Harris, "Deadly Force, Outcry over police brutality," the *Sonoma County Independent*, Sept. 18-24, 1997.

⁶ The incidents were: Apr. 1, 1995: James Hopper, 37, shot and killed by a Santa Rosa police officer who responded to a call of a fight. Officers alleged the suspect came at them with a metal pipe; Jan. 29, 1996: Dale Robbins, 40, shot and killed inside the Santa Rosa police station after reportedly assaulting one officer and attacking another with a metal

spokespersons alleged there were three deaths at the county jail in 1997.⁷

The *San Francisco Weekly* reported that in a 10-year period, "law enforcement officers in bucolic, vineyard-dotted Sonoma County have shot and killed 10 people."⁸ Seven of those 10 fatal shootings involved Santa Rosa police officers.⁹ For the period October 16, 1990, through September 11, 1997, the Sonoma County Center for Peace and Justice documented 60 separate incidents involving law enforcement in the northern counties of Alameda, Napa, Placer, Sacramento, San Francisco, Santa Clara, Solano, and Sonoma. John Crew, an attorney and director of the Police Practices Project of the American Civil

pipe. A grand jury probe later criticized the internal investigation; Aug. 29, 1996: Kevin Saunders, 37, shot three times and killed by a Santa Rosa police officer who said the suspect was reaching for a gun. The suspect was unarmed, and the district attorney called it a "suicide by police officer" based upon a note found written by the suspect; Sept. 6, 1996: Dustin Clark, 33, died after being pepper-sprayed, hogtied, and struck after a traffic stop by a county sheriff. Clark went into a coma and died several hours later; Isan R. Frost, 33, found dead in a Santa Rosa creek. The suspect had run away from a deputy sheriff after a traffic stop. The deputy had allegedly hit the suspect in the chest with his flashlight, fearing that he was reaching for a weapon. Frost fell into a creek and drowned and his body was found the next day in the creek; Solomon Hernandez, 28, shot three times and killed at an Exxon station by a Santa Rosa police officer who claimed Hernandez attacked him with a screwdriver. Hernandez was allegedly handcuffed when he arrived at the coroner's office; Feb. 2, 1997: Corey Goodwin, 36, killed by Rohnert Park police when officers lobbed a tear gas canister into the house where he had barricaded himself. The house exploded into flames; Apr. 29, 1997: Kuan Chung Kao, 33, killed by one shot to the chest by a Rohnert Park police officer who said the victim was waving a stick in a "martial arts manner" and beat on a police car. The incidents were outlined in Paula Harris, "Deadly Force, Outcry over police brutality" and "Up for Review," the *Sonoma County Independent*, Sept. 18-24, 1997, p. 9. The Advisory Committee makes no judgment on the legitimacy of these incidents or the findings by the district attorney.

⁷ It was alleged that Joanie Holmes died within 3 days of arriving at the jail; John Banks served 4 days and died within 6 hours of his release; Kenneth Stra arrived at the jail and died within 27 hours. All three were believed to have been heroin addicts.

⁸ Tara Shioya, "Duck! You're in Wine Country. Why do police in bucolic Santa Rosa kill more citizens per capita than cops in San Francisco and New York?" *San Francisco Weekly*, Sept. 17-23, 1997, pp. 14-24 (hereafter cited as Duck).

⁹ Duck, p. 16. In three of the cases, the victims had documented histories of mental illness. This may suggest that preservation of the civil rights of people with mental impairments requires greater attention by law enforcement.

Liberties Union of northern California, told Commission staff that there is an enormous amount of denial among law enforcement that there is a problem.¹⁰

At a September 24, 1997, meeting in Santa Rosa with Commission staff, community spokespersons detailed their frustration with officers who, they allege, view deadly force as the only alternative; questioned the methods of investigation of shootings; noted their lack of confidence in the system; alleged the district attorney allowed the department whose officer perpetrated the shooting to investigate; suggested that officers are not trained to deal with mentally impaired individuals; alleged the departments try to "criminalize" their victims and marginalize their critics; generally noted that the police departments and county sheriff have poor communications with the communities they serve; and alleged the police are not accountable to anyone.¹¹ It was clear that for a segment of the county's population police-community relations had soured and the level of mistrust was high.

Demographics

Sonoma County,¹² along with Napa and Mendocino Counties, have traditionally been known as the "wine counties" of California. Although these counties have remained fairly rural, demographic change in Sonoma has been dramatic. Santa Rosa, the county seat, is approximately 50 miles north of San Francisco and within commuting distance. It has become more suburban within the past few years. The 1990 census reported 388,222 as the county population, with 84.3 percent white; 10.6 percent Hispanic; 2.6 percent Asian American and Pacific Islander; 1.4 percent black; 0.9 percent American Indian, Aleut, Eskimo; and .01 percent other.

¹⁰ John Crew, director, Police Practices Project, American Civil Liberties Union of Northern California, San Francisco, interview, Sept. 23, 1997.

¹¹ The problem in Sonoma County has transcended the Commission's traditional constituency of minority communities. Of the 24 citizens at the Sept. 24, 1997, meeting, 1 was African American, 3 were Asian American, 1 was Hispanic, and 19 were Caucasian.

¹² Sonoma County was 1 of the original 27 California counties. It derives its name from a local Indian chief baptized by Spanish missionaries. Don McCormack, editor, *McCormack's Guides for Newcomers and Families, Marin, Napa & Sonoma, '97* (Martinez, CA: McCormack's Guides, Inc., 1997).

According to Richard Rogers, planner, Environmental and Comprehensive Planning Division, Permit and Resource Management of Sonoma County, as of January 1997, there were approximately 426,934 county residents.¹³ Rogers added that the population percentages for Asian Americans and Hispanics are higher than in 1990, but the county did not have current data. According to Booker Neal, Community Relations Service, U.S. Department of Justice, Sonoma County is becoming more urbanized and strong antigrowth sentiments exist.¹⁴ Neal noted that Rohnert Park, where Mr. Kao was killed, has the largest concentration of minorities and county-wide Hispanics are the fastest growing population.¹⁵

According to Larry Hajime Shinagawa, associate professor, Sonoma State University, the growth rate has actually declined, from 2.6 percent for the period 1980-1990 to 2.3 percent for the period 1990-1995. He attributes this decline to statistical interpretation, because the population has actually increased and growth rate simply reflects a percentage of the difference in numbers between two dates. He told the Advisory Committee:

The major factor impacting growth between 1988 and 1993 was migration of persons into Sonoma County. That is very important. What we are seeing is that the face, complexion, nature, class, and cultural composition is changing. Seventy-five percent of the population increase is from out of this area while only 24.8 percent is due to natural increase from births over deaths.

The racial composition of the county was still largely non-Hispanic white with 82 percent in 1996. [In the same year] the Hispanic population was 12 percent; the Asian population, 3 percent; the black population, 1 percent; and the Native American population, 1 percent. Between 1990 and 1996, there has been a significant net increase in the Hispanic, Asian, and African American populations, while the white population has only grown slightly.

¹³ Richard Rogers, planner III, Environmental and Comprehensive Planning Division, Permit and Resource Management, Sonoma County, Santa Rosa, CA, interview, Sept. 24, 1997.

¹⁴ Booker Neal, Community Relations Service, U.S. Department of Justice, San Francisco, interview, Sept. 23, 1997.

¹⁵ *Ibid.*

The point I am trying to make here is that California is changing, and Sonoma County is going to have to confront the changes that are happening across California.¹⁶

J. Michael Mullins, district attorney, Sonoma County, told the Advisory Committee, "Sonoma is changing; our population has virtually doubled in less than 20 years, and that [causes] a certain amount of growing pains."¹⁷ Jerry Schoenstein, director, Basic Academy, Santa Rosa Training Center, added, "The dynamic of the county has changed dramatically with the population; demographics are changing radically, and to a certain extent [that] causes some distrust."¹⁸ Pia Jensen, councilwoman, city of Cotati, said, "Personally [I believe] that our police aren't ready to deal with the influx [of people and] the changes with population growth."¹⁹

The State of California, Department of Finance, estimated that Sonoma County had a population of 443,700 on January 1, 1999.²⁰ For the same date, the Department of Finance estimated 6,075 in Cloverdale; 6,800 in Cotati; 10,000 in Healdsburg; 51,700 in Petaluma; 40,505 in Robert Park; 138,700 in Santa Rosa; 7,900 in Sebastopol; 9,275 in Sonoma; 20,400 in Windsor; and 152,800 in the unincorporated areas.²¹

Advisory Committee

The California Advisory Committee to the U.S. Commission on Civil Rights had been apprised of the police-community issues in Sonoma County by staff of the Western Regional Office. The Advisory Committee had expressed interest in determining the extent of community concern and a potential role within its function to advise the Commission of civil rights issues in the State. At its meeting of January 9, 1998, the Commission passed a motion to have two Com-

missioners join the California Advisory Committee in conducting a factfinding meeting on law enforcement issues in Sonoma County. At the January 9 meeting, the late Commissioner A. Leon Higginbotham, Jr., stated, "There's a problem, people died from police bullets." The Advisory Committee had completed a May 29, 1997, factfinding meeting on administration of justice issues in Orange County, and the chairperson concluded that the Sonoma project would be part of its overall mandate to address such issues statewide.

A factfinding meeting was held February 20, 1998, at the Justice Joseph A. Rattigan State Building in Santa Rosa to "obtain information and views on law enforcement policies, practices, and procedures in Sonoma County; community concerns regarding the administration of justice; law enforcement concerns regarding public safety; and recommendations for matching public safety objectives with community concerns for objective treatment."²² The Advisory Committee was joined by Commission Vice Chair Cruz Reynoso and Commission member Yvonne Lee at the meeting. Sixty-one individuals addressed the joint panel on the issues.²³

²² Transcript, 1998.

²³ Participants included: Elisabeth Anderson, executive director, Sonoma County Center for Peace and Justice; Larry Hajime Shinagawa, Ph.D., associate professor, chair, American Multi-Cultural Studies Department, Sonoma State University; Judith Volkart, chairperson, Sonoma County American Civil Liberties Union; Tanya Brannan, Purple Berets; Steven Campbell, Sonoma County Homeless Coalition; Karen Saari, October 22 Coalition Against Police Brutality; Jim Piccinini, sheriff, Sonoma County; Michael A. Dunbaugh, chief of police, city of Santa Rosa; Patrick Rooney, chief of police, city of Robert Park; J. Michael Mullins, district attorney, Sonoma County; Jerry Schoenstein, director, Basic Academy; Donald Casimere, investigative and appeals officer, city of Richmond; Penny Harrington, director, National Center for Women in Policing; John Parker, executive director, San Diego County Police Review Board; and the following community representatives: Rabbi Michael Robinson, James Carlson, Jaime Gutierrez, Eric Goldschlag, Mary Moore, Ken Davenport, Anthony Ferrari, Todd Mendoza, William P. Adams, Darlene Grainger, Earl Herr, M.D., Rudy Kham, Duan DeWitt, Pia Jensen, Andre Lance Dews, Robert Dan McCarter, Phyllis Rosenfield, Isabel Huie, Claudia Turner, John Hussey, Virginia Steele, Bill Stirnus, Cindy Pilar, Daniel Loyal Garcia, Louis Beary, Vicki Vidak-Martinez, Cornelius Hall, Kit Mariah, Nancy Wang, John Gurney, Charla Greene, Estelle Townsend, Cathy Harvey, Sean Jones, Wayne Griffith, Ralph O'Connell, Sherryl Nives, Barbara Londerville, R.D. Wishard, Toni MacDonald, Russell Jorgensen, Irene Hoener, Virginia McCullough, Carol Mardeusz, Claudia Rickman, Thomas Twiddy, Janice Karman, Kahia Mussetter. In addition to these presentations, the Advisory Committee received numerous

¹⁶ United States Commission on Civil Rights, California Advisory Committee, Police Practices and Police-Community Relations in Sonoma County Forum, Santa Rosa, CA, Feb. 20, 1998 (hereafter cited as Transcript, 1998). Unless otherwise noted, all comments cited are from this transcript.

¹⁷ Transcript, 1998, p. 91.

¹⁸ Ibid., p. 92.

¹⁹ Ibid., p. 150.

²⁰ State of California, Department of Finance, *City/County Population Estimates with Annual Percent Change*, Jan. 1, 1998 and 1999 (hereafter cited as *City/County Population Estimates*).

²¹ *City/County Population Estimates*.

The presentations made vivid the level of polarization in the county regarding law enforcement practices. The meeting room was filled to capacity throughout the day, and hundreds of citizens of Sonoma County listened via speakers in the cavernous entrance lobby and a first floor side room. In fact, the Advisory Committee was chastised by community representatives for failing to find a venue for the proceedings that could accommodate all those interested in attending. At the facility used, the casual observer

could clearly see the demarcation between supporters of the police and those who believe constructive change is warranted.

Following the Advisory Committee's fact-finding meeting, Western Regional Office staff learned of three additional deaths in Sonoma County, two at the Sonoma County jail and one suspect killed by a Petaluma police officer.²⁴

This report is a summary of the Advisory Committee's data gathering effort.

letters from citizens and public officials either supporting or offering concerns about law enforcement.

²⁴ Karen Saari, Supplemental Report for the California Advisory Committee to the U.S. Commission on Civil Rights, Mar. 20, 1998. The victims were: Drue Harris, 37, died by suicide at the Sonoma County jail, Feb. 25, 1998; Carolyn Telzrow, 47, died by suicide at the Sonoma County jail, Mar. 9, 1998; and Paul Rodrigues, 41, alleged robbery suspect, killed by a Petaluma police officer, Mar. 10, 1998. The chief of the Petaluma Police Department had telephoned the Western Regional Office to advise it of this shooting. The Advisory Committee makes no judgment on the legality of these deaths.