



10th BILETA Conference Electronic: Communications

March 30th & March 31st, 1995 Business School,
University of Strathclyde, Glasgow

Electronic Casebook on Civil Rights, Police Reform and Rebuilding Los Angeles

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Introduction

The 1991 beating of Rodney King highlights police abuse as one of the most pressing civil rights issues in the United States today. I am developing an "electronic casebook" on civil rights and police reform that situates the Rodney King beating and police reform in a broad legal, political and social context. The book combines innovative substantive materials on police reform with electronic tools for harnessing the information. The book will include traditional legal materials such as cases, statutes, and law review articles; sociological data on life in Los Angeles from the time of the Watts riots in 1965 to the riots and rebellion following the acquittals in the first Rodney King beating trial in 1992; journalistic accounts of the civil disorders in 1992; and public reports such as the Christopher Commission Report that document the need for police reform. The book will also include digitized versions of the videotapes of the Rodney King beating and Reginald Denny beating; digitized photographs of the riots and rebellion; and excerpts from Anna Deavere Smith's dramatic performance on Broadway about the riots and rebellion, *Twilight: Los Angeles, 1992* (1994). While the book focuses on events in Los Angeles, the issues are of world-wide significance. The Rodney King tape has been broadcast around the world. The international human rights groups Amnesty International and Human Rights Watch have recently issued reports examining police abuse in Los Angeles and compliance with international human rights standards. Those materials are included in the book.

The electronic book will serve several major purposes. I use the materials to teach a seminar on civil rights and police reform at Stanford Law School. We will also use the book to educate the staff attorneys and cooperating attorneys who work with the NAACP Legal Defense and Educational Fund, Inc., as discussed below. The book is an integral part of our efforts to create the electronic law school, to create the electronic Legal Defense Fund, and to prepare students and attorneys for the electronic practice of law. The goal is not to prepare for the future. The goal is to prepare students and attorneys to practice law the way the best lawyers do now.

The book addresses broad issues of accomplishing social change through law. Concretely, the book examines efforts to achieve police reform through civil litigation in comparison to non-litigation forms of advocacy. The book explores the benefits and disadvantages of each avenue, in order to evaluate which avenue is more likely to have an impact on the day-to-day behavior of police officers on the street. The book helps fulfill the goal of making community experience relevant to legal education and to the practice of law. The book provides a strong theoretical component to place the experience of the community and the reality of civil rights advocacy in a broader legal, political and social framework.

The book will be published on CD-ROM in order to disseminate information about police reform to scholars, lawyers, policy makers and other students of the criminal justice system. Much of that information has emerged in the wake of the riots and rebellion following the first Rodney King beating trial and is not readily available now. For example, the book will contain the full text of the Christopher Commission Report, prepared by now-Secretary of State Warren Christopher, which documented the systematic use of excessive force and racial harassment within the Los Angeles Police Department and which led to major structural reforms within the LAPD in the wake of the Rodney King beating.

The electronic tools that are necessary to analyze the information about police reform as effectively as possible are integrated into the book. The electronic tools include hypertext links and the ability to conduct key word searches, to take notes electronically, and to highlight the text electronically.

We will also use the book to educate the attorneys who work with the Legal Defense Fund on the use of electronic information in complex civil rights litigation. The Legal Defense Fund is the nation's premiere civil rights law firm. The Legal Defense Fund has long been a leader in police reform. For example, the Fund litigated and won a leading Supreme Court decision on the use of force by the police, *Tennessee v. Garner*, 471 U.S. 1 (1985). I serve as Western Regional Counsel to the Fund. The Legal Defense Fund works with a nationwide network of cooperating attorneys, who range from partners at the nation's leading law firms to solo practitioners who specialize in civil rights law. We intend to use the book to educate attorneys on the merits of police reform and on the electronic practice of law.

This paper will describe the contents of the book, the electronic tools that are an integral part of the book, the role of the book in the electronic law school, and the role of the book in the electronic law firm. A draft table of contents for the book is included with this memorandum. The book will be among the first electronic books in law. The lessons learned from preparing this book can be used to create future electronic books. The draft table of contents and time line are attached.

The Contents of the Book

Part One of the book focuses on defining the problem of police abuse and excessive force. In some ways, the entire book can be seen as an effort to understand the Rodney King beating. The Rodney King beating demonstrates that there is no simple answer to the problem of excessive force. The Rodney King tape serves as a mirror which reflects the values of this society and of the people who watch and evaluate what happened on the tape. For example, the jury in Simi Valley acquitted the officers of criminal charges, while the jury in the federal trial in Los Angeles convicted two officers of violating Rodney King's civil rights. The trial judge in the federal case imposed relatively light sentences on the convicted officers. The Court of Appeals reversed on the grounds that the sentences were unduly lenient, in violation of the federal sentencing guidelines. To allow the reader to evaluate the Rodney King beating, the book will provide a digitized version of the tape itself, the Supreme Court cases defining the constitutional standards on the permissible use of force, relevant portions of the Christopher Commission Report, the government's sentencing memorandum in the federal case, the judge's sentencing decision, and the Court of Appeals opinion.

The book illuminates the values at stake in assessing what constitutes police abuse by situating the Rodney King materials in three broader contexts. The book explores the culture of the police, which allowed four officers to beat and electrocute King into submission while twenty other officers stood by and did nothing. The book probes the context of life in Los Angeles before and after the Rodney King beating. Finally, the book examines the significance of race and ethnicity in the criminal justice system. Police abuse is frequently exacerbated by racial harassment.

The book will serve a valuable function by including the full texts of several reports about law enforcement that have emerged in the wake of the riots and rebellion. For example, in addition to the Christopher Commission Report on the Los Angeles Police Department, the book will include the full text of the *Report on the Los Angeles County Sheriff's Department* by Special Counsel James Kolts & Staff (1992) (the "Kolts Report"), which documented the systemic use of excessive force and racial harassment in the Los Angeles County Sheriff's Department. The book will include the full text of the report by William Webster and Hubert Williams, *The City in Crisis: A Report by the Special Advisor to the Board of Police Commissioners on the Civil Disorders in Los Angeles* (1992) (the "Webster Report"), which documented the management failures in the LAPD that exacerbated the riots and rebellion.

Part Two of the book focuses on efforts to resolve the problem of police abuse. The book explores two competing models of what constitutes good policing: community policing and paramilitary policing. Part Two then examines various means for controlling the police, including: regulation of the police under the Constitution, civil rights legislation, internal police rule-making, recommendations for reform by "Blue Ribbon" panels, civil rights litigation by private plaintiffs, criminal prosecutions of "bad cops," community review of the police, and international human rights standards.

Part Three is the doctrinal heart of the book, containing the leading Supreme Court decisions on police abuse and municipal liability. A central goal of the book is to examine how constitutional standards are translated into life on the streets.

Part Four of the book compares in detail two avenues for achieving police reform. One avenue focuses on civil rights litigation while the other involves non-litigation forms of advocacy. The book explores the advantages and disadvantages of each avenue in an effort to determine which avenue has the greatest impact on the street. Specifically, the book focuses on materials filed in the District Court and on appeal in the civil rights class action in *Thomas v. County of Los Angeles*, 978 F.2d 504 (9th Cir. 1992), which seeks injunctive relief against the Los Angeles County Sheriff's Department on the grounds that sheriff's deputies systematically engage in the use of excessive force and racial harassment in south-central Los Angeles.

Part Five assesses the impact of L.A. street gangs on law enforcement. The book includes the full text of the report by former Los Angeles County District Attorney Ira Reiner, *Gangs Crime and Violence in Los Angeles* (1992). Popular hysteria about drive-by shootings and gang warfare threatens constitutional protections of civil rights and civil liberties, as illustrated by President Bill Clinton's recent call for expanded police powers to conduct sweeps for guns and drugs in public housing projects.

The Electronic Tools

The book is to be published as an "electronic book" rather than in paper form for several reasons. The electronic book

can be published on compact disk to make information about police reform readily available to scholars, lawyers, and policy makers throughout the country and around the world. Disseminating knowledge electronically will help researchers gather and analyze data about the incidence of police abuse and enable them to redress the abuses. At the present time, much of the information in the book is available only in paper form and is not readily available anywhere. For example, the Christopher Commission Report, the Kolts Report, the Webster Report and the report on Gangs, Crime and Violence are not available in most libraries and are not available in bookstores.

Computers allow lawyers and scholars to analyze information in ways that realistically would not be possible without computers. For example, the Christopher Commission conducted nine major computer-aided studies of the LAPD. According to the Christopher Commission Report, those studies yielded their own truths about what really happened in police brutality cases independent of after-the-fact opinions or reconstructions. It is important for students and lawyers to learn to analyze information that way. Readers who learn to use the electronic tools to analyze the information in the book can also use those tools in other settings. For example, the same tools can be used to analyze deposition transcripts and massive amounts of documents obtained through discovery in a civil rights case.

The book enables the reader to view the same materials from different perspectives. For example, the table of contents contains hypertext links to the underlying materials that enable the reader to see the material through the click of a button. The table of contents serves as a hypertext road map to view the information from an analytic perspective. The book also contains a hypertext time line of major events in Los Angeles from the Watts Riots through the riots and rebellion following the acquittals in the first Rodney King trial. The time line contains hypertext links to the table of contents and the underlying materials. The time line enables the reader to view the information from a chronological perspective. Both the analytic and chronological perspectives are valid but different ways of conceptualizing the information. Perhaps it's like a painting by Picasso--is it a painting of a woman with three eyes? r three ways of looking at a woman?

Other electronic tools such as key word searches are an integral part of the book. The tools enable the reader to analyze the information in the book itself. Each reader can also chart his or her own electronic path through the materials in order to use the information in the manner that is most effective. For example, the book contains the full text of many of the underlying documents. The reader can find all references to the "code of silence" in the Christopher Commission Report. In contrast, the paper version of the Christopher Commission Report does not even contain an index. The electronic book permits the user to highlight selected passages and to print out only those passages. The book also permits the user to annotate the text electronically and to print out those notes. The electronic tools can be invaluable for academics conducting empirical research or writing scholarly papers, for lawyers drafting legal briefs, and for policy makers enacting rules for regulating police behavior.

The Electronic Law School

I use the materials in the book to teach a seminar on civil rights and police reform at Stanford Law School. The book and the course are at the forefront of creating the electronic law school. The book and the course enable students to become immersed in the electronic practice of law. For example, students learn to use computerized investigative techniques to analyze evidence and to develop factual and sociological information for use in court.

I hold "electronic office hours" in which the students and I interact in on-line dialogues on the law school network about issues that arise in the course and in our research. In the past I have found that some of the best interaction in a course takes place in the hall or in my office with just one or two students. Those lessons are frequently lost to the majority of the class. In contrast, electronic dialogues can be posted to the entire class so that others can benefit from the exchange. The on-line dialogues also help to replicate the law firm dynamic, where members can walk into each other's offices and work through legal problems together. Students are also required to submit weekly reaction papers discussing the readings. The students post the papers on the net and all students are required to read each other's papers before class. This makes for livelier class room discussions because students typically think things through more carefully if they write about them before hand and because they are familiar with each other's views before the discussions start. Students behave as law firm colleagues with the computer literate helping the less sophisticated. This helps convey the need for teamwork in working as lawyers. Students can also post their major written assignments on the law school network, and I can return edited versions to them over the net. The lessons learned in the course on civil rights and police reform through the use of the network and the electronic book can be used to expand electronic offerings at other law schools.

The Electronic Civil Rights Law Firm

We intend to use the lessons learned from producing the electronic book in order to build an electronic Legal Defense Fund. The Legal Defense Fund has offices in New York, Washington, D.C., and Los Angeles, California. We intend to create an electronic library of the Legal Defense Fund's briefs and position papers on civil rights issues. Those documents reflect the thinking of the finest civil rights lawyers in the country. The electronic library can be made available to the Legal Defense Fund's staff attorneys, its nationwide network of cooperating attorneys and to other civil

rights groups that work regularly with the Legal Defense Fund, such as the American Civil Liberties Union and the Mexican-American Legal Defense and Educational Fund.

We also intend to use the lessons learned from producing the electronic book to create an electronic library of the Legal Defense Fund's historical papers to make them readily accessible to legal scholars and historians. The archives of the Legal Defense Fund form a veritable history of the civil rights movement. The archives are currently housed in paper form in boxes at the National Archives and at the Legal Defense Fund. The archives are an invaluable resource for legal scholars and historians. The Legal Defense Fund's cases have been the subject of many books, and the scholarly and popular articles that deal with its cases are too numerous to mention. For example, Jack Greenberg, who was Director-Counsel of the Fund for twenty two years, recently published his book-length personal history of the Fund, *Crusaders in the Courts: How a Dedicated Band of Lawyers Fought for the Civil Rights Revolution* (1994). Richard Kluger's book *Simple Justice* (1976) is the classic history of the successful litigation by the Legal Defense Fund to outlaw segregation in public schools that culminated in the epochal Supreme Court decision in *Brown v. Board of Education*, which declared the "separate but equal" doctrine unconstitutional. Making the archives available electronically will make it easier for scholars and historians to use the information effectively and efficiently.

Conclusion

The electronic book and the course on civil rights and police reform are at the vanguard of legal education. The work is particularly significant in light of the need to make legal education relevant to the interests of the broader community and the need to prepare law students and lawyers for the electronic practice of law. The book is also important because it facilitates taking the civil rights community into the electronic age. Diana Faber Diana Faber 42 10th Bileta Conference Pre-proceedings 10th Bileta Conference Pre-proceedings 6