

BLACK AMERICA'S NEWSMAGAZINE

EMERGE

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One Year
Later**

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Behind
Carl
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Brown**

MAY 1993

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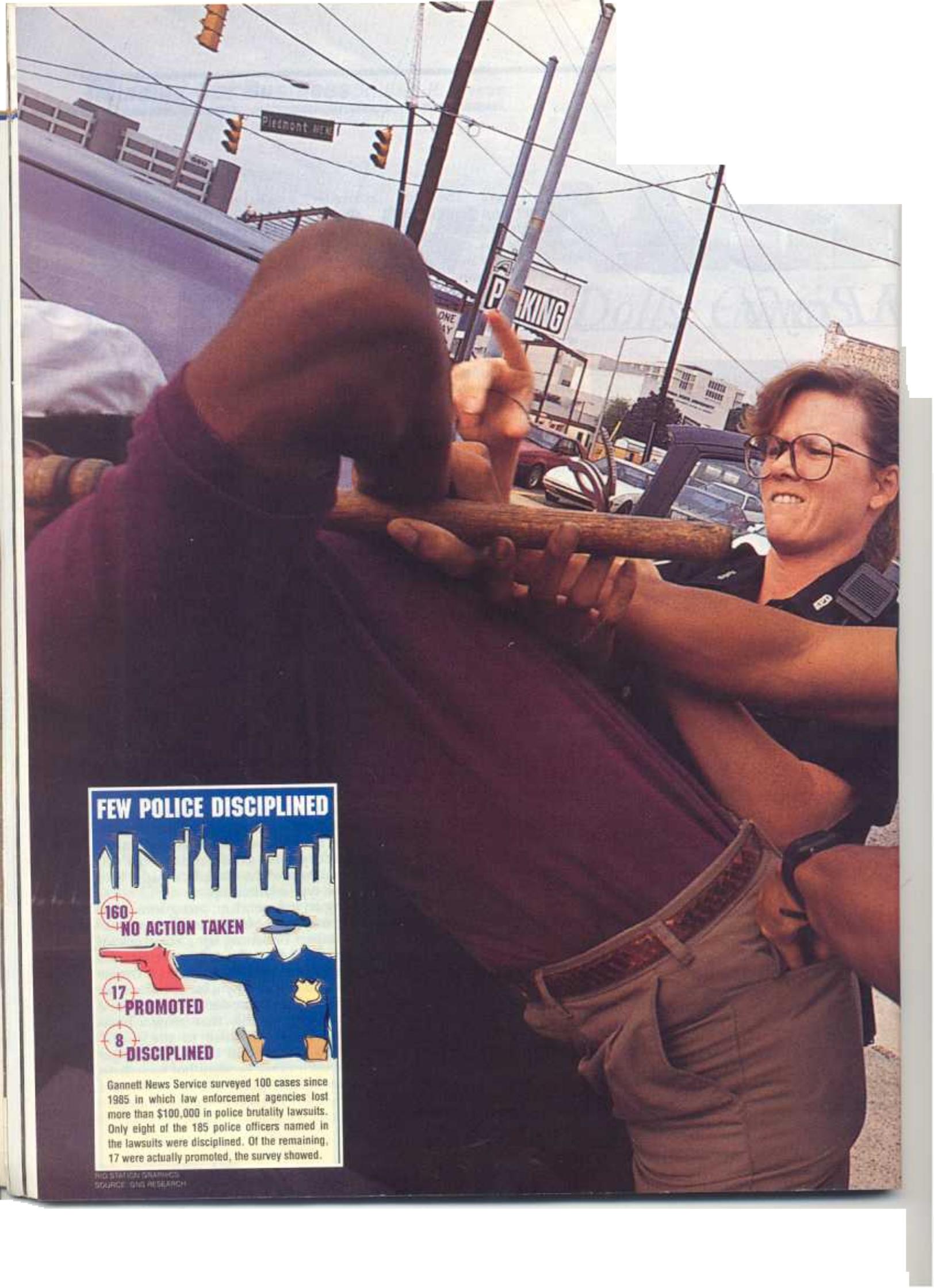


FIG. & STATISTICAL GRAPHICS
SOURCE: GNS RESEARCH

Have police declared war on Blacks?

By Joe Davidson

The evidence indicates that Lee F. Berry Jr. was guilty of traffic violations. His brother and nephew said he drove erratically and ran two red lights on the way to his partner's northwest Detroit home. But instead of the tickets he deserved, Berry's punishment was capital. A motorcycle cop shot him dead, once in the back, again in the right leg.

On the day before Thanksgiving last year, the city council voted to pay \$4.2 million to settle his family's lawsuit against Detroit. The police officer, Joseph Hall, was never punished for the killing. And just as lawyers were nearing a settlement on the Berry case, police officers were fatally beating Malice Green with their flashlights on Detroit's west side. Four officers involved in Green's beating were fired; three are awaiting trial.

Berry's case is not rare. Police brutality is a national problem that seldom gets the attention of the Rodney King incident in Los Angeles. Black men are frequent victims, and while white cops are often the assailants, black cops hide behind the blue curtain, too. A black mayor and a black police chief may make a difference, but don't count on it. Berry couldn't in Detroit.

"Racism is only one part of the police brutality issue," says Diana Haines, executive director of the Civilian Complaint Review Board in Washington, D.C. "The real issue is abuse of power."

The abuse is not limited to injuring the victim. When

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the public's protectors become the villains, the fundamental premise that binds a citizenry to its government, the legitimacy it conveys to its leadership, is undermined. When that bond deteriorates, cooperation between the community and the police lessens, weakening the fight against crime.

Unpoliced police are just a few goose steps from committing assault, battery and murder in the name of law.

In more practical terms, the cost of police abuse is great. Hubert Williams, president of the Police Foundation, points to the urban rebellions that have generally resulted from incidents of police brutality. "Excessive use of force is at the heart of most of the civil disorders that have afflicted this country," he says. "There is no single offense that creates the level of violence, the trauma, the economic drain as does this issue."

In two particularly disturbing examples of black men being victimized by white cops, the black men were cops, too. Two white officers were fired in Nashville, Tenn., for the Dec. 14 beating of a black on-duty undercover cop who worked in the same police station and on the same shift as those who did the beating. "I feel I was treated like a piece of meat thrown out to a pack of dogs," said officer Reggie Miller, who suffered a groin injury.

In a New York subway station, undercover transit officer Derwin Pannell was gunned down last November by fellow officers he recognized as he attempted to arrest a farebeater. Two white cops showered Pannell, an African American, with gunfire that left him seriously injured.

Newsday reported that prosecutors struck a deal with the two shooters and two other officers on the scene, making prosecution unlikely. The prosecutors agreed not to use the officers' statements against them—just the opposite of the warning given to suspects, that anything they say may be used against them.

Pannell said his gun was in its holster when his colleagues fired 21 shots—three hit—without warning. He had collared one suspect and was looking out for another he feared might return to help the one he was holding. His relief upon first seeing his colleagues turned to shock, as he observed them "at point-blank range, in a combat stance, with their guns pointed directly at me. I covered my vitals, went into a fetal position, and was shot," he said.

Police brutality often goes unpunished, even when a civil judgment—which provides an independent assessment of the facts—or settlement results in a significant payment to the victim or to the survivors.

A nationwide study by Gannett News Service last year showed that cops accused of brutality get promoted more often than punished. Gannett studied 100 cases in which victims were awarded at least \$100,000 because of police brutality between 1986 and 1991. Local governments paid \$92 million in civil judgments to victims because of the officers' actions.

Yet only five of the 185 brutal cops lost their jobs. Contrast that to the 19 who, according to Gannett, either were promoted or got better law enforcement jobs elsewhere. In Albuquerque, N.M., officer Jeff House was named "officer of the month" after the city lost a civil suit and had to pay \$332,500 because House had killed a burglary suspect.

Of the 2,152 complaints of abuse lodged against Los Angeles police officers between 1986 and 1990, only 42 were considered valid by the department, according to the Christopher Commission, which made a study after the King beating.

The Berry case in Detroit is instructive of how abuse, even death, can be linked to a routine incident and how African American males are in particular danger. The oldest of five children, Berry was a 26-year-old aspiring television news anchorman who had graduated from Wayne State University in Detroit with a bachelor's degree in radio,

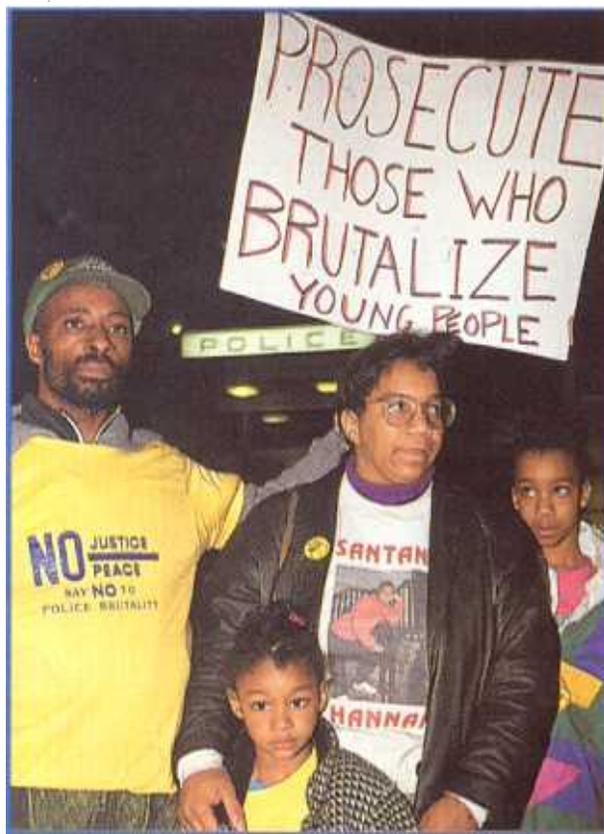
television and film the year before his death. It was June 23, 1987, one of the longest days of the year. There was plenty of summer daylight left as Berry, his 14-year-old brother, and his eight-year-old nephew made their way home from the family's moving business during the 5 p.m. rush hour.

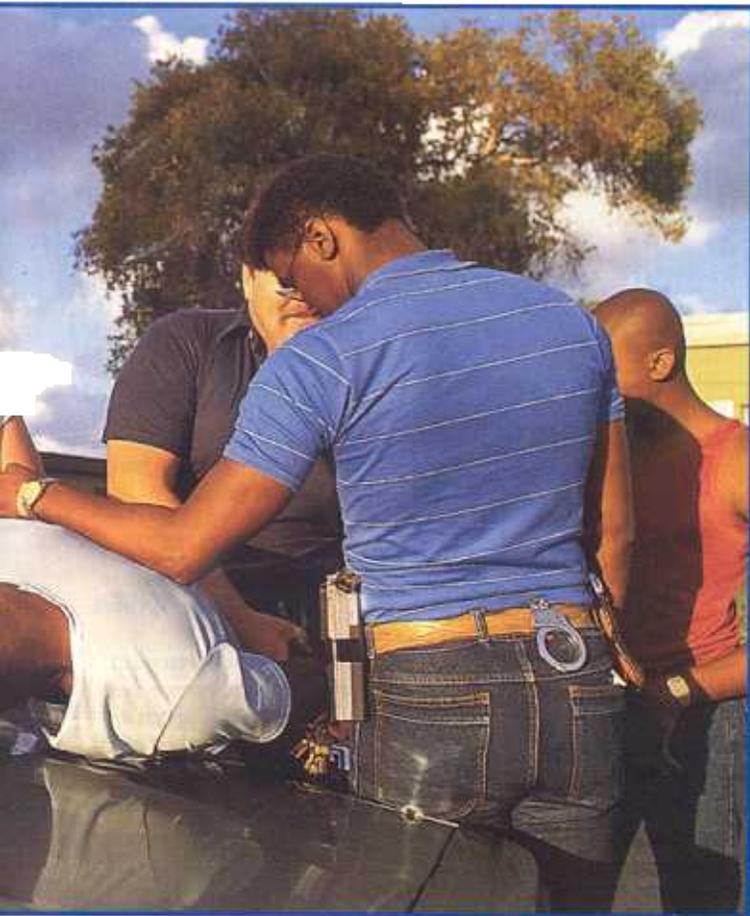
Berry pulled into the driveway of their house on West Outer Drive, near Livernois, Detroit's Avenue of Fashion. The neighborhood is middle class, with big lawns and a grassy boulevard. Home to many of Detroit's black professionals, the neighborhood is within the attendance area of Mumford High School, made famous by Eddie Murphy's t-shirt in the film *Beverly Hills Cop*.

Berry left the van, and walked around to its front to talk with workers, who were installing a fence around the house. Moments later Hall, a police officer with nearly 20



STEVE GRANITZ





As noted in a document filed by the attorney for Berry's family, "According to Mr. Hall, it was Lee Jr.'s fault that he shot himself."

After the shooting, however, Frank Leake, the fence worker, had yelled to another neighbor that the officer "shot this man down in cold blood." A federal civil jury agreed. It said the shooting violated Berry's constitutional rights and constituted battery and gross negligence. The jury awarded Berry's family \$6 million, and his mother, in whose name the suit was filed, accepted \$4.2 million to avoid a long appeal.

Not only did Hall escape criminal charges in Berry's death, he was not even disciplined by the Detroit Police Department. A review board said the shooting was in self-defense and justified. Hall retired not long after the shooting and was awarded disability payments because of the psychological trauma resulting from the incident.

"What happened was a whitewash," said Juan Mateo, the lawyer for Berry's family. "...They [police] literally get away with murder."

The two Cleveland cops who killed Michael Pipkins with a choke hold three days after last Christmas are white. But the mayor, the law director, and the city prosecutor who decided not to prosecute them are black. Cleveland did not explode, but the decision so jolted the African American community that one civil rights leader died of a heart attack while denouncing the local

NAACP president for backing the mayor.

Prosecutor Barbara J. Danforth told a press conference that despite Pipkins' death, she found no evidence the force used was excessive. The chances of convicting the officers were not good, she added. After meeting with Mayor Michael R. White, an angry Jack Blair, Pipkins' stepfather, told reporters, "This is like a license for the police to go out and kill people. I believe we

have some real weak people down at City Hall to come back with a decision like this."

The president of Cleveland's Police Patrolmen's Association told its members the association had forced city officials to withhold prosecution of the officers who killed Pipkins. Bob Beck, police union president, said his organization had planned to strike if the two cops were charged. City officials backed down, he contended, in the face of the union threat. But the mayor and the prosecutor vigorously denied Beck's claim.

Police officers are quick—and correct—to note that the amount of reported brutality is small compared to the number of contacts officers have with the public. And those who fight police brutality say a small percentage of officers are responsible for a high percentage of the abuse. In Chicago, for example, 2 percent of the department racks

years of experience, fired his weapon and killed Berry, who was unarmed.

Hall testified that he had followed Berry at speeds of 70 to 80 miles per hour, his emergency lights flashing, his siren sounding. No witness—neither the boys in the van nor the fence worker, nor the neighbor—indicated hearing a police siren. The boys said they did hear someone say something like, "If you make another move,

I'll kill you." The grandfather said he heard someone yell, "Get out of that van, you [expletive deleted]."

Hall said he pulled in behind the van and drew his weapon to arrest Berry. As he began to put his gun back in its holster in order to handcuff Berry, he was, so he testified, surprised when Berry turned and punched him in the face. Hall, who weighs 240 pounds and is 5' 11" tall, had more than 100 pounds and three inches on the 137-pound, 5' 7 1/2" Berry. The witnesses did not see a fight, nor did they testify that Hall appeared injured.

Yet Hall said that Berry broke his glasses, causing blood to cover his eyes—testimony the medical examiner later found implausible. "During the struggle for my gun," said Hall in his statement, "the weapon discharged four times, striking the perp [perpetrator]. The perp was continuing to pull on my gun as it was discharging."

Even routine incidents have resulted in abuse, particularly for young black males.



Detroit residents at the site of Malice Green's fatal beating.

up 25 percent of the complaints, according to Flint Taylor, a lawyer who has focused on police abuse.

The abused citizen will get little solace from the federal government. The Justice Department's prosecution of local officers in the King case is a rare event. Of the annual 3,000 FBI-investigated cases of alleged civil rights abuse (generally in the form of brutality) by law enforcement officers, just 1 percent are prosecuted by the feds. That's a yearly average of 30 cases, fewer than one per state, each year from 1982 to 1992.

Despite the civil judgments juries are willing to bring against municipalities in police brutality lawsuits, jurors are reluctant to convict cops on criminal charges. Drew Days, a Yale Law School professor who was assistant attorney general for civil rights under President Carter, says jurors tend to believe the police line. "It's also the case that cops are very good witnesses. They are accustomed to going into court, [and] whether they are telling the truth or lying, they know how to make a presentation jurors will believe."

Furthermore, the people police choose to abuse—the poor, the homeless, the less educated—are "unlikely to convince a prosecutor to bring an action," says Days.

Robert Kliesmet, president of the International Union of Police Associations, believes police abuse is down because unions are representing fewer accused officers in administrative and criminal proceedings. He also believes that brutality is more common than police officers will admit. "There's a subculture in some departments, where it is basically winked at by some

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supervisors," says Kliesmet, formerly a cop in Milwaukee. "If they live in one of those environments, where it is winked at by those at the top, there's likely to be more violence at the bottom." He cited the Los Angeles Police Department under its former chief, Darryl Gates, as an example.

Kliesmet says fear of being injured, rather than a conscious decision to abuse power, is behind much of the brutality. Williams, chief of police in Newark, N.J., before joining the Police Foundation, acknowledges the threat of harm that often surrounds officers, but he insists they "must learn how to stay in control" without using their guns or batons.

"The cop's greatest weapon—his sword—is his tongue," says Williams, indicating that the good cop has enough street savvy to keep control of most situations.

He calls for better training in the use of force as one method of controlling brutality but adds that the first step is understanding the magnitude of the problem. While the FBI keeps statistics on a variety of crimes, there are none on police abuse, Williams complains.

Some brutality complaints may be exaggerated to gain bargaining chips against legitimate criminal charges, says William Geller, of the Police Executive Research Forum and author of *Deadly Force: What We Know*. Many brutality cases go unreported because of a "fear of intimidation." Further, "police abuse often is a very low-visibility occurrence. It's rare you have an audience and someone with a video camera as in the Rodney King incident." e

WHERE TO GO FOR HELP...

AMERICAN CIVIL LIBERTIES UNION:

132 West 43rd Street, New York, N.Y., 10036. Phone: 212-944-9800.

CIVILIAN COMPLAINT INVESTIGATIVE BUREAU:

295 Lafayette Street, New York, N.Y. 10012. Phone: 212-323-8750.

CIVILIAN COMPLAINT REVIEW BOARD:

1010 Massachusetts Avenue, N.W., Washington, D.C. Phone: 202-727-6655.

OFFICE OF PROFESSIONAL STANDARDS:

Atlanta Police Department, 175 Decatur Street, Atlanta, Ga., 30335. Phone: 404-658-7028.

CIVIL RIGHTS SECTION, FBI HEADQUARTERS:

10th & Pennsylvania Avenue, Washington, D.C., 20535. Phone: 202-324-3000.

LAWYERS COMMITTEE FOR CIVIL RIGHTS UNDER

LAW: 1400 Eye Street, N.W., Suite 400, Washington, D.C. 20005. Phone: 202-371-1212.

NAACP LEGAL DEFENSE & EDUCATIONAL FUND, INC.:

99 Hudson Street, Suite 1600, New York, N.Y. 10013. Phone: 212-219-1900.

NATIONAL ASSOCIATION OF BLACKS IN CRIMINAL

JUSTICE:

P.O. Box 66271, Washington, D.C. 20035. Phone: 301-681-2365.

NATIONAL BAR ASSOCIATION:

1225 11th Street, N.W., Washington, D.C. 20001. Phone: 202-842-3900.