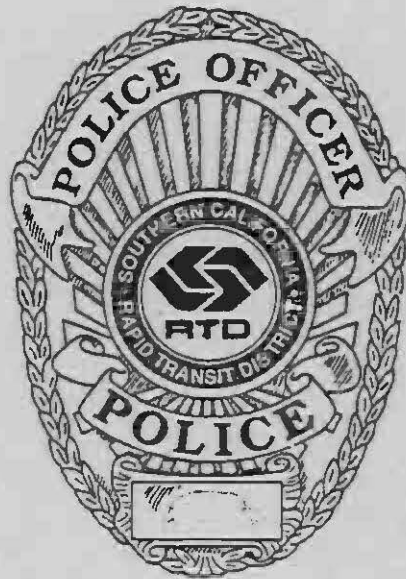


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# PEER REVIEW PANEL REPORT

TRANSIT POLICE DEPARTMENT



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**SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT**

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March 30, 1989

Alan F. Pegg, General Manager  
Southern California Rapid Transit District  
425 South Main Street  
Los Angeles, California 90013

Dear Mr. Pegg:

I am pleased to forward the report and recommendations of the Peer Review Panel concerning the SCRTD Police Department. The panel devoted considerable time in reviewing transit police policies and procedures, studying related documents, and interviewing members of the Board of Directors, District management staff, and other staff personnel. I believe the findings and recommendations of the panel can provide a framework for your Board of Directors in guiding the future growth and development of law enforcement and security resources.

On behalf of the Peer Review Panel, we wish to express our appreciation to the many RTD management and staff personnel who assisted our review through their interest, courtesy, and cooperation. It is our hope that this review will contribute to a more viable, effective police department that will support the future expansion of your transit system.

Cordially,



Gerald D. Hotopp

REPORT  
OF  
PEER REVIEW PANEL  
SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT  
TRANSIT POLICE DEPARTMENT

Prepared for

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March 1989

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## PREFACE

The Peer Review Panel has studied the Police Operations of the Southern California Rapid Transit District (SCRTD). The scope of the study is limited to two general questions: (1) is there a need for a Transit Police Department, and (2) if there is a need for SCRTD to retain a Transit Police Department, what steps must be taken to reorganize the current police function to best perform the policing and security responsibilities associated with a combined rail and bus system both now and in the immediate future.

Notwithstanding the many considerations and concerns that enter into the decision making process, this report will address several significant issues which give support to the conclusion that a Transit Police Department is necessary. Furthermore, in analyzing the second concern, the panel will address those factors which bear directly on the effectiveness of the Department now, and what must be accomplished if the SCRTD is to efficiently handle the police responsibilities of the future.

BUDGET IMPACTS:

Fiscal matters have not been addressed in this study. The Peer Review Panel assumes that the SCRTD would evaluate the recommended changes in the Police Department structure and operations, according to the fiscal capability of the District, and that necessary funding will be accommodated in concert with the step by step implementation of the approved changes.

RESOLUTION OF ISSUES:

In the Executive Summary, sufficient explanation is provided to set the stage for the recommendations that follow. Specific recommendations are listed as Items 1 through 19 on the final pages of the Executive Summary.

More detail is provided in the overall Peer Review Panel Report, which includes justifications for action, based upon observations and input to the study.

## FINDINGS AND RECOMMENDATIONS:

### I. Finding

Assessment of the configuration of the SCRTD Police Department indicates an organizational structure that is inappropriate for addressing the task that faces SCRTD both now, and in the future. A high attrition rate and a total lack of career commitment at the Police Officer and Sergeant level contributes to an already deteriorating capability to handle both current and future law enforcement demands. Personnel strength is inadequate for current demands and the expectation that this problem can be overcome in the near term, without significant changes, is very low.

#### A. Recommendation

From a structural standpoint, the SCRTD Police Department requires a total reorganization of lines of authority, responsibility and accountability and must be reestablished in a legitimate table of organization that will allow for delegation of authority and the flow of information from top to bottom, and bottom to top. Furthermore, clearly defined tasks, must be identified and personnel must be appropriately assigned to accomplish these tasks. As is consistent with any police agency, the line operation must get first priority in the distribution of personnel. Internal dysfunction, i.e., high attrition rate, low morale, failure to attract new personnel, and a perceived or real image problem appears to get worse every day and immediate action is absolutely necessary. Immediate action will generate a team action that should overcome the deteriorating morale now being experienced in the SCRTD Police Department.

The specific problem that needs to be addressed from an internal perspective, is the restrictive interpretation of police authority under the California Penal Code, Chapter 4.5, Section 830. Currently the interpretation is that SCRTD officers, under Subsection 830.4-J of the Penal Code, are limited in their exercise of Peace Officer authority. Because of this limitation they perceive themselves as something less than "real" police officers. This alone appears to have a debilitating effect not only on performance, but on the ability of the department to fill vacancies and attract new personnel. However, the interpretation of the Code Section by the Review

Panel is that the 830.4-J is not restrictive unless the Board of Directors elects to restrict the authority of the SCRTD Police. Where the employing authority remains silent on the issue, the law appears to give broad police authority, not unlike the police authority allowances covered in 830.1 and 830.2. Examination of the law, review of Attorney General opinion number 81-1216, and policies of similar agencies support this opinion.

This panel is unified in the evaluation of the seriousness of this issue as it relates to internal dissension. The success or failure of the effort to allow off-duty SCRTD police officers to carry firearms will directly impact on the ability of the SCRTD Police Department to handle demands for police service now and in the future.

## II. Finding

The matter of policing the Long Beach-Los Angeles rail lines looms on the horizon. To cope with this need, there must be an action plan that will address immediate demands for police service as well as future needs relative to the programmed implementation and expansion of SCRTD rail service, throughout the Greater Los Angeles area. This plan will require a phase-in process that will allow the Police Operation to expand at a rate consistent with system development. However, lacking the internal resources necessary to establish even the basic structure, the SCRTD must seek support from other resources in the form of contracting in order to initially deal with start-up requirements associated with limited rail and bus operations.

### A. Recommendation

To begin the ambitious effort to reorganize the SCRTD police effort, strong leadership is absolutely necessary in the SCRTD Police Department. The Chief, being the responsible senior staff member, must be a person who has the experience and professional standing necessary to deal with local police chiefs on a face to face basis, eliciting their confidence and support in establishing a cooperative program that will deal with transit security, on the premise that it is a mutual responsibility. The Chief must be convincing with regard to the mutual benefit to be derived from such an effort and must be relentless in maintaining the cooperation of other Chiefs from jurisdictions served by SCRTD.



The SCRTD should begin immediately to search nationwide for a Police Chief. The Chief should have demonstrated significant leadership ability at the executive level and have documented proof that he/she has been successful as a change agent. Educational accomplishment and work experience should provide a sound function for this executive position. Considering the job location and other geographical and economic impacts, the Chief's salary should allow for achievement of a salary level consistent with other police executive salaries in the area.

In staffing the SCRTD Police Department, careful selection of the Chief is paramount to the success or failure of the entire police effort. With regard to reporting responsibility, the Chief should report directly to the General Manager, with his position being equivalent to that of an Assistant General Manager. Additionally, the Chief must enjoy the support and confidence of the Board of Directors, that support being initially established by the compensation package offered to the new Chief. Candidates should, however, include internal applicants who may be viable for the position.

### III. Finding

As in any other Transit Authority, budgetary considerations directly influence the extent of organizational development and organizational change. In fiscal terms, projected revenues and other funding sources likewise dictate how rapidly an organization can expand, even though these projections may be subject to unexpected economic change. In the instant matter of the SCRTD, policing the present bus system and, in the near term, an integrated rail and bus system has reached emergency proportions. Therefore, this matter must be reconciled immediately, not only through organizational change, but in funding future growth as well.

#### A. Recommendation

Apportioned funds must be immediately identified and made available to satisfy reorganizational funding requirements of the Police Department and the police enhancements necessary to overcome operational deficiencies. The consequences of not identifying adequate funding for an acceptable action plan, will ultimately result in a major loss in system revenues and to say the least, will cause the creation of a

rail system that people will be afraid to use. The dollars invested in the reorganization of the SCRTD Police Department today will be an investment in the future success of the entire SCRTD. High police visibility and a sound responsive police deployment plan must be implemented in order to establish a positive patron perception of personal safety from the beginning. Where a "fear factor" becomes part of a patron's decision making process, the commuting public will most certainly decide against using the Transit system.

#### IV. Action Recommendations

The Review Panel, in deliberating over the various issues associated with the SCRTD Police and police service demands, both now and in the future, has discussed the various options for dealing with the problems facing the District and those that will come up as the system grows to its projected service capability. From these discussions, conclusions have been drawn and recommendations formulated which, in the collective opinion of the panel members, must be implemented if the SCRTD is to successfully overcome the problems identified in the findings of the Panel. In brief, the following recommendations will lead to the reconciliation of the problems included in Sections I and II of this report.

1. Establish a Police Operations Subcommittee of the SCRTD Board of Directors to work directly with the General Manager and the Chief of Police, providing guidance and Board support in the implementation of an overall reorganizational plan for the Police Department. This subcommittee should have concurring authority for all reorganization changes that require full Board approval, prior to the proposal being presented to the full Board for Board acceptance
2. Retain the Police Department as an essential service component of the SCRTD
3. Organizationally place the Police Department directly under the General Manager, giving the Chief of Police Assistant General Manager status
4. Appointment of a Chief of Police

5. In partnership with the Board of Directors Police Subcommittee and management, develop a mission statement and a set of measurable, achievable goals for the SCRTD Police in support of a stated police mission
6. Limit the activities of the SCRTD Police to those which have most affect on the assets of the SCRTD and its patrons
7. Adopt Attorney General Opinion 81-1216 as SCRTD policy and discontinue the policy of disallowing off-duty police personnel to carry firearms
8. Review total salary and benefit structure of all ranks to assure that total compensation package is competitive
9. Review retirement policies and benefits and workers' compensation policies to assure competitiveness with other agencies
10. Develop a bonus package that can be offered both to candidates for police officer positions and as a reward for recruitment of new officers by incumbent officers
11. Re-target potential police officer candidates to assure that the SCRTD Police Department is recruiting and hiring those personnel who will be most likely to remain with and contribute to the SCRTD Police Department
12. Organize the Police Department to meet its goals and objectives and provide for contracting alternatives, should organization change and hiring goals fail to meet time constraints. Particular attention must be given to the Light Rail Project demands
13. Increase the security component of the SCRTD Police Department to provide SCRTD employees and assets with an enhanced and reasonable expectation of work place security
14. Provide for a budget adequate to meet the SCRTD Police Department's mission and goals
15. Establish relationships with other law enforcement agencies that will foster and promote an atmosphere of shared responsibility for the protection of SCRTD assets and clients

16. Establish liaison with prosecutorial agencies and courts that will educate them to the problems of the SCRTD to assure appropriate criminal justice system attention and action
17. Provide an adequate, permanent police facility or facilities designed to meet the police mission now and in the future
18. Integrate police dispatching into the SCRTD Police Department to assure accountability
19. Establish Zone Center Monitor Operations as a feature of the overall safety and security program placing supervision and control under the Police Department.

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PEER REVIEW PANEL REPORT

## SCOPE OF STUDY

This report will identify various problems now existing within the SCRTD that this committee believes have a direct impact on the current level of system security. This report will also address those changes or enhancements that must be implemented in order to deal with the future development of the system as it progresses into rapid rail operations. This report will not presume to set out the steps to be taken in correcting noted deficiencies nor will this report provide a strategy for organizational changes which will be necessary for the District to deal with the enormous security responsibilities that are immediately apparent. These matters must be left to the wisdom of the SCRTD Board of Directors and the Senior Management Staff who are most familiar with the interworkings of the District. Some options will be included in this report but only to stimulate thought and give direction.

## PANEL METHODOLOGY

The members of the Peer Review Panel have reviewed a myriad of documentary material and met face to face with numerous members of the SCRTD staff, as well as a large number of operational personnel, concentrating, for the most part on police personnel and police related matters. Although the panel is comprised of only three (3) members, the collective law enforcement experience exceeds 75 years. One member has recently been involved in the reorganization of the MARTA Police function. Coupling that experience with the professional expertise of two representatives of local law enforcement agencies having jurisdiction in the SCRTD service area, the opinions of this panel have been formulated. Concentration of the panel is on needs assessment and various factors influencing the current condition of the SCRTD Police and applying these factors to future demands that can be expected as the District implements the new rail service to the area.

## OVERVIEW

The Southern California Rapid Transit District (SCRTD) is embarking on an ambitious program bringing rapid rail transportation to the greater Los Angeles area, offering both light rail and heavy rail in a system to be integrated with the current bus system. The system design has been planned to serve populated areas throughout the geographic service area of SCRTD. Policing the current bus system and the new rail system to be implemented in 1990, running through the Long Beach-Los Angeles Corridor is a major concern to the District.

## PROBLEM STATEMENT

The SCRTD has operated a major bus service throughout the Greater Los Angeles service area, but not without a seriously high level of criminal activity perpetrated against SCRTD personnel, equipment, and patrons. Assaults against operators on many occasions are the result of attacks on the equipment rather than on the operator. Primarily, it appears that the extremely high incidence of vandalism to SCRTD equipment is out of control. Based upon local police and SCRTD police limited success in defending the District against these costly acts of vandalism (grafitti), there is question whether they are capable of dealing with the added responsibilities associated with the rail system that will be implemented in early 1990.

While it appears that system development and rail activation efforts have been progressing at a constant level, public safety and system security have not progressed at the same pace. Although this may be attributable to many factors, it is the purpose of this overview to seek a methodology that will provide a logical plan for addressing patron and system security.

With local law enforcement being overtaxed, the burden is on the SCRTD to provide system security through their own efforts with assistance from local law enforcement. However, the inclination to expect major security enhancement from other agencies is not realistic. The burden falls directly to SCRTD.

## DISCUSSION

Law enforcement is rapidly taking on the appearance of a profession. Without question, police officers consider themselves professionals. As we approach the 1990's the police profession is expanding, demanding more formal education, more specialization and requiring that police officer candidates meet

selection standards that are more stringent than almost any other occupation. In addition, the trend throughout the nation is to require continuous recertification training throughout an officer's career. Therefore, when law enforcement is selected as a career field, a commitment to this type of public service has to be made intelligently with these factors clearly in mind. Training is extremely expensive and retention of qualified trained personnel is paramount in a successful police agency.

Within the occupational framework of law enforcement, there are various areas of career concentration that require special knowledge or at least a different focus than what we historically have perceived as the mission of law enforcement. Transit policing is a primary example of this specialization. Not only does the incumbent have to be versed in general policing techniques, he must also be adept at dealing with a wide range of clientele and doing so in a manner that will result in a positive outcome. Where transit police have been stereotyped as nothing more than security guards, the demands of their occupation have significantly changed this perception. Realistically, a versatile, community conscious individual is required to do the job.

Transit policing is no less demanding and perhaps more demanding than any other aspect of law enforcement. Without question, the expectations of the organization should be consistent with what would be expected of any municipal or county police officer performing similar duties. Law enforcement requires a full-time commitment on the part of the officer and recognition of the high ideals that attach when one chooses law enforcement as a career pursuit.

#### FUTURE EXPECTATIONS

A well motivated, competent Police Chief can direct a reorganization of the SCRTD police. Creative management procedures will accomplish a reorganization effort. The SCRTD can expect to achieve the highest level of ridership on both the bus and rail system with a very positive public perception of system safety. Furthermore, with constant attention being focused on crime prevention and patron safety, revenues will increase proportionately and maintenance costs will decrease significantly, thereby offsetting expenditures for efficient police services. (Action Items 1, 4, 6, 12, and 15)

The key to the highest achievement of future expectations is the Police Chief on the one hand, and on the other hand, the support that the Chief receives from the General Manager and the SCRTD Board of Directors.



The SCRTD faces the future with expectations for system development and service expansion through the 1990's and into the next century. The initial phase of this expansion has already been implemented with the construction of light rail service and progress toward the first phase of the heavy rail system that will ultimately interface with both bus and the light rail project, creating one of the largest transit systems in the nation. However, planning for the public safety has not kept pace with system development. Now, with the reality of the light rail system looming in the near future, safety services becomes a major factor in the projected success of the entire enterprise. The inherent problems now being experienced by the SCRTD Police Department precludes a simple answer to the problem of providing adequate security to the entire system, once the rail system becomes operational. The SCRTD Police Department currently is critically understaffed. The SCRTD is attempting many and varied accelerated programs in order to recruit qualified police officer personnel. It is not certain, however, that sufficient personnel will be available to provide the high level of security demanded upon the opening of the Long Beach Light Rail System. It is also not within the best interest of the SCRTD to abandon its current responsibilities to its assets and patrons. In order to fulfill its light rail security obligations, the SCRTD Police Department must be organized to meet both current and future service demands (Action Item 12). It is the recommendation of this panel that, should it become apparent that staffing will not be adequate to meet the needs of the Light Rail Project, a short-term contract with another local law enforcement agency be implemented to provide project protection. As it is not clear that any local agency has either the resources available or desire to provide such services under contract, the alternative must be explored long before the Light Rail project actualizes.

#### BUDGET IMPACTS:

It is not possible to predict what impact this panel's recommendations will have on the budget of the SCRTD Police Department other than it will undoubtedly cause an increase in costs.

There presently exists a compaction of salaries from police officer through middle management to the Chief. The salary and compensation package contributes directly to the failure to recruit and retain qualified personnel. Any increase in the total compensation as is recommended by this panel will result in increased budgetary needs. There is also a need to organize and staff for the Long Beach Light Rail. Enhanced internal security will further increase the budget.

It is the recommendation of this panel that the SCRTD retain the responsibility for providing the security where needed throughout the various facilities of the District through the expanded use of security guard personnel. District employees through their representatives made it clear to this panel that site security is a major concern. Moreover the District assets, including the collection of fares, demands a higher level of security than currently exists.

#### DISCUSSION OF ISSUES

A review of departmental policy manuals, financial documents, internal District reports, and labor agreements raised a number of issues which formed the basis for discussion among panel members. These issues were discussed with several SCRTD Directors, senior managers, and transit police personnel in personal interviews. Through this process the panel established areas of concern and formulated the opinions and recommendations addressed in this report.

#### ISSUE: POLICE/SECURITY RESPONSIBILITY

Establishing a viable transit police operation requires a firm commitment from top management and a predetermination that security of the system is a basic operational expense that is constant and on-going. Once this decision is made, funding of this function is paramount to establishment of the policing operation since this annual expenditure must also be a relatively fixed operational expense. One primary reason for this is that where it is initially demonstrated that a particular level of security will be provided to the ridership, the expectation exists that this level of security will continue to be constant on the system, regardless of the fluctuations of ridership. Therefore, it is imperative that the highest level of security be implemented from the very beginning (Action Items 2, 5, 6, and 13).

#### CONSIDERATION:

When analyzing the question of security for any particular situation; city, county, or transit authority, one must consider not only what management expects but what the constituency will or should expect. Certainly, management will expect to deal with facility security as well as with patron security. However, the patron's main concern, and likely his only concern, is for his

personal safety. In addressing these two expectations, it is imperative that patron expectations be considered in terms relative to the patrons' perception of his safety and what factors he has relied upon to formulate this perception. Therefore, management must be satisfied that all factors contributing to the patrons' perception of safety are identified.

Geographic and demographic factors of any transit service area are certainly germane to the security planning process, and provide the basis for providing a high level of patron safety and facility security. All data sources must be evaluated by SCRTD management and SCRTD Police management. Consensus, regarding reliability and data impact on the operation, must be achieved in order to achieve information reliability. The final decisions that must be made, based upon this information, will consequently have a similar level of reliability.

Factors influencing any decision regarding the type of security approach to take must be examined carefully. Certainly the decision making process must include the question of how much assistance local law enforcement can contribute to the security effort. More realistically, however, the problem is not how much local law enforcement will contribute but how closely they will interface with transit security efforts and what is their level of willingness to do so. Realistically, the transit system must approach the question of transit safety and law enforcement from the perspective that some level of assistance will be required. The ratio between transit security responsibility as opposed to local law enforcement responsibility is the predominating consideration. The ultimate responsibility for providing an acceptable level of security resides with the transit system and cannot transfer to local law enforcement.

ISSUE: PATRON PERCEPTIONS:

In addressing a police deployment plan for start up on the initial segment of the rail system there are major factors that must be considered, primarily the current crime experience within the transit corridor. And the fact that if SCRTD patrons initially perceive an unsafe environment during the initial implementation of rail service in the Greater Los Angeles area, this perception will establish a ridership perception that will influence any future enhancements of the system (Action Items 5, 6, 12, 13, and 14).

CONSIDERATIONS:

Experience dictates that where the initial patron perception of safety is negative, this perception will prevail indefinitely, regardless of the reality of the situation. Without question, every effort should be made to achieve a very high perception of safety from the start. Even at the risk of oversaturating the system with police officers.

A highly acceptable assumption is that it is much easier to discourage ridership than it is to gain ridership. For every dissatisfied customer, or customer lost, especially because of fear for personal safety, it can be expected that many more first riders will be lost, or at least be influenced in a negative way not to try the system. Minimal expectations are that one dissatisfied rider will influence as many as 100 potential first-time riders through their negative expressions to family members, friends, and business associates.

Although these equations are not based upon any academic research methodology or survey design, they at least bring the consequences of patron perception clearly into focus. Operating within this framework gives the agency some sense of the impact of positive or negative patron perception.

Considering all of the included discussion regarding patron perception and other social and cultural influences, SCRTD must look forward to maximizing police coverage with the inauguration of rail service to the Greater Los Angeles area. Furthermore, SCRTD must set the stage for future enhancement of the policing system as the Metro Rail and other connecting services are brought on line. As new rail service comes on line in the future, police coverage can be reevaluated on the light rail line. However, not at the risk of downgrading the security to that line but to realistically expanding security responsibility to the added rail service establishing a system-wide program that will provide maximized utilization of manpower as well as maximized results.

To these ends, decision makers must accept some axioms associated with the security of an integrated bus, light rail, and heavy rail system. First and foremost, maximized security can only be accomplished by a dedicated, full time Transit Police Department. Anything less would seriously diminish the level of security that will be expected by patrons wanting to use the system.

ISSUE: POLICE COOPERATION

To provide for security of all assets and to provide for the public safety of the patrons, local authorities must recognize that the Transit function is a community service and thereby constitutes a major enterprise in the respective service area (Action Items 15, 16, and 19).

CONSIDERATION:

Although police agreements exist or will exist between SCRTD and local agencies in the transit system corridor, it is unrealistic to expect that these agencies will provide general policing to the rail system. On the contrary, experience dictates that local agencies tend to reduce coverage in areas contiguous to rail operations in deference to the Transit Police. Regardless of promises and commitments, first response to almost any incident relative to the District will be the responsibility of the Transit police. To think otherwise and plan otherwise is to invite serious problems. The Transit System must be prepared to assume all police responsibilities on the new rail system, on system properties and facilities; and, at the same time, to encourage assistance from local agencies, particularly on bus routes.

The Security Operations study prepared by Curry Associates, Inc., (WSB L040) dated January 23, 1987, addresses staffing requirements for start up and first year operations of the Long Beach-Los Angeles Transit project. However, the judgments expressed in this study, though logical, are presumptive in nature and not generally based upon realistic expectations. Primary to this conclusion is that Curry Associates has presumed or assumed an unrealistic interface with local police agencies in the transit corridor. Curry clearly recognizes that this particular line will serve several high crime areas. Consequently, local law enforcement is predisposed to handling police problems indigenous to these areas. The truth of the matter is that local police can hardly handle their own workload and to expect other than emergency assistance from them is not realistic. Needless to say, transit related problems will take a low priority when added to the already stretched resources of local law enforcement. Local agencies and their impact on crime prevention and/or police operations as related to the SCRTD should not be a viable consideration when assessing the general security needs of light rail operations. Again, to do so gives a false picture of reality and a false sense of confidence when predicting needs and the level of safety and security that will be acceptable to patrons and transit management alike.

ISSUE: INTERNAL INVESTIGATIONS; ASSET PROTECTION

The SCRTD has a organizational responsibility for protecting District assets from internal and external theft. Without the ability to detect internal theft or to incorporate audit follow-up procedures that will lead to the reduction and elimination of these activities, the District becomes a soft target for blue collar and white collar crime (Action Items 1, 6, and 15).

CONSIDERATION:

The SCRTD police must establish a core of qualified police investigators to work closely with audit personnel and other members of the management team. All issues of real or suspected internal theft or other internal violations that impact on internal stability need to be addressed. To ignore this area of concern is to invite serious problems and will encourage criminal activity within the organization. The District must take a firm position that internal theft will not be tolerated and that criminal acts against the interests of the District will be investigated and prosecuted to the fullest extent of the law.

To accomplish this purpose there must be a realistic interfacing of all elements of the District with the SCRTD police. The police must be responsive to the identified or suspected need for police intervention and must be in a position to conduct independent investigations. To accomplish this purpose the police must establish a specific operational unit to deal with this unique situation.

The SCRTD service area is geographically vast and demographically dissimilar. It comprises several counties and thousands of miles of bus routes. A high demand for asset security and personnel and patron safety exists throughout the service area but the needs vary, not only geographically but by time of day, day of week, and season.

The interrelated problems of gangs, guns, and drugs are not unique to the greater Los Angeles area but nowhere is the problem more pronounced. The SCRTD service area includes many areas where these problems threaten the delivery of service.

Gangs are responsible for well over \$7 million annually in graffiti and vandalism repair costs to the existing bus fleet, and the problem is escalating.

Gang assaults against each other and the public are increasing. It can be expected that as SCRTD fulfills its service function by providing transportation to the public, gang assaults can only increase because of real or imagined confrontations between rival gang members.

The SCRTD Police Department must be able to meet these problems directly and with the increased support of local law enforcement agencies. As stated the Long Beach-Long Angeles Light Rail System must be staffed to provide a sense of maximum safety for its patrons from program inception. The SCRTD Police Department must be organized, budgeted, and held responsible for an acceptable level of safety in the SCRTD's current service areas.



ISSUE: POLICE ROLE

It has become curiously obvious through interviews with SCRTD personnel that there is no definitive mission established for the Police Department. There are goal statements which are part of the budgeting process, yet there is no clear-cut mission statement or charter established to define the operational parameters for the SCRTD Police Department. It appears that the police now concentrate their efforts on general policing activities throughout the Greater Los Angeles area enforcing traffic laws, as well as the criminal code, both on SCRTD properties and off SCRTD properties. Many of the arrests pursuant to these activities are unrelated to SCRTD and serve more of a general law enforcement purpose (Action Items 6, 12 and 15).

CONSIDERATION:

First and foremost, SCRTD police officers have the responsibility of providing police services to the Transit District, although their present law enforcement posture serves the general population of this vast area more so than it does the Transit District. The focus of the police appears to be so broad as to detract from the primary police responsibility it has to the SCRTD. It further appears that the practices of the police in becoming involved in non-transit related law enforcement has gotten out of hand. Without any further analysis it can be safely stated that an inordinate amount of enforcement time is unrelated to the Transit District, thereby diminishing the effectiveness of the SCRTD Police in dealing with transit-related crime. For example, in the police report of February 6, 1989, of the 76 activities listed, 9 of these should have been handled by the local police jurisdictions since they are drug arrests and D.U.I. arrests not related to the transit business. These cases constitute an average of 2.5 events per day. The report also reflects 763 radio calls for the entire month, or 24.5 per day. SCRTD officers also wrote 408 citations. What is significant however, is that no time was devoted to training.

SCRTD officers cannot continue to provide general law enforcement to the Greater Los Angeles area and, at the same time, deal with the phenomenal level of vandalism and other crime being perpetrated against the SCRTD. Local crime is the responsibility of the local police agency, not SCRTD. As the new rail operation comes on line, the pervasive tenacles of crime will invade the system unless SCRTD police are positioned to deal with it aggressively. There is no question that the system will become a sanctuary for the criminal element rather than for the patron should the SCRTD law enforcement continue in the unrestricted direction it has taken.

Notwithstanding that SCRTD police can and likely should take enforcement action on SCRTD properties and contiguous areas their concentration must be on SCRTD police matters, with a focus to keep the crime off of the system and make the system safe for passengers. An unrelenting effort in this direction will realistically "harden the target" and make it an unpopular place to commit crime. That is the role of the SCRTD police officer.

ISSUE: SCRTRD POLICE AUTHORITY

SCRTRD police officers feel less than adequate as police officers and lack a fundamental self concept of themselves as professional officers, in spite of the reality that not only their jobs but the training that is required of them to achieve California Commission on Peace Officer Standards and Training (P.O.S.T.) certification is equal to other officers in the area who do regard themselves as professional police officers. Consequently, SCRTRD officers generally lack self esteem and pride and as a result, lack motivation toward achievement of the police mission and organizational goals (Action Items 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, and 17).

CONSIDERATION:

The SCRTRD has interpreted California Penal Code, Section 830.4, in a manner which restricts the SCRTRD officers legitimate authority to on-duty hours, on SCRTRD property, and in pursuit of SCRTRD purposes. This interpretation has created an attitude among SCRTRD police officers that the District, SCRTRD management, and other SCRTRD employees perceive the police as nothing more than armed security guards. The demoralizing effect on the current staff will soon cause the wholesale loss of personnel with no hope of recovery.

This interpretation of the California Penal Code effects SCRTRD police officers' attitudes and as a result, they are unable to develop a satisfying self image of themselves as a professional or a career officer. Consequently, this self perception seems to effect SCRTRD officers to the extent that they see their responsibility as nothing more than a job. There is an appearance, at least, that they are hesitant to seek a long term employment relationship with the District. This translates into a high attrition rate in newer employees and a lack of motivation in older employees. There is little or nothing to attract new employees.

From a management point of view, police officers must establish a sense of duty to their employer, a feeling of obligation to their constituency, and an attitude of responsibility for their actions while in pursuit of their profession. The last of these probably transcends the others. However, lacking any of these, the employer cannot expect to receive maximum performance or maximum job actualization from employees. In the SCRTRD, none of these traits are apparent in many SCRTRD police officers. Consequently, where police officers frequently serve as recruiters to fill their vacant ranks, SCRTRD officers do not. New recruits

immediately recognize the lack of these attributes and subsequently treat their employment as nothing more than a job and at best, a stepping stone to another position with another employer who will recognize them as responsible police officers-as professionals.

ISSUE: OFF-DUTY WEAPONS

Closely intertwined with the issue of police authority is the District restriction on officers carrying off-duty weapons. The Attorney General of the State of California issued Opinion 81-1216 on September 3, 1982, which concludes that, in the case of officers defined under Section 830.4 of the California Penal Code, "...does not have the authority to prohibit or allow, security officers...to carry concealed firearms off-duty." (Action Item 7).

CONSIDERATION:

Other 830.4 authorized agencies such as the Los Angeles Airport Police Department have interpreted the law and Attorney General Opinion in a manner which has resulted in their officers carrying off-duty weapons. This panel is of the opinion that the interests of the SCRTD would be best served if current policies were abandoned and the Attorney General Opinion were to serve as policy for the SCRTD Police Department. Given the impact of this issue on the ability of SCRTD Police Department to recruit and retain qualified personnel, and the morale issue it creates with existing personnel, it is vital that policy be changed. It is not likely that any attempt to change the status of personnel from 830.4 to a less restrictive class would meet with legislative success.

ISSUE: COMPENSATION AND RETIREMENT

The SCRTD Police Department employees must be compensated at a level which will attract and retain competent personnel. Absent a retirement system which is compatible in benefits to surrounding agencies - both in terms of monetary benefit and time in service required for retirement, a competitive salary and benefit package must be overly compensated on the salary side. The SCRTD present policy of granting workers' compensation to Police Department personnel injured on duty is also much more restrictive than are policies of other agencies within this geographical area (Action Items 8, 9, 10, 11, 12 and 14).

CONSIDERATION:

The SCRTD Police Department also does not offer the career choices that exist in most other agencies. Proportionately fewer positions exist for interior posts, investigative positions or advancement to supervisory or management positions. Line police duties are best suited for younger employees. Without a superior salary and benefit package, an unacceptable attrition rate and/or an inability to attract personnel is an inevitable result.

It is this panel's recommendation that potential police officer candidates be selected from those who may have previously been officers in another agency, are eligible for retirement benefits from that agency, and are less likely to desire career mobility and advancement. Other agency personnel departments should be liaised as they may have candidates who are qualified in all areas except age, as the SCRTD Police Department does not have the relatively low upper-age restriction existent in most area agencies, this may help alleviate the immediate personnel shortage that exists and may be of crisis proportions when the Long Beach Light Rail Project becomes operational. It is recommended that a bonus package be offered to candidates for police officer positions and those incumbent officers who recruit successful candidates.

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ISSUE: SERVICE DELIVERY

In an analysis of public safety needs, patrons of SCRTD must be perceived in a context similar to the population of any city or county. If there is any major difference to be addressed, that difference is that the transit patron population expects more, demands more, and is much more vocal if the level of security does not meet their expectations or if the delivery of services is not as efficient as expected. Again, translating this to effects and impacts, revenues are directly effected by patron attitudes. When ridership fails to meet projected expectations it is usually because of dissatisfaction with service, not unlike any other customer-based enterprise. The police play a major role in developing and maintaining positive patron attitudes (Action Items 1, 2, 12, and 19).

CONSIDERATION:

It is apparent to the Peer Review Committee that a concentrated effort must be made to overcome the serious morale problem that now exists in the SCRTD Police Department. If SCRTD expects to provide a level of police service that will be sufficient to satisfy not only the ridership but the SCRTD as well, police personnel must be motivated to support the goals and objectives of the SCRTD. They must feel that their professional services are necessary to achieve the organization's mission and, just as important, they must perceive themselves as professionals. As a result of numerous interviews with SCRTD police officers, there is a real polarization between management and the SCRTD officers. A "we-they" attitude appears to exist throughout the Police Department, which must be overcome before any effort to enhance or improve police services can be successful. SCRTD police officers feel that they must gain full status as peace officers with all related privileges. The future success of the SCRTD is likely to turn on this particular issue. SCRTD police officers, for the most part, appear to be enthusiastic and capable of meeting the challenges of the future if their needs are met. However, unless the matter of their limited police status is reconciled, motivation will be low, and the level of police service delivery will likely not meet expectations. As a consequence, serious problems may be encountered in adequately protecting the system.

ISSUE: SECURITY

Security Guards can be a cost effective approach to dealing with facility security and with other security needs that do not require the expertise of sworn officers. Armed security guards can also be utilized in fare collection duties and for fixed post assignment where revenue protection is involved. This should not be, however, a method by which a reduction in police (sworn) manpower is pursued. All persons interviewed expressed a need to have better facility security for the protection of SCRTD assets and employees. Employees at District Headquarters feel a need to have a security presence in the area. It is the recommendation of this panel that the security function of the SCRTD be increased through the expansion of non-sworn security guards, either as SCRTD employees or through contract. It should be a method by which certified police officers can be redeployed to handle police operations where their expertise can be more effectively used to achieve the police mission (Action Items 13 and 19).

CONSIDERATION:

Contracted private security is an effective and cost efficient way to provide security to SCRTD facilities and in some cases to District assets. Where it is determined that the task does not require the immediate attention of a fully sworn police officer, it may be appropriate to contract these duties to reputable guard services.

However, overall control should be retained by the Police Department since the police are more familiar with this type of function and are best suited to determine where and when this type of security application is most appropriate.



ISSUE: DISTRIBUTION OF POLICE RESOURCES

The SCRTD is facing a major change in the delivery of transportation services to the Greater Los Angeles service area. Where it has previously been acceptable to take a reactive position with regard to the police role, the implementation of rapid rail service demands that police operations become pro-active in dealing with crime on the integrated bus and rail system (Action Items 5, 6, 12, 13, 18, and 19).

CONSIDERATION:

Geographically, the SCRTD service area is so widespread that a limited decentralization is not only justified, it appears to be a viable management option.

To achieve effective deployment, to address the numerous issues relative to police responsibility and to separate police responsibilities from non-police responsibilities are considerations in decentralizing the police effort. Proper deployment of personnel will reduce manpower waste and will improve police effectiveness as the rail system develops. It is impractical to assume that a large area of responsibility, the size of the SCRTD service area, could be handled from one central police location. As the system grows, decentralization will become more and more important not only from the standpoint of deployment, but from the standpoint of addressing the service demands in a responsive pro-active way.

A. Zone Center Monitors (CCTV)

CCTV monitors should be non-sworn security guard personnel attached to the Police Department. They should be assigned as required on all shifts with direct reporting responsibility to the appropriate supervisor in the sector where the station(s) under observation are located.

This is an important security function that integrates effectively with routine police operations and it is imperative that this operation be designated as a police responsibility.

B. Police Communications

Police Communications is the heart of any efficient police operation. The modern technology of radio communications and its adaptability to other police functions such as police records and statistical data analysis make it even more important to the overall effectiveness of the police. Calls for police service should be received directly into the Dispatch Center, and be screened by police personnel for dispatch to radio units on the line. For all intent and purpose, no call for service should ever go unrecorded and only in situations where the call can be handled telephonically should a unit not be dispatched.

Control of Police Radio Communications is essential to enhance police effectiveness. Computerized Police Dispatch (CAD) has application in improving the efficiency of the police, by increasing police management's ability to track crime on the system and in deploying limited police resources where they are most needed. When a police department fails to have control over incoming calls for service for the dispatch of police units to those calls for service, the efficiency of the police is reduced and accountability is lessened. The police must not only be responsible for providing service to patrons and the SCRTD, they must be accountable for every facet of police operations from the initial point where a police situation is identified until that situation is handled. Police must be accountable for the total time required to clear a call beginning with the moment the call is received by radio extending to the moment the officer or unit completes the response and returns to service. This time span includes dispatch time, which is the time lapse extending from when the call for service is received by police communications and when the call was actually dispatched; and response time, the time it takes to arrive at the scene of the call from the moment the call is dispatched by radio.

These separate considerations allow police managers to assess efficiency of operations and the quality of police response to police situations. No alternative should be considered and efforts must be undertaken to change the relationship that now exists between police radio and bus radio as the new rail system comes on line.

Regardless of the perceived impact of separating police radio and bus radio, provisions must be made to have separate lines dedicated to the Police Command Center. Calls should be answered by personnel assigned to the Police Department who are capable of initial screening, telephonic report taking, and if not an appropriate police call, relaying the call to the proper entity for handling.

ISSUE: BUDGET

Adequate funding of police operations is probably one of the most important factors to be considered when establishing a Transit Police service. Historically, the tendency is to under compensate rather than over compensate transit police officers. When this occurs, an unacceptable attrition is experienced and a major drain on the budget is experienced through the excessive use of overtime, while the agency flounders in trying to attract new applicants (Action Item 14).

CONSIDERATION:

From a personnel administration standpoint, salaries of Transit Police Officers must be competitive with the local market. To offer non-competitive salaries and benefits is to invite substandard applicants and, in the larger sense, substandard performance. Rather than seeking careers, applicants will be seeking jobs until a career opportunity arises somewhere else. To overcome these disastrous consequences, management must take a firm stand in providing a sound employment opportunity for new employees as well as incumbents.

Given the fact that the Light Rail implementation will be the District's first step in integrating rail and bus, the security function should be integrated. Transit Police should have general responsibility for both bus and rail. The result of any other approach will no doubt bring about two separate police functions, one for bus and one for rail, which is impractical.

Integrating responsibility can be cost effective and task efficient. Properly established and adequately supervised, both bus and rail security can be effectively maintained at lower cost with maximized results. This, of course, is dependent in setting up operational standards.

In the Los Angeles area, transit policing is in the infancy stages. Whatever decisions are made with regard to the reorganization of the Police Department will have a dramatic effect on future revenue generation and on the success of the entire transit operation. An efficient Transit Police Department is the only viable means to providing effective security. Local police cannot provide the level of police service that can be expected from a properly managed Transit Police Department.

Local law enforcement has primary responsibility to city or county administrators and to the local citizens in general, with a built-in responsibility or loyalty that cannot be shared with the local transit system. Certainly there is an element of responsiveness to transit police problems. However, control of the level of police services delivered to the transit system becomes a matter of priority. Realistically, setting these priorities is left to the discretion of several city and county officials and under the exclusive control of police managers who have loyalty to their city councils not to the SCRTD.

SUMMARY OF ISSUES:

- I. Geographic operation sectors should be established to (1) achieve acceptable response times to bus incidents (as determined as a SCRTD Police goal), and (2) provide efficient deployment of police personnel to the rail system, assuring a safe and crime free environment for rail system users. The following may be practical in determining resource allocation:
  - (a) A grid system approach may be the practical approach to beat assignments.
  - (b) The number of motorized patrol units should be predicated upon the number of bus units in any given area during various hours of operation.
  - (c) Zone stations should be established in locations which will place police patrol and personnel in close proximity to areas of patrol responsibility under the zone or sector concept.
  - (d) Personnel strength must be increased to allow for a realistic deployment of Transit Police throughout the service area and on the rail system.
  - (e) A dedicated Transit Police Communication function must be established utilizing primary, command, and special communication channels, strictly dedicated to police operations.
  - (f) The motorized police fleet should be expanded to accommodate patrol areas required under the zone/sector concept.
  - (g) Contract security should be utilized for unarmed posts and for armed security posts which do not require the assignment of a sworn officer.
- II. SCRTD must expect to take full responsibility for law enforcement and security for both bus and rail operations.
  - (a) SCRTD cannot expect LAPD, LASD, or local law enforcement in municipalities serviced by SCRTD to take primary responsibility for police services and other security functions directly related to bus and rail operations.

III. Police officer status is limited in scope of authority by internal interpretation of California State Law and must be addressed with the objective of expanding SCRTD police authority. If a more realistic application of existing law is not practical, legislative change must be pursued immediately.

- (a) SCRTD police officers generally feel that they do not have professional status in the law enforcement community. As a result of this tainted image of themselves, SCRTD officers will continue to seek employment in their chosen field that more closely fits into the framework that identifies them as police officers.
- (b) From a morale standpoint, a SCRTD officer cannot take pride in his position because of the severe limitations that are placed upon his authority. The current practice is partially based on a fear that off-duty conduct of armed personnel could increase SCRTD liability. The experience of the peer panel has not demonstrated litigious armed off-duty conduct of personnel to be a serious problem. On the contrary, the general attitude of the rank and file police officer is one of support, respect, and pride. With strong leadership, effective personnel controls and a harmonious relationship between the police and the management team, the on-duty, off-duty activities of the police would no doubt, cease to be an issue. The police would act in the best interests of the District, the police profession, and the fulfillment of their sworn duties.

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## CONCLUSION:

The issues identified by the Peer Review Panel are real. The included comments are not intended as criticism of the District or management, nor should the conclusions of the panel be taken as anything less than constructive. The panel feels responsible for facing the issues as they are presented or observed and making judgments based upon experience and sound management practices. Some conclusions may appear to be intuitive responses to a particular issue and perhaps are, in fact, based upon intuition. Nevertheless, intuitive responses are also formulated based upon the composite level of experience enjoyed by the panel members and are the basis for the best judgment of the panel.

In review of the Discussion of Issues section, the panel did research the alternatives previously presented to the Board of Directors by the Assistant to the General Manager in the report dated December 16, 1988. In referencing that report and upon reflection of the many generous hours or meetings and discussions provided by the staff and members of the Board of Directors, the base conclusion which was made by the panel is that the SCRTD must retain the Transit Police Department as an essential service component of the District.

In addressing the SCRTD police effort to meet the standards necessary to be an effective service component, it is appropriate that a revised Mission Statement be formulated that will firmly establish the intended purpose of the SCRTD Police Department.

Accompanying the revised Mission Statement should be a set of value statements, measurable goals, and work programs leading toward accomplishment of the Mission.

It is the panel's recommendation that the SCRTD Board of Directors establish a Police Operations Subcommittee to work with the SCRTD Chief of Police and management of the SCRTD to develop in partnership, a police department mission statement with complementary value statements and measurable goals. These statements should clearly set the parameters for action by the Police Department and are essential in maintaining continuity of effort toward District goals and objectives.

The Police Operations Subcommittee should also be acting as an advisory body to the Police Chief on a continuing basis as it is unrealistic to expect the entire Board of Directors to have the availability to become involved in the matters of the police department to the extent necessary.



In all other organizations studied by this panel, the Chief of Police reports directly to the manager of the organization, if not directly to the elected body itself. Given the importance of the police mission this panel recommends that the Chief of Police report directly to the SCRTD General Manager with the status of an Assistant General Manager.

Notwithstanding the fact that there may be restrictive budgeting constraints which, under normal circumstances would limit any police reorganization effort, the salient fact is that the SCRTD is not dealing with a normal situation. An emergency condition currently exists in the Police Department and it can no longer be ignored. Immediate steps must be taken to reorganize the Department and to overcome the problems that now exist. This effort will require immediate funding and the appointment of a Police Chief who is not only well qualified from an educational and experience standpoint, but who is motivated and dedicated to the difficult task of reorganizing the entire Police Department in a limited period of time. The selected Chief of Police must have the ability to work closely with and influence his peers within the local law enforcement community. It must be acknowledged that recruitment of suitable candidates may be hindered as the SCRTD Police Department is not a member of the Public Employees Retirement System (PERS) and many potential candidates may be discouraged from applying. This appointment along with the total support by the management team and the Board of Directors, is one of the most significant elements of the entire renovation program.

SCRTD must, first of all, accept the serious responsibility for supporting the SCRTD Police Department. The awesome responsibility for policing a system with the dimension of the SCRTD is one that cannot be taken lightly. A strong, well staffed, and highly efficient police function must be established and maintained if the SCRTD is to provide an efficient and safe service to the people of Greater Los Angeles. Nothing less should be acceptable.

Where local law enforcement agencies become a consideration regarding patron safety, it is readily apparent that these agencies are stretched to their limits in meeting their own police responsibilities.

When the SCRTD Police Department was formed protocols were established between the SCRTD, LAPD and LASD. Other agencies accepted the content of those protocols. In substance, the protocols established a sharing of responsibility for incidents involving SCRTD assets, personnel, and patrons. Initial

incidents could be handled by either the SCRTD Police Department or a local agency and most investigations and other follow-up would be conducted by the local agency. Through the passage of time, SCRTD Police personnel have assumed a larger and larger responsibility for protection of District assets and local agencies have become less involved. SCRTD Police personnel have become involved in incidents such as drunkenness, controlled substance violations, traffic violations, etc. which have little or no impact on SCRTD operations. SCRTD Police personnel have become responsible for many follow-up investigations. This not only has led to an erosion of the agreed upon protocols and a diminution of resources available for incidents which greatly affect the District, but most importantly, a failure of local law enforcement to support the SCRTD.

The SCRTD must limit its activities to those incidents which affect its assets, personnel and patrons and tactfully demand assistance from local law enforcement. The original protocols should be the operative agreements.

A realistic and easily followed guide is offered as a suggestion. SCRTD Police Department and local law enforcement should both respond to any call for service or observation involving SCRTD assets, personnel, or patrons. Follow-up investigation for crimes involving assets only should be handled by the SCRTD Police. Incidents involving SCRTD personnel should be the joint responsibility of SCRTD Police and local law enforcement with local agencies assuming greater responsibility as the incident seriousness increases. Incidents involving patrons should be the sole responsibility of local law enforcement. Incidents observed by SCRTD Police personnel not involving SCRTD assets, personnel, or patrons should be referred to local law enforcement agencies in all cases.

The SCRTD and the California Penal Code currently differentiate between a peace officer and a transit police officer, diminishing the legal authority of the latter and the privileges as well. Moreover, such application of the law and its interpretation by SCRTD has created a situation, that, for all intent and purpose, has completely demoralized the entire SCRTD Police Department. This fact, not supposition, has contributed to an absolutely unacceptable attrition rate and a general lack of motivation among the rank and file police officer.

Interviews with numerous SCRTD police officers have resulted in the same response; SCRTD police officers feel that they do not have the confidence and support of management or else this

"secondary" police status would not exist. Furthermore, police officers believe that their self image is effected since they also believe, without exception, that they are perceived as part-time police officers, lacking recognition by their employers for the profession they have chosen and lacking recognition as police professionals by their peers.

It appears that the condition of limited police status for SCRTD officers is the basis of internal demoralization and, again, must be reconciled. The fallacy of increased liability to the District if police authority is extended beyond the current limitations is not a valid argument against changing the police officer status. This is nothing more than a perception and not supported by any evidence available to the Review Panel. On the contrary, MARTA in Atlanta, MBTA in Boston, the WMATA in Washington, D.C., all enjoy full police authority and there have been no recorded incidents where a greater liability has occurred because of the full authority of police officers. Attesting first hand to that fact is Gerald Hotopp, MARTA's Director of Police Services, Chairman of the Peer Review Panel. Over more than 9 years, MARTA police, with full sworn police powers, have not had a single incident where a liability issue resulted from the exercise of police authority during off duty hours. MARTA officers are also required to be armed during off-duty hours and this has presented no problem.

SCRTD should emphasize creating and maintaining relationships with local law enforcement, particularly through existing professional organizations such as Los Angeles County Peace Officers Association, San Gabriel Valley Chiefs of Police, etc. If the needs and problems of SCRTD are made visible to local law enforcement, increased assistance will undoubtedly occur. (Action Item 15)

It is also imperative the SCRTD Police Department management foster and promote an understanding of SCRTD needs with city and county prosecutors and the judiciary. It cannot be expected that SCRTD problems, which are devastating to the successful operation of local transit, but pale next to many of the other incidents which come before the criminal justice system will be given full attention unless successful liaison is established. (Action Item 16)

A reorganization of the SCRTD Police is not a panacea to the problems that currently exist within the Police Department or the SCRTD. There is a great deal of internal turmoil associated with a lack of career incentives, with compensation and benefits, and

of no lesser seriousness with the authority of the police, which is currently limited by SCRTD policy. These issues must be addressed and steps taken to reconcile them immediately in order that a progressive rebuilding process can take place in sufficient time to handle the added police responsibilities that will be encountered when the rail system goes on line.

Essentially, the rebuilding program will require total management support but, more importantly, the police function will require the renewed support and recognition of the management team. Morale is extremely low and the employees' perception is that "nobody cares." This, of course, could not be further from the truth. Management has clearly demonstrated that it supports the police and the General Manager has made known his position in support of the police as well. However, as the District faces the challenges of the future, a strong Police Department is essential to the growth of the entire system. Therefore, immediate action is called for both in terms of funding and other recommendations made by the Peer Review Panel to overcome the internal problems with the SCRTD Police.

As active members of the law enforcement community, the Panel is collectively and individually proud to have had the opportunity to contribute to this review process. The Panel recognizes that the reputations of the selected members were assessed before the invitations were extended by SCRTD to participate in the Peer Review process. With these considerations clearly in mind, this Panel hopes that the observations and recommendations resulting from this review will meet the expectations of the SCRTD management team.

APPENDICES

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PEER REVIEW PANEL-INTERVIEWS

Bill Rhine-Assistant General Manager  
Transit Systems Development

Earl Clark-General Chairman  
United Transportation Union

Rich Davis-Director of Equipment Maintenance

Larry Cosner-Senior Transportation Operations  
Services-Dispatch Center

Leo Bevon-Assistant Director of Transportation

Ernesto Fuentes-Assistant General Manager  
Inspector General

Kim Turner-Acting Senior Labor Relations Analyst  
Employee Relations

Luke Fuller-President  
Transit Police Officers Association

Gayel Pitchford-Director of Personnel

Larry Schlegel-Director  
Office of Management & Budget

Joe Stitcher-Acting Senior Management & Budget Analyst  
Office of Management & Budget

Lou Hubaud-Safety & Security Officer  
Los Angeles County Transportation Commission

Harry Budds, Former Assistant Transit Police Chief

Suzanne Gifford, General Counsel  
Legal Department

Art Leahy-Assistant General Manager  
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Director John F. Day

Director Larry Gonzalez

TO BE PUBLISHED IN THE OFFICIAL REPORTS  
OFFICE OF THE ATTORNEY GENERAL  
State of California

GEORGE DEUKMEJIAN  
Attorney General

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OPINION

of

GEORGE DEUKMEJIAN  
Attorney General

JACK WINKLER  
Assistant Attorney General

No. 81-1216

SEPTEMBER 3, 1982

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THE HONORABLE DAVID JANSSEN, DIRECTOR, DEPARTMENT  
OF GENERAL SERVICES, has requested an opinion on the  
following question:

Does the Chief of the California State Police  
Division have the authority to prohibit or allow Security  
Officers of the California State Police Division to carry  
concealed firearms while off duty?

CONCLUSION

The Chief of the California State Police Division  
does not have the authority to prohibit or allow security  
officers of that division to carry concealed firearms while  
off duty.

ANALYSIS

The carrying of concealed firearms in California  
is regulated by the Dangerous Weapons Control Law. (Pen.  
Code, § 12000 et seq.) Section 12025 <sup>1/</sup> prohibits the  
carrying of certain firearms <sup>2/</sup> concealed on one's person or  
in a vehicle without having a license for the same.  
Exceptions to this prohibition are made for certain persons  
including "duly appointed peace officers" in section 12027.

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1. All section references are to the Penal Code  
unless otherwise indicated.

2. Pistol, revolver, or other firearm capable of  
being concealed on the person.

1.

Section 12027 is one example of the many statutes which use the term "peace officer," a generic term embracing many specific classifications of public officers having law enforcement powers and responsibilities. The term is used in different contexts to designate a class of persons to which certain legal rights, duties and consequences attach. Other examples include section 836 defining the powers of arrest of a peace officer, sections 241, 243 and 245 prescribing greater punishment for assaults committed on peace officers and section 832 et seq. establishing training requirements for peace officers. These are only a few of the many statutes which attach legal significance to a person's status as a peace officer. It is therefore important to know just who, where, when and under what circumstances a person is a peace officer within the meaning of these statutes.

Chapter 4.5 of part 2, title 3 of the Penal Code (commencing with § 830 and referred to herein as "chapter 4.5") was enacted in 1968 (ch. 1222, Stats. 1968) to provide an answer to such questions. Section 830 declares:

"Any person who comes within the provisions of this chapter and who otherwise meets all standards imposed by law on a peace officer is a peace officer, and notwithstanding any other provision of law, no person other than those designated in this chapter is a peace officer. The restriction of peace officer functions of any public officer or employee shall not affect his status for purposes of retirement."

The sections which follow set forth a detailed enumeration of persons who are peace officers by general categories in separate sections. Currently chapter 4.5 designates 80 classes of peace officers in seven general categories in section 830.1 (paid local police officers, deputy sheriffs, etc.); 830.2 (such state officers as highway patrol, state police, etc.); 830.3 (other state officers); 830.31 (certain special purpose officers); 830.4 (security officers); 830.5 (correctional, parole and probation officers); and 830.6 (reserve and auxiliary officers). In addition to the enactment of chapter 4.5, chapter 1222, Statutes of 1968 contained 81 sections changing provisions in 15 codes to correspond with the new peace officer definitions. One of these (§ 61) amended section 12027 to exempt "other duly exempted peace officers" from the concealed firearm proscription of section 12025.

While chapter 4.5 provides a ready answer to most peace officer status questions, a number of questions have arisen for which the answers are not readily apparent.



There are several reasons for this. First, the Legislature changes the provisions of chapter 4.5 every session. In fact from 1969 through 1981, 83 separate statutes were enacted making changes in chapter 4.5. Second, chapter 4.5 itself contains a number of qualifications which require interpretation. We shall examine some of these in the next paragraph. Finally, the courts have added further qualifications in a number of cases which we shall also examine briefly.

Chapter 4.5 qualifies peace officer status by such phrases as "for the purpose of performing their primary duty" (§§ 830.3 & 830.31); "while engaged in the performance of their duties" (§§ 830.4 & 830.5); "when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense" (§§ 830.3, 830.31 & 830.4); and when acting "pursuant to Section 8597 or Section 8598 of the Government Code" relating to emergencies (§§ 830.3, 830.31 & 830.5). Chapter 4.5 also distinguishes between the status and the authority of a peace officer. Both sections 830.7 and 830.8 declare that designated persons are not peace officers but may nevertheless exercise the powers of arrest of a peace officer as specified in section 836 under certain circumstances.

In People v. Derby (1960) 177 Cal.App.2d 626, 631 the court observed: "Public officers such as policemen, constables, etc., are under a special duty at all times, because of the nature of their employment, to use their best efforts to apprehend criminals." In Derby the court applied the rule holding that an officer of the California Highway Patrol who arrested a man for fighting and resisting an officer in the performance of his duties after the officer's duty shift was over was acting in the performance of his duties as a peace officer when he made the arrest. In People v. Corey (1978) 21 Cal.3d 738 the court carved out an exception to the Derby rule. The court held that the enhanced punishment provisions for battery of a peace officer engaged in the performance of his duties does not apply to peace officers who are assaulted while acting within the course and scope of private employment as security guards. The court stated, "We do not suggest that a peace officer's official duties necessarily cease at the end of his normal working hours [citing the Derby case], where there are no private contractual duties of the nature involved herein." Similarly in Cervantes v. J.C. Penney Co. (1979) 24 Cal.3d 579, the court held that in making an arrest for shoplifting while working as a private security guard for Penneys during his off-duty hours a city police officer was performing private rather than official duties.

The qualifications on peace officer status arising out of statutory language and court cases serve to indicate that the designation of certain persons as "peace officers" in chapter 4.5 does not mean that those persons are peace officers for any and all circumstances. Similarly the fact that chapter 4.5 serves to define peace officer for the purpose of many statutes does not mean that the same definition will be applicable in all statutes. 3/ The fundamental reason for this is that two separate statutes are involved and it is possible that they may conflict in some respects. Thus the application of the chapter 4.5 definitions to a particular statute requires a consideration of the language of that statute as well as the language in chapter 4.5.

The pertinent provisions of the Dangerous Weapons Control law provide:

"Section 12025.

"(a) Except as otherwise provided in this chapter, any person who carries concealed within any vehicle which is under his control or direction any pistol, revolver, or other firearm capable of being concealed on the person without having a license to carry such firearm as provided in this chapter is guilty of a misdemeanor, . . . .

"(b) Any person who carries concealed upon his person any pistol, revolver, or other firearm capable of being concealed upon the person without having a license to carry such firearm as provided in this chapter is guilty of a misdemeanor, . . . ."

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3. Section 79 of the statute which first enacted chapter 4.5 (ch. 1222, Stats. 1968) provides:

"It is the intent of the Legislature that the changes effected by this legislation shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers and duties, and that there be no change in the status of individual peace officers or classes of peace officers for purposes of retirement, workmen's compensation, or similar injury or death benefits, or other employee benefits."

"Section 12027.

"Section 12025 does not apply to or affect any of the following:

"(a) Peace officers listed in Sections 830.1 or 830.2 whether active or honorably retired, other duly appointed peace officers, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer. . . ." (Emphasis added.)

The apparent purpose of the peace officer exemption is to remove the concealed weapon proscription and license requirements from peace officers in recognition of the need for such weapons in performing peace officer duties. The Legislature particularly recognized this need in the performance of those duties involving arrests and preserving the peace by extending the exemption to those summoned to assist peace officers on such occasions. There is nothing in either section 12025 or 12027 which would indicate that the "duly appointed peace officers" exempted from section 12025 by section 12027 are not those designated by chapter 4.5. In fact the enactment of those words in section 12027 as part of the same statute which enacted chapter 4.5 (ch. 1222, § 61, Stats. 1968) clearly demonstrates the Legislature's intention that the chapter 4.5 definitions were to apply to the "peace officers" exempted from section 12025 by section 12027.

We are asked whether the Chief of the California State Police Division (the "division") has authority to prohibit or allow the security officers of that division to carry concealed firearms while off duty. We understand the Chief of the division acts on behalf of the "employer" and "employing agency" within the meaning of section 830.4. We also understand the term "off duty" in the question to refer to those periods of time the security officers are not performing their division duties.

We note that the law distinguishes between "security officers" and other members of the division. The peace officer authority of the division's security officers is governed by section 830.4 while that of other members of the division is governed by section 830.2.

The pertinent provisions of section 830.4 state:

5.

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"The following persons are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. Such officers shall also have the authority of peace officers anywhere in the state as to an offense committed, or which there is probable cause to believe has been committed, with respect to persons or property the protection of which is the duty of such officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense. Such peace officers may carry firearms only if authorized by and under such terms and conditions as are specified by their employing agency:

"(a) Security officers of the California State Police Division. . . ."

Since our research has revealed no judicial decision interpreting these statutes relevant to the question presented we resort to the applicable rules of statutory construction. The principle rules were summarized in Moyer v. Workmen's Comp. Appeals Bd. (1973) 10 Cal.3d 222, 230 as follows:

"We begin with the fundamental rule that a court should ascertain the intent of the Legislature so as to effectuate the purpose of the law. In determining such intent the court turns first to the words themselves for the answer. We are required to give effect to statutes according to the usual, ordinary import of the language employed in framing them. If possible, significance should be given to every word, phrase, sentence and part of an act in pursuance of the legislative purpose; a construction making some words surplusage is to be avoided. When used in a statute words must be construed in context, keeping in mind the nature and obvious purpose of the statute where they appear. Moreover, the various parts of a statutory enactment must be harmonized by considering the particular clause or section in the context of the statutory framework as

a whole." (Citations and quotations omitted.)

The first sentence of section 830.4 states that the security officers named "are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them." (Emphasis added.) The use of the words "while" and "when" to introduce the qualifying clauses is significant. The dictionary defines "while" to mean during the time that and "when" to mean at what time. (See Webster's Third New Internat. Dict.) Thus the usual and ordinary import of the emphasized words is to limit the time that the security officers named "are peace officers." The clear implication is that at times other than those specified such security officers are not peace officers.

The second sentence of section 830.4 states that the designated security officers "have the authority of peace officers" in certain situations (not that they "are peace officers" as in the first sentence). Is a security officer a peace officer within the meaning of other statutes when he is exercising the authority of a peace officer in the designated situations? There is no categorical answer to this question. We think the answer is to be found in the language used and the purposes to be served by both section 830.4 and the other statute to harmonize and effectuate the purpose of the Legislature as to both statutes.

The second sentence of section 830.4 gives the designated security officers the authority of peace officers in two situations. We consider them separately. The first provides peace officer authority "as to an offense committed, or which there is probable cause to believe has been committed, with respect to persons or property the protection of which is the duty of such officers." The reference to probable cause indicates the Legislature had the peace officer powers associated with arrests in mind. Section 836 authorizes a peace officer to arrest a person "whenever he has reasonable cause to believe the person to be arrested has committed a public offense in his presence." Section 835a provides: "Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance . . . ." Section 833 provides: "A peace officer may search for dangerous weapons any person whom he has legal cause to arrest, whenever he has reasonable cause to believe that the person has a dangerous weapon . . . ." Of course the peace officer authority granted in this situation is limited to certain offenses, namely those concerning the

protection of persons and property which it is the duty of the security officer to protect. The second situation for which section 830.4 grants peace officer authority to security officers is "when making an arrest pursuant to section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense." Thus both situations for which section 830.4 grants "the authority of peace officers" involve arrests. We have already noted that the purpose of exempting peace officers from the concealed firearm strictures of section 12025 was to remove those restrictions for peace officers in recognition of the need peace officers have for concealed firearms in performing their duties particularly those relating to making arrests and preserving the peace. We perceive no reason why a security officer making an arrest in either of the situations mentioned in the second sentence of section 830.4 would not have the same need for a concealed firearm as a peace officer making an arrest in the same circumstances. Thus the same legislative concern which prompted the Legislature to exempt peace officers generally from the concealed firearm restrictions of section 12025 would apply with equal force to security officers who exercise the peace officer authority granted them in the second sentence of section 830.4. To harmonize the two statutes in a manner which effectuates the purpose of each we construe the words "peace officer" in section 12027 to include security officers while exercising the peace officer authority granted them by the second sentence of section 830.4.

Our final concern focuses upon the third sentence of section 830.4 which reads: "Such peace officers may carry firearms only if authorized by and under such terms and conditions as are specified by their employing agency." Chapter 1340, Statutes of 1980 placed this language in sections 930.3, 830.31 and 830.5 as well as 830.4 making it applicable to more than 40 classifications of peace officers. We traced the legislative history of this provision in 64 Ops.Cal.Atty.Gen. 832 and concluded that a Department of Corrections peace officer, as defined in section 830.5, is permitted to carry concealed a concealable firearm without a license if authorized to do so by the Department of Corrections under such terms and conditions as are specified by the department. We observed on page 837 that:

"Nothing in this opinion is intended to detract from the right of a peace officer, as defined in section 830.5, to seek a license under sections 12050-12054 to carry concealed a concealable firearm, and, if licensed, to carry such firearm while not performing peace officer duties."

While that opinion indicated our view that the employer's authority to control the carrying of firearms by the peace officers it employed was limited we did not further examine the scope of that authority. We do so now.

The extent of the authority granted to the employing agency by the third sentence of section 830.4 is significant. By declaring "such peace officers may carry firearms only if authorized . . ." the statute prohibits the carrying of firearms without the requisite authorization. Thus the employing agency is empowered to prohibit the carrying of firearms by its security officers by simply withholding its authorization as well as to authorize them to carry firearms "under such terms and conditions" as it specifies. Further the authority granted extends to the carrying of any firearm including shotguns and rifles, not just handguns. (The reason for authorizing an employing agency to control the carrying of firearms by its employees at a facility operated by the agency or at any place where the employees are acting within the scope and in the course of their employment is apparent.) However, we see no reason why the employing agency would need or want to control the carrying of firearms by its peace officer employees at times and places unrelated to their employment. If the power granted the employing agency by the third sentence of section 830.4 is construed to extend to any time and place it would mean that the designated officers would need the authorization of their employing agency to carry rifles on hunting trips or even national guard training exercises. Further, such control would extend only to the designated officers and not to the nonpeace officer employees of the agency. We believe that the Legislature did not intend to grant the employing agency any such control over the nonemployment related conduct of its security officers. By granting the authority to the "employing agency" we think the Legislature meant it to apply only to employment related conduct. Such limitation is also suggested by the words "under such terms and conditions as are specified" since an employer's authority to impose terms and conditions on an employee's conduct is normally limited to the latter's employment related conduct. Thus we interpret the provision to be applicable only to employment related situations, i.e., to the carrying of firearms at the place of employment subject to control by the employing agency and to the carrying of firearms by the employee any place while acting within the scope and in the course of his or her employment.

In most cases a peace officer's powers and duties are related to his peace officer employment. However, there are some responsibilities which the Legislature has given peace officers generally which do not usually relate to their peace officer employment. Section 142 requires "any peace officer" to receive custody of a person who has been

arrested by a private person. (See 64 Ops.Cal.Atty.Gen. 886, 892-894.) Business and Professions Code section 25619 provides that "every peace officer" shall enforce the provisions of the Alcoholic Beverage Control Act and shall inform against persons whom they have reasonable cause to believe offend against its provisions. Failure to perform either of these responsibilities is made a misdemeanor by the statutes. There are other such statutes applicable to peace officers generally. (See, e.g., Health and Saf. Code, § 4477, and Fish and G. Code, § 10508.) Section 836 authorizes peace officers generally to make arrests in specified circumstances which need not relate to their peace officer employment duties. (See People v. Derby, supra, 177 Cal.App.2d 626.) When acting pursuant to such statutes in a manner unrelated to their peace officer employment, such officers are not subject to any rules imposed by their employing agencies since such agencies have no power to limit or change these statutorily created powers and duties. (64 Ops.Cal.Atty.Gen. 886.) We believe this applies to rules relating to the carrying of concealed firearms.

We conclude that the chief of the division does not have the authority to prohibit or allow security officers of the division to carry concealed firearms while off duty.

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