

# GOAL IX

TO PROMOTE FULL AND EQUAL PARTICIPATION IN THE LEGAL PROFESSION BY MINORITIES

Volume 8, Number 2, Spring 2002



...Revisiting the Rodney King Incident Ten Years Later...

## The L.A. Riots: A Lesson in Disenfranchisement

J e n n i f e r L . B o r u m

Everyone with eyesight saw the videotape. In March 1991, I was in West Virginia, thousands of miles away from Los Angeles and I had an opinion. Therefore, I know that I am on solid footing when I say that the citizens of Los Angeles weren't the only people who had seen the videotape and formed an opinion. I would venture to guess that even the citizens of Simi Valley had seen the videotape and had an opinion. What then, was so peculiar about the citizens of Los Angeles that made them so uniquely *unqualified* to render a fair verdict in the trial of the four white Los Angeles police officers accused of beating Rodney King, that the trial was moved from Los Angeles to homogenous Simi Valley?

At the time of the trial, Simi Valley was largely a majority community with thousands of its citizens connected in some way to law enforcement. African Americans constituted only 1.5 percent of Simi Valley's overall population. Was it a white jury sympathetic to the "plight" of the white officers that the court sought? No, that would be too simplistic. Rather, the court changed venue to impanel a jury that, at least in the court's judgment, would not be swayed by emotion or personal feelings about the case. The court's intent was to avoid the threat of violence in the community if the "right" verdict was not returned. The court relied on *Lozano v. State*, 584 So. 2d 19 (Fla. App. 3 Dist. 1991), where the appeals court for the Third District of Florida stated: "We simply cannot approve the result of a trial

conducted . . . in an atmosphere in which the entire community . . . was . . . justifiably concerned with the dangers which would follow an acquittal, but which would be . . . obviated if . . . the defendant was convicted. Surely, the fear that one's own county would respond to a not guilty verdict by erupting into violence is as highly 'impermissible [a] factor,' [citation], as can be contemplated." See *Powell v. Superior Court*, 232 Cal. App. 3d 785, 801, 283 Cal. Rptr. 777, 887 (1991).

In its opinion changing the trial's venue, the California appeals court revealed that it had received a "document" that warned of violence should the court change the venue. However, the court inferred from this voiced threat of violence driven by the prospect of disenfranchisement that there also existed a threat of violence should a particular verdict not be returned. As the court stated: "If the mere possibility an order directing that trial be conducted outside Los Angeles County gives rise to such threats, we must draw the inevitable inference about the possibility of threats which could surface during the trial itself. Such unacceptable attempts to influence the judicial proceedings at this early stage add another impermissible factor into the boiling cauldron surrounding this case, making it imperative to take every step possible to ensure that an impartial unbiased jury be seated." *Powell v. Superior Court*, *supra*. The ruling implied that there was a perceived "right" verdict that the community required if peace was to

be maintained and that the threat of violence for the return of the "wrong" verdict would affect juror deliberation. This reasoning requires several assumptions: (1) that there is at least a perception that a consensus has been reached (at least by the riot-minded) as to what the verdict should be; (2) that the juror knows what that proposed verdict is; (3) that the juror believes that violence will occur if that verdict is not reached; and (4) that the juror will choose the definite violation of his or her duty of independent, impartial deliberation over the prospect of disorder in the community. This reasoning also implies that jurors in other communities either do not know or do not care what effect their verdict may have on the community of origin, or that the threat of violence could move to the new venue along with the case.

Of course, what occurred after the eventual acquittal of the four officers is infamous. The highly publicized upheaval left over forty dead, thousands injured, and many businesses destroyed. Yet, it is widely believed that the sole reason for the mayhem is what the court foresaw—that the community was angered because the officers were acquitted. That is a fair assumption given the timing of the events. However, it does not account for the possibility that the anger and frustration evidenced by these acts actually were due in large part to the change of venue, exactly as the "document" warned.

The aftermath of the Rodney King

*continued on page 5*



# An Exercise in Excellence

Charisse R. Lillie  
Commission Chair

The 2002 ABA Midyear Meeting in Philadelphia was full of excitement—the historic nomination of Dennis Archer as president-elect of the ABA, the dynamic and inspiring speech by Robert Grey placing Mr. Archer’s name in nomination, as well as the many spirited debates on the floor of the ABA House of Delegates.

And then there was the Spirit of Excellence. Even as we approach our Megameeting of the ABA Commission on Racial and Ethnic Diversity in the Profession in April 2002, we are still dancing in the light of the magnificent celebration of diversity in the legal profession that is the Spirit of Excellence Awards Luncheon. In a ballroom packed with over 700 guests, we celebrated six spectacular attorneys who are exemplars of triumph over adversity, devotion to the rule of law, creativity, good judgment, and unassailable integrity.

Honorable Clifford Scott Green, judge of the U.S. District Court for the Eastern District of Pennsylvania, spoke candidly about the fact that the ABA has not always been his favorite organization. Judge Green recounted how in 1971, he was nominated to the federal district court and the ABA was charged with the responsibility of reviewing his nomination. During the interview, the ABA reviewer asked him to describe his antitrust and securities litigation experience. Judge Green responded that in 1971 no corporations or major law firms hired black lawyers, thus it was impossible for him or any other black lawyer at that time to have such experience. When the reviewer told Judge Green he would waive the requirement, the judge felt doubly offended and that the waiver was more insulting than the question. Judge Green stated that it took him a long time to change his negative opinion of the ABA following that experience, but he graciously thanked the Association and acknowledged the work that it and the Commission are doing to further diversity in the legal profession.

Honorable Peter Garcia, acting public defender of New Jersey, spoke a little nervously at first, afraid that at any minute his wife, who was pregnant with twins, would call to say “it was time.” Mr. Garcia

spoke of his efforts to diversify the public defender’s office in New Jersey. He spoke proudly of the internship program that he helped institute, which has paved the way for a future generation of minority lawyers by providing training, courtroom experience, and mentoring. He also spoke of the importance of attacking the underlying problems of juvenile crime.

Honorable Harry W. Low, the thirty-seventh Insurance Commissioner of California, and retired presiding state appellate court justice, spoke of his twenty-five-plus years as a judge on the California Court of Appeal and the San Francisco superior and municipal courts. He encouraged minority lawyers to volunteer their time and also spoke convincingly about the win-win proposition of encouraging businesses, commissions, and other entities to invest in minority communities and to include minorities and women in their appointments.

Honorable Rebecca Tsosie, supreme court justice for Fort McDowell Yavapai Nation, and professor of law at Arizona State University, spoke of her Native American heritage and the many challenges and obstacles she faced as a young Native American woman pursuing her dream of becoming a lawyer and working to restore the land and the connection to the community and culture that had been taken from Native Americans. She spoke inspiringly about her spirituality and the role of the law in healing and restoring the human spirit. She was both humble and gracious as she thanked and praised her ancestors for helping her succeed.

Corporate Award winner William G. Paul, former president of the ABA, who single-handedly moved the issue of diversity in the legal profession to the forefront of the Association during his tenure, talked about his continuing belief in the cause of diversity. He urged the ABA to stay on task in keeping diversity a priority in the ABA and in the profession. His exhortations about the importance of diversity in the legal profession were compelling and the best evidence of why he was deserving of this special recognition.

Inspiration Award winner Peter Herbert, a practicing lawyer in London, who currently serves as chair and executive member of the

*continued on page 8*

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# Painful Memories . . . a Decade Later

M a r k L . K e a m



A scholar once said that human history is not the study of changes in the human body, but of changes in the way human beings organize themselves. As a student of ethnic politics in America, I find this description quite fitting as I look back on the decade since Los Angeles erupted into fire and violence in the spring of 1992.

The Riots that began on April 29, 1992, which is referred to in Korean as “*Sa-ee-gu*” (literally, “4-29”), was a major turning point in the almost 100-year history of Korean Americans. It served as a wake-up call for a community that has long been politically invisible. This tragic event has also had a significant impact on me personally, and helped galvanize my commitment to pursue a career in public service.

It was on a typically gorgeous Southern California Wednesday afternoon when the jury in the Rodney King trial announced its verdict. Like most Americans, I froze in disbelief when I heard the surprising news. Then Los Angeles Mayor Tom Bradley said it best when he declared, “Today, the jury told the world that what we all saw with our own eyes was not a crime.”

But for me and for thousands of other Korean Americans in Los Angeles that day, the worst news was yet to come. From the moment the announcement was made, my coworkers at a small law firm and I remained speechless and glued to the TV set as we listened to reporters and commentators trying their awkward best to rationalize how the mostly white jury could have reached “not guilty” verdicts for the four white Los Angeles police department officers accused of savagely beating an African American man.

Within minutes, however, the focus of the news shifted from inside the Simi Valley superior courtroom to the mob scene that was unfolding outside as angry crowds screamed “Guilty! Guilty! Guilty!” The human shock waves then spread out over miles from that legal epicenter as news of scattered violence streamed in from across the Southland.

With each passing minute, another frantic report hit the air. Mobs gathered on street corners; stores were looted; innocent motorists were dragged out of cars; gunshots were fired; buildings were set on fire; deaths were confirmed; and there was no sight of police anywhere.

Most of the earliest reports were of activities in the predominantly African American areas of South Central Los Angeles, which, perhaps, was not too surprising, considering the obvious white vs. black racial underpinnings of the Rodney King incident.

But as we continued flipping through TV and radio channels, we began to hear sirens of emergency vehicles, not from the media, but from directly outside of our own windows. Because my office was located on the top floor of a fairly tall office building on Wilshire Boulevard at the edge of Beverly Hills, we felt somewhat secure. My boss, nevertheless, called security to shut the office building to the public, and to lock all the elevators that came up to our suites.

We then walked out onto the roof to take a firsthand look at what was happening in our town. The scene I witnessed

remains, to this day, vividly ingrained in my mind. The first thing I noticed was close to a dozen columns of thick black and gray smoke piercing into the blue sky about ten to fifteen miles southeast of where I was. I knew that was South Central Los Angeles. Then, I turned toward the east, where I saw a few more smokestacks rising up about six or seven miles away. Immediately, my heart sank. That was Koreatown. And it could mean only one thing—Koreatown was also under attack.

I completed a 360-degree panoramic sweep from atop that building, and noticed that there was no smoke or fire coming from any other quadrant of the city—only from the direction of South Central and Koreatown. “Why K-town?” I wondered out loud.

Then I heard the sirens of police cruisers passing by. I sighed a little relief. Curiously, though, the sounds seemed to be headed not toward the hotspots where the fires were, but, rather, towards the ritzy West Side of Los Angeles. “What’s happening in Bel Air that the cops are all racing over there?” I wondered.

I went back into my office and tried calling some friends who worked in Koreatown. The phone lines were beginning to get tied up, as everyone was calling their families and friends at the same time. It was pure chaos in the making. I was finally able to get in touch with some people to learn that they were okay, but that they were also deathly scared and felt helplessly trapped in their stores or homes.

Another nervous hour passed, but it seemed pointless to remain at work. Although we were told to wait it out in the safe confines of our building, no employee wanted to be stuck there for who knew how long. One by one, my coworkers left for home after sharing several big hugs.

I also left and ventured into the heart of Koreatown to comfort a friend who told me she was stuck alone in her apartment. She couldn’t believe what she was witnessing out of her second story balcony that directly faced the Han Kook Market. There, several Korean American employees were rushing to move their cars in the parking lot to build a makeshift barricade against the oncoming mobs. The supermarket cashiers and bag boys were now openly brandishing automatic firearms.

Incidentally, the infamous scenes from this particular supermarket with the big “HK” sign became some of the most chilling images of the riots broadcast to the world—photos of middle-aged Korean immigrants strutting on top of the store’s roof with rifles and pistols drawn, vigilante-style. Overnight, Korean Americans unwittingly became the poster ethnic group for the National Rifle Association, and the living embodiment of the Second Amendment in action.

After a long and stressful evening of reacting to sudden blasts of gunfire, shattering windows, and wailing sirens heard just outside the apartment building, I left my friend once her sister finally made it home. As I walked to my car and drove through the streets of Koreatown that night, I could not believe this was the same exciting and economically vibrant town that was home to the largest and most successful Korean population outside of the Korean peninsula.

Instead, it looked like the streets of wartime Seoul that my

mother often described to me from her memories of having lived through the Korean War four decades ago. I could not help but wonder if other Korean immigrants of my mother's generation didn't feel the same sense of *déjà vu* in Koreatown that night.

The next day, my city was completely shut down. I spent the day on the phone gathering news and offering help. I learned of painful casualties that cut close to home. My brother-in-law's tee shirt store was looted. A friend's mother was shot in the thigh as she scrambled to escape a mob scene. One of my old employer's store and its entire inventory were burned to the ground with losses reaching in the seven figures. A businessman I knew well was almost beaten to death by looters when he rushed out to save his minishoping mall from looters. Another friend's parents lost their burger stand—and along with it their entire financial investment—to fire.

By the time President George H. W. Bush and Governor Pete Wilson called in the Army and the National Guard to suppress the three-day-old chaos, it was too little, too late. The statistics say it all: Over forty dead, about 2,400 injured including over sixty firefighters, thousands arrested, hundreds of major structures destroyed, and close to \$1 billion lost in property damage.

Beyond the physical destruction, the psychological impact to the people of Los Angeles was irreparable. From the perspective of Korean Americans and other minorities, the Riots came to symbolize the most vivid and outward manifestation of the discrimination and disparate treatment they have long felt.

It was seen broadly as an affirmation that Los Angeles, like many places in America, is really a tale of two cities—one for the privileged and the other for the powerless and neglected.

This perception spread beyond mere gut-level suspicion or bitter cynicism when, shortly after the Riots, it was reported that the top LAPD brass refused to act and let telephones ring unanswered. The rank-and-file officers who swore “To Protect and To Serve” were hopelessly missing in action. Police cars were seen heading to protect stores in upper-income neighborhoods even though those areas were never in danger of mob attacks.

The final straw for minorities came when news surfaced that Police Chief Daryl Gates apparently attended a political fundraiser on the West Side while his inner city was burning that afternoon.

A blue ribbon panel formed to investigate LAPD's response to the Riots would eventually report that the department was simply understaffed and poorly equipped at that time. But the public saw it differently, and accusations from minorities were not as forgiving. Korean Americans, in particular, argued that the LAPD outright betrayed them during those crucial hours.

Korean Americans have often been labeled as an isolated, self-reliant, entrepreneurial group. During *Sa-ee-gu*, this community lived up to those stereotypes. While we will commemorate the centennial of Korean immigration to the United States on January 13, 2003, some have suggested that the Korean American community was really born on April 29, 1992.

That day, Korean Americans were assaulted with a lethal one-two punch. First came the attacks, lootings, and burnings

that left their livelihoods destroyed and family members dead and injured. Then, as hundreds of businesses—from South Central to Koreatown—were systematically identified and attacked, 911 calls made by Korean Americans went unanswered by the police and fire departments.

It was feared that anyone who dared stand up to the rioters and looters would be killed unless they fought back under color of authority or with real bullets. But in the face of the cold hard truth that no help was on its way, Korean Americans were left with little

choice but to defend themselves. Thus, as the long night of violence dragged on, urgent calls from Korean American leaders went out over Korean-language radio programs for Korean Americans to arm themselves and to form “Guardian Angel”-style teams to patrol Koreatown twenty-four hours a day.

For Korean Americans, the lesson of *Sa-ee-gu* is clear and simple: We as Korean Americans must take charge of our own destiny, since no one else will be there for us. It was through brutal lessons of death and destruction that Korean Americans rediscovered our instinct to survive and became emboldened. It was in the face of betrayal and frustration at the lack of governmental accountability that Korean Americans learned to forge a political agenda of self-empowerment. And it was from helplessly

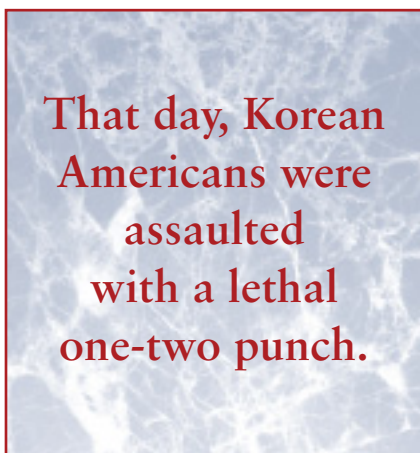
watching fellow minorities rise up against us that Korean Americans finally learned the value of building bridges with others in America.

Since the Riots, the Korean American community has galvanized politically in ways as never before. Recognizing the need for a voice in government, several Korean Americans ran for and were elected to public office, including the first representative to Congress. Many more participated in politics as campaign volunteers and donors. Many like me entered the public policy arena as professional staff or in politically appointed positions.

However, the most meaningful response at the grassroots level was the slow transition in the mantle of community power from the predominantly Korean-speaking immigrant leaders to the English-speaking, American-educated younger generation of Korean Americans. Through organizations such as the Korean American Coalition and the Korean Youth and Community Center, new leaders such as attorney Angela Oh and activist Charles Kim stepped up as advocates for the rights of Korean American riot victims. This changing of the guard was seen as necessary as the community needed to plead a compelling case before government agencies and insurance companies that were reluctant to accept blame for what happened during the Riots.

The community also began proactive coalition-building measures designed to prevent further racial tensions between Korean American merchants and residents of the predominantly African American communities that they serve. While there were many random opportunists who used Rodney King as an excuse to incite general anarchy, I believe it is important to acknowledge and recognize that real racial problems did exist for Korean Americans prior to April 1992, which may have helped fuel the targeted violence against Korean American-owned stores.

In 1991, around the same time that the world was first introduced to George Holliday's homemade video of the King beating, another video clip surfaced that caused racial rifts in Los Angeles. The black and white tape of a South Central liquor store's surveillance camera showed an altercation between Mrs. Soon Ja Du, a Korean American



merchant, and Latasha Harlins, a fifteen-year-old African American customer who was accused of stealing a bottle of orange juice. The incident ended in the tragic shooting death of Harlins, which then led to Du's conviction of voluntary manslaughter. However, the judge imposed what was considered to be a fairly light sentence of probation and community service, which ignited widespread complaints of racial injustice.

The result of this trial, along with numerous police brutality cases, helped feed the perception among many that society places a low value on the loss of African American life. The Du case also added a Korean face to a long list of what African Americans perceived as perpetrators of injustice, while affirming the stereotype of the rude and greedy Korean merchant that films like Spike Lee's *Do the Right Thing*, and rap songs like Ice Cube's *Black Korea* have helped to perpetuate.

With such tensions brewing just below the surface for many years, the Riots provided the spark that set off an all-out assault on Korean Americans. Interestingly, though, it was reported that some Korean American-owned businesses in South Central were saved from destruction—stores that were known to have hired African American employees, for example, or those where the owners had friendly personal relationships with their customers, were protected from outside by neighbors who told the looters to move on.

To prevent racial problems from rising to dangerous levels again after *Sa-ee-gu*, numerous efforts were convened to bring harmony between Korean Americans and African Americans,

such as interracial religious services, the development of scholarships for inner-city students funded by Korean American merchants, and alternative dispute resolution programs. As incidents of violence and boycotts against Korean Americans spread to other cities, these race-relations efforts were replicated by local Korean American community groups in New York, Chicago, Washington, D.C., and elsewhere.

Although some racial prejudices may never be overcome, there are many common interests that both Korean American merchants and neighborhood residents share, such as job creation, economic development of the inner cities, maintaining clean streets, getting rid of drug dealers, and raising the quality of schools. If Korean Americans can play a role in bringing such positive public policy changes to the inner cities, perhaps they may find themselves in a much different position the next time a situation arises that could potentially pit Korean Americans against other minorities.

As Korean Americans continue to explore ways that, in the words of Rodney King, we can "all get along," I believe the Los Angeles Riots of 1992 have been an important catalyst for individual and group changes designed to improve the lives of all Americans.

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## Disenfranchisement

*continued from page 1*

beating trial is unfortunate not only for the toll it took on human lives, but because—if not misinterpreted, then minimally interpreted—it has added teeth to the court's reason for changing venue in the first place. Now, in similar high profile, racially charged cases, there are the L.A. Riots to cite, and no potential juror wants to cause another one of those. This argument for venue change was evident in the more recent trial of the four New York police officers accused of the Bronx County shooting death of West African immigrant Amadou Diallo. Stating that jurors would feel compelled by public opinion to return a verdict convicting the officers, a New York State appellate court moved the case to Albany County approximately 140 miles from Bronx County. The court ruled that, "this case cannot be tried in Bronx County, or anywhere else in the City of New York, without an atmosphere in which jurors would be under enormous pressure to reach the verdict demanded by public opinion." Protests followed the decision to change venue.

Certainly, before the L.A. Riots there were high profile case-related riots. For example, years before the Rodney King case, there was the acquittal of several white Florida police officers accused of the 1979 beating death of black motorist Arthur McDuffie. The three days of unrest in Liberty City that followed the acquittal left eighteen dead and millions of dollars in damage. Venue had been changed in that case as well.

After "Rodney King," the prevailing thought continues to be that a sensational racially charged case must be moved out of the jurisdiction because jurors—seeking to avoid riot in their community—will decide the case in a way that would appease would-

be rabble-rousers. Whether conviction or acquittal, it is felt that the jury will return a verdict that will ensure peace in the community. This, however, ignores the clear message of that "document" sent to the California appeals court—that disenfranchisement is the perceived problem. Would the riots have occurred if a Los Angeles jury had acquitted the officers? We will never know. We do know there was relative peace after a New York jury acquitted the officers accused of killing sixty-seven-year-old grandmother Eleanor Bumpurs in her Bronx, New York, home and after a Bronx judge acquitted NYPD officer Francis X. Livoti of charges relating to the choke hold death of Anthony Baez. Importantly, would a prospective juror, knowing the significance of enfranchisement to the overall calculus, believe that acquittal of the officers by a Los Angeles jury would result in riot?

Consequentially, the "document" in the Rodney King trial that warned of the importance of enfranchisement to the Los Angeles community actually formed the basis for the very disenfranchisement suffered by the community, with the ultimate result being the prospective disenfranchisement of similar communities in similarly high-profile cases.

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# The Legacy of Rodney King and a Testament of Hope

R o b e r t G a r c í a

The riots and rebellion after the Rodney King beating expose evils deeply rooted in the structures of this society. They were a reaction not only to the police beating one more black man. They demonstrate that police abuse and urban issues like transportation and parks and recreation are genuine civil rights issues of race, poverty, and democracy that are interrelated in Los Angeles and the American economy.

People turn to violence in the streets when access to justice through the courts is closed off. In the face of this reality, the U.S. Supreme Court is making it more difficult to right the wrongs that lead to riots and rebellion. In Los Angeles, we nevertheless continue the struggle for equal justice, democracy, and livability for all.

## Police Abuse and Corruption

The Rodney King beating, like the Watts Riots in 1965 and the Rampart police corruption scandal in 1999, shows that a “relatively simple though serious problem such as police racism” is anything but simple. On March 3, 1991, four police officers beat and arrested King while some twenty other law enforcement officers stood by and did nothing. George Holliday captured the beating on videotape from his apartment across the street. A television station broadcast the beating the next day. The beating set off a chain of events that enflamed racial and social tensions, including six days of multicultural riots and rebellion, structural reforms of the Los Angeles Police Department (LAPD) and the Los Angeles County Sheriff’s Department, and the resignations of the chief of police, the first black mayor of Los Angeles, and the district attorney.

By the time the riots and rebellion were over, forty-two people had been killed, more than 2,000 had been injured, 700 structures had been destroyed by fire, hundreds of people had lost their jobs, 5,000 people had been arrested and Los Angeles had suffered nearly \$1 billion in property damage. Of those arrested, 51 percent were Latino, 38 percent were black, 9 percent were Anglo, and 2 percent were Asian American or “other.”

Many who see the tape of the beating with their own eyes think this is a slam dunk case of police abuse. The culpability of the officers who beat King nevertheless remains ambiguous in the eyes of the law. This is illustrated by the history of the case all the way to the U.S. Supreme Court. The jury in Simi Valley acquitted the four officers who beat King, setting off the civil unrest.

The jury in the federal trial in Los Angeles subsequently convicted officers Stacey Koon and Laurence Powell of criminally violating King’s civil rights, and acquitted the other two. The judge imposed relatively light sentences of thirty months in prison, departing from the seventy to eighty-seven months mandated by federal sentencing guidelines. The judge justified the lower sentences on the grounds that the victim’s misconduct contributed significantly to provoking the offense; that the convicted officers were unusually susceptible to abuse in prison; that they would lose their jobs and be precluded from jobs in law enforcement; that they had been subjected to successive state and federal

prosecutions; and that they presented a low risk of committing future crimes.

A panel of the Ninth Circuit Court of Appeal reversed the sentences citing they were too lenient, in violation of the guidelines. The officers then sought review before the full court of appeal, which refused to hear the case. The U.S. Supreme Court reviewed the case. Applying a mechanical interpretation of the sentencing guidelines to arrive at a mixed result, the Supreme Court affirmed the court of appeal in part and reversed in part. The Court remanded the case for resentencing. The trial judge reimposed the original sentences.

In the meantime, in King’s civil suit against the City of Los Angeles, the LAPD, Koon, Powell, and others, the city conceded liability, and went to trial solely on damages. The jury awarded King \$3.8 million in actual damages for loss of work, medical costs, and pain and suffering, but denied any punitive damages.

Efforts to reform the LAPD to prevent systemwide corruption and violence have been even more difficult and complex than determining the moral and legal culpability of the officers who beat King. The Christopher Commission, the independent commission headed by Warren Christopher (who later became secretary of state), documented the fact that the use of excessive force and racial harassment was not just a problem with individual officers, but a systemic management problem in the LAPD caused by the lack of supervision, discipline, and accountability. The report condemned the culture of the LAPD, which created a siege mentality that isolated the police from the people and shielded bad cops through a code of silence. The report called for structural reforms including community policing. Another commission reached similar conclusions about the Los Angeles County Sheriff’s Department in the wake of a class action charging the systemic use of excessive force and illegal searches and seizures. A third commission led by William Webster, the former head of the Federal Bureau of Investigation and the Central Intelligence Agency, analyzed the performance of the LAPD during the riots and rebellion. The Webster Report recommended community policing and stressed the need for police officers to treat all individuals with dignity and respect.

It became apparent that Los Angeles was still incapable of policing itself even after the King reforms when the Rampart police corruption scandal erupted in 1999, and the U.S. government finally stepped in to take over through a court-ordered consent decree under federal laws prohibiting patterns and practices of police misconduct. In the first weeks of the scandal, Police Chief Bernard Parks called for the mass dismissal of cases against ninety-nine defendants who were framed by the police through a pattern and practice of unjustified shootings, beatings, drug dealing, false arrests, witness intimidation, perjury, planting of evidence, and wrongful convictions. Officers planted evidence to frame innocent people and lied in court to gain convictions. The local district attorney admitted that innocent people were convicted and punished for crimes they did not commit.

## Equal Access to Urban Transit

Martin Luther King, Jr., in his essay *A Testament of Hope*, rec-

ognized that urban issues like transit, parks, and police abuse raise genuine civil rights concerns. The Governor's Commission on the 1965 Watts Riots found that inadequate and prohibitively expensive bus service in Los Angeles handicapped minority residents in seeking and holding jobs, attending schools, shopping, and fulfilling other needs, and contributed to the riots and rebellion.

In *Labor/Community Strategy Center v. Los Angeles County Metropolitan Transportation Authority (MTA)*, 263 F.3d 1041 (2001), plaintiff bus riders charged that MTA operated separate and unequal bus and rail systems that discriminated against communities of color and low-income communities. MTA settled the case in 1996 through a consent decree and agreed to invest over \$2 billion into the bus system—the largest civil rights settlement ever.

### Building Community and Diversifying Democracy Through Parks

Following the 1992 riots and rebellion, 77 percent of the neighborhood residents most affected ranked improved parks and recreation as “absolutely critical” or “important” to their communities, giving them higher priority than health care or business development, according to a report by the Trust for Public Land.

Los Angeles is park poor, with fewer acres of parks per capita than any major city in the country. There are also unfair disparities in access to parks and recreation. In the inner city, there are .3 acres of parks per thousand residents, compared to 1.7 acres in relatively affluent areas. The National Recreation and Park Association standard is ten acres.

The fact that low-income people of color disproportionately live in areas without adequate access to parks is not an accident of unplanned growth but the result of a continuing history and pattern of discriminatory land use planning, restrictive housing covenants, federal mortgage subsidies restricted to racially homogenous neighborhoods, and discriminatory park funding policies and practices in Los Angeles.

However, an extraordinarily diverse alliance of civil rights, community, environmental, religious, business, and civic leaders is creating urban parks in the communities that need them most.

- The Chinatown Yard Alliance stopped a federally subsidized thirty-two-acre warehouse project and secured \$35 million in state funds to create a park in the Cornfield, an abandoned rail yard that is the last vast open space in downtown Los Angeles.

- An alliance stopped a power plant and saved the community and the planned two-square-mile state park in Baldwin Hills, the historic African American heart of Los Angeles, that will be bigger than Central Park and Golden Gate Park.

- The state has allocated \$80 million for the fifty-one-mile-long Los Angeles River Parkway, and has purchased the first thirty-acre parcel after the Coalition for a State Park in Taylor Yard stopped an industrial project there.

The City of Los Angeles and developer Majestic Realty sought \$12 million in federal subsidies towards the \$18 million purchase of the Cornfield to build thirty-two acres of warehouses. Relying on civil rights and environmental claims, the Chinatown Yard

Alliance persuaded Housing and Urban Development Secretary Andrew Cuomo to withhold federal subsidies for the warehouse project unless the city prepared a full environmental impact statement that analyzed the impact of the warehouses on communities of color and low-income communities, and considered the park alternative. The city and Majestic withdrew their proposal and settled a related state suit, and the State of California bought the Cornfield in 2001 to create a state park. As a result of similar organizing efforts and legal challenges, developers withdrew a proposed power plant in Baldwin Hills and an industrial project in Taylor Yard.

The Cornfield, Baldwin Hills, and Taylor Yard will be the first state parks ever in the heart of Los Angeles.

In March 2002, California's Proposition 40—the largest natural resource bond in U.S. history that will provide \$2.6 billion for safe parks, air, and water—passed with the support of 77 percent of black voters, 74 percent of Latino voters, 60 percent of Asian

American voters, and 56 percent of white voters.

Proposition 40 enjoyed the support of 75 percent of voters from families with an annual income of below \$20,000, and 61 percent of voters with a high school diploma or less—the highest among any income or education levels. Proposition 40 demolished the myth that a healthy environment is a luxury that communities of color and low-income communities cannot afford or do not care about. Proposition 40 will help ensure that environmental benefits and burdens are shared equally.



Governor Gray Davis celebrates the first state parks ever in the heart of Los Angeles with the children of the Anahuak Youth Soccer Association in the Chinatown Cornfield on December 21, 2001.

### Equal Justice After *Sandoval*

Enforcement of civil rights protections remains as important today as ever. A conservative 5-4 majority of the U.S. Supreme Court in *Alexander v. Sandoval*, 532 U.S. 275 (2001), took a step to close the courthouse door to individuals and community organizations challenging practices that adversely and unjustifiably impact people of color, such as police abuse and racial profiling of drivers on the highway, transportation inequities, and the lack of parks. The majority led by Justice Antonin Scalia held there is no right for private individuals like Jose Citizen and groups like the Chinatown Yard Alliance under Title VI to enforce the discriminatory impact regulations issued by federal agencies under the Title VI statute. Title VI prohibits intentional discrimination on the basis of race, color, or national origin. The regulations prohibit unjustified adverse discriminatory impacts for which there are less discriminatory alternatives, even if there is no direct proof that the impacts were accompanied by discriminatory intent.

Although the holding is a serious blow to civil rights enforcement, it is more important to keep in mind that intentional discrimination and unjustified discriminatory impacts are just as unlawful after *Sandoval* as before, and that recipients of federal funds like the City of Los Angeles remain obligated to prohibit both. Even now, after *Sandoval*, individuals still can sue a recipient of federal funds under Title VI to challenge intentionally discriminatory practices. Known discriminatory impact continues to be among the most important

*continued on page 8*

Society of Black Lawyers, spoke of his work on behalf of civil rights, diversity, and equality in England. He shared alarming statistics about race and racism in the U.K.'s criminal justice system, and talked about the importance of extending power and professional opportunities to minority lawyers. He closed his remarks with an impassioned plea to the U.S. government to treat the cap-

tives of the war on terrorism as prisoners of war under international law.

On behalf of all of our Commissioners, I thank our sponsors, especially Quaker Oats, and the many law firms, corporations, and individuals that generously supported this special tribute to our esteemed honorees. To our exceptional staff, Sandra Yamate, Sharon Tindall, Candace Smith,

Douglas Knapp, Katherine Yu, and Emily Merrick, we extend our deepest gratitude for your devotion to the cause of diversity, your hard work, and attention to every detail.

To our award winners, we thank you for honoring the ABA and the Commission by your gracious acceptance of the Spirit of Excellence Awards. We thank you for your stellar example, your peerless dedication, and your unfailing spirit.

evidence leading to a finding of discriminatory intent. Additionally, individuals can sue to enforce discriminatory impact regulations against state and local government recipients of federal funds through the Civil Rights Act of 1871, a matter not decided in *Sandoval*.

Aside from private lawsuits, there remain other ways to enforce discriminatory impact regulations. Recipients of federal funds are still bound by the regulations under Title VI, and every recipient signs a contract to enforce Title VI and its regulations as a condition of receiving federal funds. This provides an important opportunity to use the planning and administrative process to resolve discriminatory impact issues, as Secretary Cuomo did.

There are important strategic considerations in the quest for equal justice after *Sandoval*. Elected officials should be increasingly sensitive to and held accountable for the impact of their actions on communities of color, especially now that people of color are in the majority in forty-eight out of the 100 largest cities in the country. Los Angeles is about 50 percent Hispanic, 70 percent people of color, and only 30 percent non-Hispanic white. Congress should reinstate the private cause of action to enforce the discriminatory impact standard. State civil rights protections can be enforced and strengthened. Civil rights and environmental claims can be combined in environmental justice matters like the Cornfield. Similar kinds of evidence are relevant to prove both discriminatory intent and discriminatory impact. The same kinds of evidence can be as persuasive in the planning process, administrative arena, and court of public opinion, as in a court of law.

The complexities of equal justice after *Sandoval* require far-reaching strategies that include legislative and political advocacy, strategic media campaigns, building multicultural alliances, and strengthening democratic involvement in the public decision-making process aside from litigation. Societal structures and patterns and practices of discrimination are significant causes of racial injustice and should be principal targets of reform.

### Conclusion

Rodney King posed the simple question "Can't we all just get along?" The Chinatown Cornfield is a testament of hope that we can. The riots and rebellion show that we must. Los Angeles is synonymous with race riots, white flight, freeways, congestion, sprawl, dirty air, and the destruction of the natural environment. Los Angeles can also be synonymous with diverse coalitions working together to build the kind of community where we want to live and raise children. What is past in Los Angeles is prologue for the rest of the country. Discrimination harms not only communities of color, it diminishes all of us as a people and a nation. We can promote equal justice, democracy, and livability for all. We cannot allow the current Supreme Court to stop our progress.

*Robert García (rgarcia@clipi.org), a civil rights attorney and director of The City Project at the Center for Law in the Public Interest in Los Angeles, worked on the MTA, Cornfield, Baldwin Hills, Taylor Yard, and Proposition 40 matters discussed in this article, and is author of Riots and Rebellion: Civil Rights, Police Reform and the Rodney King Beating (1997). He served as an assistant U.S. attorney in the Southern District of New York.*



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