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Report finds systematic problems with LAPD force policy

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Rick Loomis / Los Angeles Times

CROWD CONTROL: Carlos Aguero holds his 5-year-old son, Andrew, on his shoulders as riot police move in at a largely peaceful May 2006 immigrant rights demonstration near MacArthur Park. A clash between protesters and police left 246 journalists and marchers hurt.

Internal investigation may deflect some heat from the 26 officers named in last year's May Day melee. Additional inquiries are being conducted.

By Richard Winton, Los Angeles Times Staff Writer
October 27, 2007

A scathing Los Angeles Police Department report on the MacArthur Park melee may end up helping as much as condemning the 26 officers under investigation for allegedly using excessive force on journalists and protesters.



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The report, released Oct. 9, cited shortcomings in leadership, a lack of supervision and deficiencies in training that may mean few of the rank-and-file officers will face significant discipline.

As a May Day immigration march was concluding at the park, lines of police clad in riot gear moved in to clear the area. Officers from the LAPD's Metro Division -- considered an elite unit -- used batons and fired foam bullets into the crowd of largely peaceful demonstrators. The clash left 246 journalists and marchers, as well as 18 officers, injured.

"Does the report's blanket indictment of systematic problems in the LAPD make it harder to pursue any individual officers for their actions? That is an interesting question," said Jeffrey C. Eglash, attorney and former Police Commission inspector general.

Though the report stated that leadership problems aren't an excuse for poor judgment and lack of common sense, it also cautioned that Police Chief William J. Bratton may weigh those factors in delivering individual discipline.

"Even if planning was inadequate, tactics were flawed, command had broken down, situational awareness was poor and proper training was lacking, in the end some behavior by officers on May Day 2007 appeared to be unjustified," according to the report. "How much weight is given to each factor will be a decision that Chief Bratton will make."

Just because the report mentions 26 officers doesn't mean that the force they used was improper -- that is still to be determined, Bratton said in an interview this week.

He said the number of officers under investigation could rise.

Several sources familiar with the inquiry said Bratton's investigators are far more likely to bring internal charges against three to six officers -- and even then, the punishment may be far less than a firing. The department's investigation is expected to conclude in January.

The report says that some officers believed that using batons to control the crowd was allowed by the department.

But Police Protective League President Tim Sands said the union doesn't understand how LAPD officials can conclude that any individual officers are at fault when the investigation remains ongoing.

Although the report stated that department policy is clear on the use of force in crowd control situations, Sands disagreed: "It is far from clear."

Sands points to an October 1996 LAPD training bulletin on baton usage.

Said Sands: "An example is given in which individuals who are being pushed from the rear into a skirmish line, even though not intentionally threatening officers, can be classified as an aggressive combative, and the baton may be used as an impact weapon to gain compliance," he said.

Hank Hernandez, police union legal counsel, said much of the May Day force he's seen on television and video tapes can be explained. "Bratton doesn't know the history of training, and he is going to have to eat crow," he said. "The bottom line is there are inconsistent rules with regards to LAPD use-of-force policy."

For decades, attorneys for officers accused of misconduct have successfully used the wording of various department bulletins to suggest that their clients' missteps were the result of poor training or inconsistent policies.

Hernandez said that in crowd-control situations, officers act together and "don't have time to sit down and discuss the approach with each other. . . . We expect them to use common sense and judgment, but you cannot in a skirmish line act alone. They have to act as a team."

But Police Commission Inspector General Andre Birotte said institutional errors do not give a free pass to officers.

"Individual officers will be held accountable," Birotte said. "While numerous other shortcomings in command, communications and training may have unfolded," he said, officers aren't immune from accountability for their own activity. "At the end of the day with all the other errors, an individual officer is responsible for all their actions. You can talk about training, but we have to remember these are officers who just came out of academy and every officer is trained in basic use-of-force policy."

While prosecutors will probably review whether some of the May Day officers should face criminal charges, Los Angeles County Dist. Atty. Steve Cooley has convicted only one officer of such a crime in the last five years. That case involved an officer who was captured on video assaulting a teenager in a police station.

It is more likely that Bratton will take the most serious offenders before an internal disciplinary body known as a Board of Rights, which holds trial-like hearings that the LAPD used to conduct in public but now keeps secret. Two command officers and one civilian would consider the evidence, hear testimony and decide if the officers were guilty or innocent of misconduct. Then they would recommend punishment.

At Tuesday's meeting of the Police Commission, which sets LAPD policy and oversees its operations, Deputy Chief Mark Perez talked in general about the investigation process but said that he was not prepared to answer specific questions. Several commissioners said they had hoped to receive more information.

"This is not what I expected this morning," commission Vice President John Mack said. "This is not what the public expected. They wanted to hear what is happening."

Commissioner Shelley Freeman added that she too had "every expectation we were going to get some information about the progress and status of these complaints."

richard.winton@latimes.com

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