

L A Times Magazine

CASE HISTORY : The Strategy, the Fights, the Setbacks--How Four Angry Men Tackled the Most Explosive Criminal Trial in Modern History

June 27, 1993|JIM NEWTON | *Times staff writer Jim Newton, who reports on the Los Angeles Police Department and federal law-enforcement agencies, covered the federal trial of the officers in the King case.*

WHEN THE RODNEY G. KING CIVIL RIGHTS TRIAL FINALLY ended on April 17, when the guilty verdicts were in and months of mounting tension melted away outside the federal courthouse in downtown Los Angeles, the four prosecutors stood shoulder to shoulder in front of the world's media for the first and only time. There was no disguising their relief: It showed in their exhausted eyes and in their barely suppressed smiles. But as their bosses lavished praise on the lawyers--U.S. Atty. Terree A. Bowers called them "one of the most formidable trial teams ever assembled"--the prosecutors soaked it up without expression, squinting in the bright television lights, hands folded behind their backs, waiting their turn. Then, after nearly a year of turning down every request to talk about one of the most explosive criminal trials of modern times, at last it was the prosecutors' chance to speak.

Assistant U.S. Atty. Steven D. Clymer stepped to the lectern, and it instantly became clear that even in victory the team was not about to shed its guarded impassivity. Clymer curtly turned back question after question about trial strategy. When he was asked about his reputation as the prosecution's "pit bull," he almost broke character, lowering his eyes and hinting at a smile. Then he caught himself. "I did the best job I could, sir," he answered. "That's all I can tell you."

Barry Kowalski, the other lead prosecutor, was a little more forthcoming. He grinned when a reporter reminded him that he had once referred to Clymer as his "significant other," and his voice quavered a bit when he described the significance of the verdicts. But Kowalski showed his steely side, too. "Were there moments where you stepped back and reflected on and felt some of the pressure of an entire country looking to this case for fairness in a symbolic sense?" one reporter asked.

"Of course there were," Kowalski answered crisply and then stepped away from the microphone without a word of elaboration.

No one should have been surprised. In the 11 months leading up to that morning, Clymer, Kowalski and the other two federal prosecutors--Lawrence S. Middleton and Alan W. Tieger--had always projected this same image of brusque invincibility, never conceding strategic defeats or gloating over victories, never responding to attacks by their adversaries, never tipping their hand. The public's only view of them came in court, where the government lawyers showed their skill but gave no hint about the inner workings of the prosecution.

Weeks later, away from the lights, awash in the congratulations that poured in from around the country, the four would finally agree to fill in the details. They would talk about the intensity of prosecuting the biggest case of their lives--about the singular focus that united them and the fierce debates that sometimes divided them. They would dissect the evidence they uncovered, the setbacks they encountered and the centerpiece of their case: the belief that the defendants, four LAPD officers, had lied. And finally, they would reveal that beneath their aggressive confidence, the team labored under the weight of obligation and, sometimes, the tug of fear.

"I felt a tremendous sense of responsibility," Clymer says. "From the day of the Simi Valley verdicts, this case raised the question of whether the criminal justice system works the same for black people as it does for white people."

Middleton, the youngest of the prosecutors and the only African-American, echoes that feeling. "Events in Los Angeles had left a large part of this city feeling like they didn't count, like they didn't have a place in the criminal justice system. I felt we had a chance to restore some faith."

Tieger and Kowalski, based in Washington, knew at once that this would be the biggest case they had ever prosecuted. Tieger remembers calling for a plane reservation to Los Angeles during the riot, only to find that flights were being rerouted--due to gunfire. "That drove the point home," he says.

"As I was packing and getting ready to go to Los Angeles," says Kowalski, "I remember thinking that it was very much like packing to go to Vietnam. I figured it was going to be about a year. And I figured I might be coming home either on my shield or carrying my shield."

APRIL 29, 1992, WAS A MILD SPRING DAY IN WASHINGTON. AT THE U.S. DEPARTMENT OF JUSTICE, most of the staff already had gone home by the time the jury meeting in Simi Valley completed its work. But on the fifth floor, four of the nation's top civil rights lawyers gathered in an office once occupied by J. Edgar Hoover to wait for the verdicts.

John R. Dunne, then the head of the department's civil rights division, sat behind his desk, the windows behind him overlooking Pennsylvania Avenue. Across from him were two of his top deputies, Deputy Assistant Atty. Gen. James P. Turner and Linda K. Davis, head of the civil rights division's criminal section. The fourth attorney, Tieger, had monitored the state trial of Sgt. Stacey C. Koon, Officer Theodore J. Briseno, former officer Timothy E. Wind and Officer Laurence M. Powell for the Justice Department, charting the ups and downs of that case.

The lawyers made small talk and gazed at the television, waiting for the jury to reassemble in the courtroom. Then the litany began, and one after another, the not-guilty verdicts rolled in. Koon, Briseno and Wind were acquitted of all charges. Powell was acquitted on all charges but one. The jury deadlocked on that count.

In the somber quiet of the Justice Department, Tieger sprang from his chair, pacing in circles, unable to speak, unwilling to accept. Almost as quickly, Dunne slipped on his suit coat and marched down the corridor to meet with William P. Barr, the attorney general of the United States.

The two men spoke briefly. Dunne urged that the department publicly announce its plans to reactivate the federal investigation into the beating. Barr agreed, and within the hour, the Justice Department released a statement that concluded, "The Department's Civil Rights Division, in conjunction with the United States attorney's office for the Central District of California, will now undertake a review of this incident to determine what, if any, action may be taken under federal civil rights laws."

Dunne and Barr hoped the cautious promise of federal action might pacify anyone angered by the verdicts. They were wrong. Within hours, Los Angeles was aflame, caught in the worst urban riots since the Civil War. By the next day, the Justice Department was being blamed for moving too slowly.

Another announcement was made, and this time the statement bore Barr's name: "The verdicts yesterday on state charges are not the end of this process," it said. "We have now moved forward with our own federal investigation."

In fact, the Washington half of the federal team already was at work. Barr chose Associate Atty. Gen. Wayne A. Budd--the son of the first black police officer in Springfield, Mass., a onetime U.S. attorney and the No. 3 man at Justice--to oversee the investigation. From the civil rights division, Dunne tapped Kowalski, a slightly built son of a congressman whose easygoing grin masks a sometimes prickly litigator. Kowalski, at age 47, was an 11-year veteran whose successful prosecution of Klansmen, skinheads and abusive police had made him the nation's best-known civil rights prosecutor. Tieger joined Kowalski as the Washington half of the trial team. A San Jose native, the dapper and studious Tieger, 40, was drawn to the civil rights division by his admiration for its mission; in his five years there, he had won federal convictions against Maryland state prison guards and a Tulsa skinhead group, among others.

Budd and a contingent of Justice Department officials were the first to set off for Los Angeles. Nerves were edgy on the plane. The riots were still raging and the news was only getting worse. As the jet crossed into Nevada, the pilot announced that the flight was being diverted to Las Vegas because of gunfire near LAX. Budd was frantic. "I'd been given a mission. The President of the United States says that the Justice Department will be overseeing this matter, investigating it," Budd says. "And here I am, the attorney general's representative to do this, and I'm stuck on the ground in Las Vegas."

Budd corralled a phone on the airplane, and, after several tries, raised the Justice Department, which called in the U.S. marshals. Marshals plucked the D.C. contingent from the airport and whisked them to Los Angeles by car. As they made the long, dark trip across the desert, Budd dozed occasionally, but he was too

tense to sleep. It was 2 a.m. by the time the officials finally straggled into their Century City hotel--they were booked into a downtown hotel, but it had been trashed on the first night of the riots. Four hours later, Budd's phone rang. "The attorney general was on the phone saying: 'What's happening? What are you guys doing? Have you talked to the U.S. attorney yet?' I was still a little groggy," Budd says, "but we got to the U.S. attorney's office about 8 o'clock and started working."

Lourdes G. Baird--as U.S. attorney for the Central District of California, the top Justice Department official in town--had been on the case for more than a day by the time Budd made his delayed entrance. The federal courthouse had come under attack during the early hours of the rioting, and when Baird and other lawyers showed up for work on Thursday morning, the smell of smoke from torched palm trees hung in the elegant entryway, and broken glass carpeted much of the building's first floor.

Amid the uproar, Baird moved calmly to choose the attorneys who would represent her office in the case. First she tapped former Air Force Capt. Lawrence S. Middleton, 33, a solid, soft-spoken and meticulous prosecutor who was just coming off a victory in the nation's largest individual case of Social Security fraud. A few days later she selected her lead prosecutor, Clymer, whom she described to Budd as her best trial lawyer. The barrel-chested, 34-year-old ex-rugby player was a hard-charging litigator who volunteered for the King case even though it meant giving up his post as chief of major crimes for the U.S. attorney's office.

By the time Clymer joined the other three lawyers, they had already begun sifting through a mountain of evidence collected by state and federal investigators during the previous year. "It was," Clymer says, "like I grabbed onto this roller coaster that was going 100 miles per hour and hung on for dear life."

On May 7, eight days after the verdicts in Simi Valley, a federal grand jury of 23 Southern Californians convened to hear evidence about the King beating and to consider, with the prosecutors, whether or not the U.S. government had a case.

WAYNE BUDD REMEMBERS THE FIRST TIME HE SAT DOWN WITH THE PROSECUTION TEAM AND WATCHED THE videotape of the LAPD officers beating Rodney King. Like the rest of America, he had seen the edited version of it time and again on the evening news, but as he watched the FBI-enhanced tape for the first time, this son of a police officer felt his anger grow.

"I was struck by the ferocity, by the viciousness, by the severity of that beating," he says. "It struck me that had Rodney King been an animal, a dog that had been treated that way, the persons who did that to that dog would have been severely punished."

Still, Budd and everyone else on his team realized that while the tape was powerful, by itself it was not enough. Even if the prosecutors could use it to convince jurors that the force used on King was unreasonable--which the state had failed to do in its case--that was only half the battle now. Federal civil rights laws require that the government prove that a defendant has willfully deprived a victim of a protected right. In this case, the prosecutors would focus on the right to be safe from the intentional use of unreasonable force and the right to be protected from harm while in official custody.

Kowalski and Clymer discussed the issue of the officers' intent at one of their first meetings. Kowalski had made a career of decoding for juries the subtle clues of such intent, and he suggested that the team should try to determine if the officers involved in the beating and its aftermath had lied about what happened--lies, he said, would suggest that the police had acted willfully and then had felt the need to cover it up.

Clymer agreed wholeheartedly, but he and Kowalski would find plenty of other issues to argue about in the coming months. Kowalski, a former professor at Antioch Law School in Washington, takes a scholar's delight in the Constitution and its application, and he thinks best by talking out issues. Clymer--brilliant, brusque and, by his own estimation, "impatient as hell"--fumed that his colleague's dialectic took too much time.

"We had differences of opinion about a number of things," Kowalski says, chuckling at the memory, "but always we were able to talk them out, yell them out, scream them out. Frankly, Steve and I yelled at each other a lot."

"I always thought I was the pushiest person I knew until I met Barry," Clymer says. "And I mean that as a compliment."

When Clymer and Kowalski would argue, Tieger and Middleton often stepped in to mediate. They were naturally suited to the role: Tieger is as flexible as Clymer and Kowalski are strong-willed, and Middleton is as quiet as they are voluble. Some disagreements were put to votes, but all were resolved within the team. Never did the prosecutors' bosses have to be called in to settle a dispute.

Each attorney specialized in certain areas: Middleton became expert on issues relating to PCP, the powerful drug that the officers said they believed King had taken the night of the incident. Tieger took the lead role

in investigating medical issues, comparing the officers' contention that King suffered facial injuries when he fell to the pavement against the theory that baton blows actually did that damage. Kowalski worked with King and several other witnesses, while Clymer supervised the government's pretrial motions and scoured the evidence for clues that the officers had lied.

For three months, with the grand jury in session, the attorneys and the FBI worked around the clock. The four prosecutors, all single, were able to keep punishing office hours. Even so, Clymer became engaged two months before the trial began. The Washington contingent holed up in Westside apartments for the duration of the case, often meeting on weekends at the office or in Clymer's beach-town condo.

The FBI probe actually had been under way for more than a year. Hundreds of witnesses were interviewed during the early weeks, but the inquiry was put on hold while the state prosecuted its case. Now, 17 investigators were pressed back into action. Under the direction of Special Agent David L. Harris, they secured thousands of documents, served more than 200 subpoenas and conducted more than 500 interviews.

Prosecutors were particularly interested in the statements of police officers, and the team was prepared to play rough to get their testimony. When one officer was slow to come to the door of his apartment to accept his grand jury subpoena, an FBI agent threw the circuit-breaker and cut off his electrical power.

Most significant, however, was a controversial deal that the team cut with the LAPD brass. Police officers are agents of law enforcement, and they are professionally obligated to testify about a possible crime, but, like all citizens, they also have the right not to answer questions that might incriminate themselves. Under the cooperation agreement between the federal government and the LAPD, any officer who chose to exercise that constitutional right during FBI questioning or before the grand jury could be fired. Officers also were barred from recording their interviews with the FBI.

As more and more material poured in, prosecutors pieced together what they felt was persuasive evidence that the four principal suspects had not told the truth. Powell, Wind and Koon all had filed reports about the incident before the video surfaced, but none ever mentioned that King was on the ground when he was being struck. The officers said King appeared to be under the influence of PCP, but his blood test showed no signs of the drug. They said no one had ever hit King in the head with a baton; witnesses said otherwise. Clymer stumbled upon another intriguing detail buried in an LAPD Internal Affairs document: Powell and Wind reported that they had taken King straight from Pacifica Hospital in Sun Valley to the county jail hospital ward, but witnesses said the officers actually had detoured by the police station. FBI agents secured hospital records that confirmed that the officers had not gone directly from one hospital to the other. Why, prosecutors asked themselves, had Wind and Powell failed to report that?

While FBI agents pressured the police, the prosecution team was being just as rough on them before the grand jury. Although grand juries ostensibly exist to rein in prosecutors' powers and keep them from indicting innocent citizens, in practice the grand jury is a powerful tool in prosecutors' arsenals. Witnesses must show up, and they are compelled to testify under penalty of perjury.

Dozens of police officers were called, some more than once. Kowalski did much of the questioning, and his tone was often menacing. He accused some officers of lying, and threatened them with perjury charges. Between the rough treatment and the cooperation deal, prosecutors believed, officers who might have felt pressure to cover up for each other would be able to say they had been given no choice but to answer all the questions. Moreover, by taking the testimony of so many officers, the prosecutors accumulated a wealth of secret, sworn details that they could later use to trip up witnesses if they testified for the defendants.

"The way Barry uses the grand jury as an investigative body is to turn it into a fine instrument," says Dunne, the former civil rights division chief. "That was key to this case, and it is a hallmark of Barry's work."

Charlie J. Duke, a highly decorated LAPD officer who testified for the defense in both trials, takes a sharply different view: "The prosecutors didn't care about the truth. All they wanted was to win. They went at this like, 'We're Big Brother and we're going to teach you a lesson.'"

Duke and other officers considered the process abusive, and they were particularly angered by the suggestion that officers were lying to cover for their colleagues. Take the case of Martin Garcia, a young Foothill Division police officer who was called to testify on July 16. A transcript of Garcia's grand jury testimony--obtained by The Times, along with many other similar transcripts--shows that he claimed not to remember a number of details, including the name of an officer he spoke with about the incident, an officer who the prosecutors believed was Powell. As the questioning continued, the lawyers grew increasingly irritated.

"Let's try to recall it then. . . ." Kowalski said at one point. "Let's try to recall what the man had to say."

"Well, I don't recall," Garcia responded. "I don't recall. I'm being honest."

"Don't tell me you are trying to recall," Kowalski snapped back. "I want you to recall."

Garcia insisted that he could not remember who the officer was.

"Officer, you know that if you testify under oath that you don't know or remember something and you really do, that's not the truth?" Kowalski asked pointedly. "Do you understand that?"

"I do," Garcia responded, but he never identified Powell.

Some witnesses got off easier. When King pleaded faulty memory, for instance, he was not reminded of the consequences of lying, nor was he pressed to recall details. Instead, Kowalski gently allowed him to explain why his memory was incomplete and why his previous statements about the incident might be inconsistent with his grand jury testimony.

"I felt beat up and like a crushed can," King said of the days following the beating. "That's what I felt like, like a crushed can all over, and my spirits were down, real low. And I don't know. I can't explain it. I was in so much pain. It's hard to explain. To wake up and to tell me that I attacked some officers. I felt real bad."

"Let me ask you this," Kowalski said. "Do you think your memory is better today, now, than it was back there a few days after you were injured?"

"Yes, sir," King answered.

By late July, scores of witnesses had appeared before the grand jury. Prosecutors were convinced that they had strong cases against the defendants the state had named, but they recognized that the evidence against Powell and Koon was more compelling than that against Wind and Briseno. Nevertheless, Kowalski says, "By the time we began to draft an indictment, we were convinced that the officers had given a false story. That tends to demonstrate that they knew that something went wrong, and it also takes some of the protective coating off a police officer."

Still, the risks were enormous. If they tried the case and failed, the prosecutors realized they might reignite the violence in Los Angeles. "This was a case that if you were going to bring it, you better win it," Budd said. "This was a must-do."

Budd and other officials urged prosecutors to ignore the social consequences, but those questions were discussed at the highest levels of the Justice Department. Barr was particularly adamant that they not let the threat of unrest deter them: "We can't allow the process to be dictated by mobs," he insisted.

On Aug. 4, prosecutors asked the federal grand jury to indict all four officers. The grand jurors authorized the indictments, and "King II" was under way.

PROSECUTORS HARDLY HAD A CHANCE TO SAVOR THAT MOMENT BEFORE THEY SUFFERED THEIR MOST chilling setback. In mid-August, an internal memo outlining the prosecution's case was sent to the office of Powell's lawyer, Michael P. Stone. Dated July 28, the memo was written by the prosecution team and addressed to Linda Davis in Washington and Lourdes Baird in Los Angeles.

It contained the guts of the government case, outlining strengths and weaknesses of various potential witnesses. Stone took one look at the document and realized it was not meant for his eyes. He has never said what happened next, but sources say he called Clymer and told him what he had received. Clymer demanded to know whether Stone had read it or copied it. Stone said he had not. Within minutes, Stone's office was overrun with FBI agents.

By now, the case had been assigned to U.S. District Judge John G. Davies. The prosecutors asked him to intervene. In a closed session, they succeeded in persuading Davies to gag all the attorneys in the case from discussing the incident--his order required that any lawyer who obtained the memo return it to Clymer. Harland W. Braun, Briseno's lawyer, pointedly refused to agree to that condition, though he later acknowledged that he never received the memo.

The government also launched a painful internal investigation. FBI agents, U.S. marshals, paralegals, cleaning service workers and the prosecutors themselves were all considered potential suspects.

Extraordinary security measures were instituted, burglar alarms went in, locks were changed, all visitors to the team's offices had to be accompanied at all times.

The investigation came up empty, but there were no more leaks. Still, the incident raised disturbing questions: Had the basics of the prosecution's case been compromised? Could it happen again?

"It was terrifying," says one former high-ranking Justice Department official. "It suggested that we had someone in our camp who was working for the other side."

The government weathered other setbacks as well. In October, the prosecutors flew Wisconsin Police Officer Edward Nowicki, an expert on the use of police batons, to Los Angeles to show him the videotape and discuss his possible appearance as a government witness. He got a warm welcome. But then Nowicki heard some of the background of the incident and, for the first time, saw the full-length version of the

videotape. Reluctantly, he told the prosecutors he saw no conclusive evidence that the officers used excessive force. Just as quickly, the warm reception turned cold. An angry Nowicki headed home to Wisconsin. "This is not the Department of Justice," Nowicki says now. "This is the Department of Politics." He ended up testifying for the defense.

By the time the trial began, many of the top officials who had originally authorized the prosecution were no longer around. Baird had become a federal judge and had been replaced by Terree Bowers as the Los Angeles U.S. attorney. Barr and John Dunne had both left about a month earlier, clearing out with the Bush Administration. So had Wayne Budd, who had been the team's protector in Washington and whose anger about the beating had inspired them from the beginning.

The pretrial wrangling and interviews ended in early 1993, giving way to a delicate jury-selection process. Prosecutors and defense attorneys ultimately accepted the eight-man, four-woman jury, including two blacks and one Latino (the Simi Valley jury had no African-Americans) while each side still had peremptory challenges remaining.

The day the jury was impaneled, the prosecution team gathered in its case command center to hear Clymer rehearse his opening statement. From that session emerged an hourlong description of the evidence that blended old and new information and emphasized the prosecutors' central contention--that the officers had lied. On Thursday morning, Feb. 25, Clymer took the floor of Courtroom 890 in the Edward R. Roybal federal building and laid out the final version of the government's opening statement. He made no apologies for King's actions--he was drunk and on parole, and he fled officers who tried to pull him over--but Clymer also reminded jurors that King was not on trial. He played the videotape and said medical testimony would show that King was struck in the head with a baton, contradicting statements by the officers. And he told jurors that they would see powerful evidence that the officers had lied to cover their tracks.

"When they filled out their reports, they didn't know that there was an impartial, neutral record of exactly what they had done that night during the time that the videotape was playing," Clymer said. "They left out critical details that they had a duty to report."

IT WOULD TAKE 13 DAYS FOR THE PROSECUTION TO CALL ITS 34 WITNESSES. THE LAWYERS MOVED smoothly through their case in court, but behind the scenes, crises were erupting as early as Day 2.

Dr. James Benedict, their chief medical witness, called the prosecutors to tell them that he had developed a medical condition that prevented his traveling from Texas. The prosecutors were thunderstruck. Tieger had spent weeks working on the medical issues, and he and Clymer had carefully prepared with Benedict to capitalize on his evidence. Now he was gone.

At the end of court day, the two prosecutors hopped a late-night plane to Dallas, slept for three or four hours and then traveled to San Antonio. "Talk about depression," Clymer says. "We were exhausted, and we were facing this huge setback." When the attorneys arrived at Benedict's offices that Saturday morning, they were desperate at the prospect of having to start over with another expert. But as the prosecutors talked with Dr. Harry Smith, Benedict's associate, their exhaustion and anxiety melted away. Smith was articulate, smooth and an experienced witness. He had been an emergency-room physician and a radiologist and, like Benedict, was an expert in biomechanics, which includes the study of how injuries are caused.

On the plane back to Los Angeles, Tieger slept, but Clymer was too excited: His case had nearly unraveled, only to be saved at the last minute by a man he had just met that morning. "I remember thinking, 'Somebody up there likes us,' " Clymer says.

Eleven days later, Smith took the stand and, in a polished presentation, told jurors that the officers' explanation for King's 15 facial fractures--that he had suffered the wounds in a face-first fall to the ground--was not supported by the medical records. The real cause of those injuries, Smith said, was several baton blows to King's head.

But the prosecution's most delicate task revolved around King. He posed a tricky challenge as a witness, in part because of his shaky memory. Early on, the attorneys had decided to call King to the stand, but they knew they couldn't let the case turn on his credibility.

"Step 1 was to gain his confidence and to convince him that we meant business," Kowalski says. On numerous occasions, the prosecutors and agents probed King's memory of the beating, trying to make sure that he could distinguish between what he was sure he could recall and what he was foggy about.

"He and I developed a bond," Kowalski said. "We became close, and I think he trusted me."

As that bond deepened, Kowalski talked to King about the need to admit to the jury that he had not been entirely truthful in interviews shortly after his arrest. King, for instance, had at first claimed not to be

drinking on the night of the incident, but his blood tests proved that to be untrue. He also had said he was beaten while handcuffed, a claim contradicted by the videotape.

"I told him it takes a man to admit you told a lie," Kowalski says.

The team also discussed how to deal with King's criminal history and when to put him on the stand. Kowalski crafted several direct questions about King's time in prison for robbery, and the team decided to sandwich his appearance between testimony by doctors, emphasizing the seriousness of his injuries and how they had impaired his memory.

King made his long-awaited appearance on March 9. He spoke softly and politely as Kowalski posed a carefully researched set of questions. He admitted that his memory was uncertain and plaintively acknowledged that some of his past statements were lies.

As King testified, he made one accusation that stunned the courtroom audience. After describing being shocked with a Taser, King said he tried to laugh off his pain but that when he did, one of the officers said to him: "We're going to kill you, nigger. Run."

A few members of the audience gasped. King then repeated what he said were the taunting chants of the police officers: "What's up, killer? Killer, how do you feel, killer. What's up nigger?"

"Mr. King," Kowalski asked, "do you remember whether the word that was being used was killer or nigger?"

"I'm not sure," King conceded. "I'm not absolutely sure which, which word it was, if it was killer or nigger. I'm not sure."

The exchange infuriated lawyers for the officers. Never shy about attacking the prosecutors, Harland Braun now accused them of intentionally eliciting the racial slur from King even though they knew other evidence did not support such a claim. Braun believed that the prosecutors planned to get King to use the term in order to inflame the jury. He asked the judge to tell jurors that they should disregard the comment; Davies refused.

Kowalski insists he did not craft his questions to solicit the remark: "We didn't intentionally put any evidence in to stir any pots, including that one."

THE PROSECUTION RESTED ITS CASE IN MID-MARCH, AND IT WAS THE DEFENSE'S TURN. Many of the police officers who were forced to testify at the grand jury had appeared as defense witnesses in state court, but when lawyers for the officers called them this time, prosecutors were able to compare their testimony in court with their statements before the grand jury. Grand jury secrecy rules meant that defense attorneys had never seen some of those transcripts, putting them and their witnesses at a disadvantage. Those months of meticulous grand jury questioning began to pay off.

When a school district police officer named Paul Beauregard took the stand, for instance, he testified that King had refused to obey police commands, an important nugget in the defense case. But when confronted by Tieger with his grand jury testimony and other statements, Beauregard admitted that King had stopped at traffic lights and never gone faster than 45 miles per hour on city streets during the so-called "high-speed pursuit" that had preceded the beating. He also acknowledged that during his grand jury appearance he had listened to a tape recording of Officer Powell radioing for an ambulance and had said he thought he heard Powell laugh.

Although the prosecution's use of the secret grand jury testimony was within the rules, defense attorneys howled that it was unfair. Powell's lawyer, Stone, complained that defense witnesses were being "fileted," and Ira Salzman, Koon's lawyer, started calling the FBI the "Federal Bureau of Intimidation."

One defense witness, however, delivered for the government without any prodding. California Highway Patrol Officer Melanie Singer had testified for the prosecution in Simi Valley, but this time she was called by Stone. She established several points that were important to the defense, but when it came time to describe the beating itself, Singer said she had seen Powell strike King six times in the face and head with his baton. As she testified, Singer lost her composure and cried on the stand.

She completed her testimony for the defense on a Friday afternoon, and prosecutors gathered Saturday at Clymer's condominium to discuss their next move. What followed was one of their most heated debates. Kowalski suggested they pass up the chance to cross-examine Singer. She already had delivered testimony that was invaluable to the government case, and Kowalski warned that cross-examination might dilute its impact. He urged his colleagues not to get greedy.

Clymer sharply disagreed. He saw Singer as too good to pass up. He suggested that the government let her elaborate on her description of the beating in order to reinforce her testimony about Powell's blows to King's head--blows that no officer ever reported. That tactic might even produce another wrenchingly emotional moment, Clymer suggested.

Middleton leaned toward Clymer's position. Tieger was undecided.

Clymer and Kowalski defended their positions stridently, but they listened as the others spoke. Middleton warned about one possible downside of passing up a cross-examination: The jury might think prosecutors were nervous about questioning Singer, which could reinforce any doubts about her testimony. Tieger countered with a different concern: Perhaps jurors would believe prosecutors were exploiting Singer if their questions prompted her to cry again.

As the lawyers argued, gradually Middleton and Tieger came around to Clymer's view. Kowalski reluctantly acceded.

Monday morning, Tieger's cross-examination was brief but pointed. Singer told jurors that King "just appeared to be a very drunk man," a "wiseacre" who gave the officers a hard time and was beaten because of it. When it came time to describe the blows, she broke down and cried a second time: "I will never forget it until the day I die," she said between sobs.

When she was done, Kowalski pulled a business card from his wallet and jotted a note to Clymer. It said: "You were right."

IN THE HARRIED DAYS NEAR THE END OF THE TRIAL, CLYMER HAD NEVER HAD A CHANCE TO PRACTICE his closing argument with the team. They heard it for the first time when he delivered it to the jury.

He stood stiffly at first, gripping both sides of the lectern and glancing down at his notes. But as he waded into his argument, Clymer began to pace back and forth. He punctuated his points with his hands. He looked directly into the jurors' faces.

"Something went very, very wrong at the intersection of Foothill and Osborne that night," Clymer said. "In response to that, the defense has presented to you a series of exaggerations and deceptions. They have sought to convince by exaggeration that Rodney King is the most dangerous person on the planet Earth. That Rodney King is the biggest danger any police officer anywhere has ever faced. They've sought to convince you that the defendants had no choice that night but to continue to beat and beat and beat and kick and stomp Rodney King as he lay on the ground."

Clymer mocked the defense's key witnesses. He reminded jurors of Singer's emotion. He acknowledged that judging a defendant's intent was a tricky matter, but he told jurors that it was not impossible: "Ask yourselves," Clymer suggested at one point, "why the deception? Why the exaggeration? Why the concealment?"

Before receiving the case, the jury would hear five more closing arguments--one from each of the defense attorneys and one more from the government. On the Saturday before Easter, each side took its final shot. Braun bitterly attacked the prosecution on behalf of all four officers: At one point, he commented that it was a good thing Clymer had not been alive in Christ's era, or "he would have indicted the apostles." And then Kowalski had the last word, dishing out a feisty rebuttal that again emphasized the charge that the officers had lied and that included one of the trial's most memorable lines: "Let's call it like it is, ladies and gentlemen," Kowalski said of the defendants. "They were bullies with badges."

SEVEN A.M. SATURDAY MORNING, APRIL 17, JUDGE DAVIES CONCEDED, WAS "AN UNUSUAL TIME TO convene a court session."

But there had never been a session quite like this one. Fear set the schedule. Police and sheriff's deputies were on full alert, National Guard troops were in their armories, federal agents ready to deploy. None were needed. The weekend turned out to be one of the safest in memory.

Just after the verdicts were read--Koon and Powell, guilty; Wind and Briseno, not guilty--and the sentencing was set for Aug. 4, the prosecutors gathered briefly for a few quiet minutes. Clymer called his parents and his fiancée. He and Middleton called Baird. Tieger and Kowalski called Linda Davis in Washington.

And then the four lawyers and the FBI agents and the paralegals all placed one call together--to the man who had guided their work from the beginning but who had left before the trial began. Wayne Budd was on Martha's Vineyard watching television when the phone rang.

"Here I was, I had been away from the case for a few months, and they found me on the Vineyard," Budd says. "They thanked me for my assistance and my help. I told them how proud I was of them and what an outstanding group of people they were."

The conversation went on for a few minutes. They joked, reminisced, kidded each other about the experience they had all shared. Then the team had to go. The media was waiting.

"It was a great feeling," Budd says. "That they would allow me to participate in their elation. It was a good feeling. It was a good verdict."

Los Angeles Times

Copyright 2011 Los Angeles Times