

BEST PRACTICES REVIEW

PARC supports and assists those responsible for the oversight of police departments – law enforcement executives, monitors, civil officials, and government agencies – to advance effective, respectful, and publicly accountable policing.

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“find and bark” policy with a decline in canine bites, but questions whether the policy is being applied consistently. The report also makes several recommendations, including better monitoring of officers repeatedly accused of excessive force and specialized training on dealing with the mentally ill. The full report is available online at <http://www.amnestyusa.org/news/2002/usa08292002.html>.

The Department of Justice, (“DOJ”) dismissed its “pattern or practice” lawsuit against the Columbus, Ohio Police Department (“CPD”), after the parties reached an out-of-court resolution based on actions initiated by CPD, including modification of its civilian complaint procedures to include community outreach, and greater Internal Affairs staffing and resources. The CPD also expanded the definition of force, improved its force reporting procedures, modified chemical spray procedures and added use of force training. CPD adopted a policy prohibiting racial profiling, implemented bias-based policing training and began collecting traffic stop data for review and analysis. Lastly, CPD plans to install video and audio cameras in police cruisers, and promised to forward relevant documents, training materials and video tapes to DOJ for review. The exchange of letters between CPD and DOJ can be accessed electronically at <http://www.>

Agencies Under Investigation

Amnesty International released a report on the police department in Prince George’s County, Maryland. The authors argue that, while the Department experienced a reduction in both the use of excessive force and citizen complaints, it still has a disturbingly high incidence of officer-involved shootings, in-custody deaths resulting from precarious restraint holds and injuries resulting from canine bites. The Amnesty report alleges that African Americans are disproportionately the victims of the alleged misconduct. The report credits the department’s new

usdoj.gov/crt/split/documents/column_bus_cole_boyd_letters.htm.

Portland's Independent Police Review Division of the City Auditor ("IPR") released its second quarterly report. The report also covers the work of the Citizen Review Committee ("CRC"), which is composed of citizen volunteers and which works with the IPR. The report announced the establishment of the IPR's mediation program, which commenced operation in September 2002. The CRC recommended changes in the Portland Police Bureau's findings in eleven of the cases it reviewed; nine of these recommendations were accepted by the Bureau. Lastly, the report delineates IPR's role in reviewing complaints and assesses the timeliness of internal affairs investigations. IPR's next report will review the status of the mediation program, the Bureau's new early warning system and an officer-involved shooting review being conducted by PARC staff. The second quarterly report is available online at <http://www.ci.portland.or.us/auditor/ipr/reports/index.html>.

DOJ has announced that it will continue its criminal investigation of a drug sting of black Tulsa, Texas residents on narcotics trafficking charges, after receiving complaints that local authorities allegedly arrested more than 10 percent of the town's black population. The arrests were the result of the investigations initiated by Tom Coleman, a narcotics agent who allegedly engaged in shoddy investigative practices. After a series of columns in the New York Times, several public officials, including Senators Charles Schumer and Hillary Clinton, asked DOJ to take action. The Texas Attorney General is conducting its own

investigation. *New York Times*, August 23, 2002.

Civilian Oversight

Garland, Texas Police Department ("GPD") Chief Larry Wilson has agreed to cooperate with Hispanic leaders who are demanding a third-party investigation of the GPD's use of lethal force against minorities. Chief Wilson asserts that his officers have acted appropriately and that an investigation would provide reassurance to Garland's minority communities. The League of United Latin American Citizens announced that it will ask DOJ to investigate the GPD. The group is upset over an incident in August, in which four officers fatally shot a Hispanic man who allegedly lunged at the officers with a knife, after pepper spray failed to subdue him. *Associated Press*, September 10, 2002.

The city of Reno, Nevada is deciding whether to create a citizen review panel. Some city officials speculated that two highly publicized incidents of alleged police brutality in Oklahoma City and Inglewood, CA may have contributed to widespread citizen support in Reno for creation of such a panel. A City Council-appointed panel began studying the issue of citizen oversight following a complaint filed by an African American couple that police had violated their civil rights when they were stopped at a shopping mall. *Reno Gazette-Journal*, September 4, 2002.

The Marion County, Indiana City Council announced a proposal to establish a special board to review complaints against Marion County sheriff's deputies -- a proposal

supported by the Sheriff's Department. Residents of Marion County gave the Sheriff's Department a 90 percent job approval rating, but asked for the review board. A local businessman was killed in May 2001 by a deputy investigating a burglary, instigating the call for a review board. The proposed board would mirror the Indianapolis Police Department's Citizens Police Complaint Board. The proposal would require citizens on the board to attend 36 hours of mandatory annual training in police procedures and ride-alongs with a deputy. *Indianapolis Indy Star, September 10, 2002.*

The Vera Institute of Justice has created a new section on its website devoted to the issue of civilian oversight of the police. The pages will cover the experiences of civilian overseers across the globe. For more information, visit http://www.vera.org/project/project11.asp?section_id=2&project_id=50.

Akron, Ohio is considering the creation of a police auditor position to monitor the Akron Police Department. City and police officials have visited San Jose to study the police auditor in place in that city. The city council had initially proposed creating a civilian review board. City Council members later visited San Jose and decided to consider adopting an auditor model. The community outreach aspect of the San Jose auditor's job impressed Police Chief Michael Matulavich. Union representatives have yet to visit San Jose, but may do so in the future. *The Oklahoman, September 22, 2002.*

The city of Fresno, California is considering hiring an independent auditor to investigate police shootings

and civilian complaints. San Jose Police Auditor Theresa Guerrero-Daley and Sacramento auditor Don Casimere recently spoke to Fresno city, police and union officials. Fresno police officers have shot 102 people, 38 of them fatally since 1989, a statistic that concerns some residents. Of the 102 shootings, eight occurred this year, including the seven that resulted in deaths. Guerrero-Daley stated that an auditor must have freedom from police or political pressure, access to confidential police files and financial support for the operation. The Fresno police union has not taken an official stance on the proposed hiring of an auditor, but some members have voiced opposition. Mayor Alan Autry and Police Chief Jerry Dyer support the hiring of an auditor, but several City Council members do not. *Fresno Bee, September 26, 2002.*

The Key West, Florida City Commission is considering whether to create a Citizen Review Board to oversee the Key West Police Department. The commissioners and Mayor Jimmy Weekley are in conflict over whether the board should have subpoena powers. Commissioners are also concerned about a provision that would allow the board to hold nearly secret meetings, a proposal that may be in violation of Florida's Sunshine laws. *Key West, September 25, 2002.*

A former investigator of the New York City Civilian Complaint Review Board alleged at a legislative hearing that the panel is ineffective, tolerates racial discrimination and is biased toward the police. The former investigator claimed that he was pressured to adjust his reports to favor police officers. He further claimed that those who spoke

out received critical performance evaluations and were discriminated against in promotional considerations. Lastly, he alleged an incident in which Board officials failed to force the Police Department to turn over a tape recording that allegedly contained crucial evidence in an excessive force case against an officer. *New York Times*, September 25, 2002.

Community members have reportedly voiced concerns that the city's Citizens Police Review Board ("CPRB") is ineffective. Officials have said the board is not capable of handling an increased caseload of some 300 complaints a year. The City Council's public safety committee recently held a public meeting, at which the CPRB manager reportedly recommended revisions to an already revised ordinance. One of the recommendations forwarded to the City Council, was that complaints should not be brought to a public hearing while related litigation is pending. *Oakland Tribune*, September 25, 2002.

Community Policing/Problem Oriented Policing

The Los Angeles Police Department, in partnership with community leaders, held a public meeting to discuss police stops and detentions in an effort to educate citizens and, in turn, reduce tension on the part of citizens and the police that occurs during traffic stops. A Los Angeles doctor and religious leader collaborated on developing an instructional pamphlet containing recommendations for citizens stopped by the police. For more information, contact Deputy Chief Willie L. Pannell, 213-485-4251.

The city of Cincinnati hosted its last of six police-community outreach festivals. The festivals were designed to demonstrate how police and citizens can work together to foster trust. Cincinnati police officers and a crowd of about 100 attended and were treated to free food, performances and music. *Cincinnati Enquirer*, August 26, 2002.

The El Monte, California Police Department has announced a new community policing program intended to increase police-community contact. The Police Department has divided the city into 64 neighborhoods, consisting of about five square blocks, and assigned an officer to be "chief" of each neighborhood. The department seeks to reduce crime by making blocks more community-oriented and visually pleasing. The Chief has announced his expectation that officers hold town meetings to come up with crime-fighting solutions, discuss social and community beautification issues and get involved in residents' personal lives. Police want residents to understand that unkempt neighborhoods are magnets for crime. *Los Angeles Times*, August 30, 2002.

The Oklahoma City Police Department is creating a new Citizens' Police Corps program in an attempt to increase citizen involvement in police affairs. Uniformed corps members will assist in preserving crime scenes, provide traffic control, give directions and report crimes. In addition, they will enhance police visibility and reduce the number of overtime hours paid to officers. A DOJ block grant will fund the program for 18 to 24 months and, if the program proves successful, it will be included in future budgets. The citizens will receive about 160 hours of training and will be

unarmed. *The Oklahoman*, September 23, 2002.

The Pittsburgh Bureau of Police plans to modify its community policing program by placing supervision of the 80 Community Oriented Police officers completely under the city's six zone commanders, and assigning them as they do detectives who respond to crime trends. The focus of the program will change from individual officers walking local beats to teams of officers working on local problems. Officers will still staff neighborhood units and walk some beats. Some officers, under the direction of zone commanders, lieutenants and sergeants, will respond to specific crime trends in communities. *Pittsburgh Post-Gazette*, September 19, 2002.

On September 18, Mayor Greg Nickels announced his wish to reshape the Seattle Police Department by pushing more officers and responsibilities out to precincts and neighborhoods, aiming to increase police services and accountability at the neighborhood level. Precinct captains would become the "chief of police" within their sections of the city. Community-policing sergeants would be added to each precinct to work with neighborhoods on long-term problems. Detectives would report to precinct captains rather than headquarters. Officers from specialized units such as the gang unit would be transferred to precincts to enhance neighborhood-based emergency response. *The Seattle Times*, September 19, 2002.

Consent Decrees/Memoranda of Understanding

DOJ reached a Memorandum of Agreement with the city of Buffalo, New

York, resolving its "pattern or practice" investigation into the Buffalo Police Department's ("BPD") use of chemical spray. The Agreement contains provisions governing the civilian complaint procedure, use of force policies, procedures, reporting and supervisory review, training and the creation of chemical spray policies. The BPD must continue to maintain cameras in the prisoner processing room and must videotape all uses of chemical spray in the cellblock. Officers must receive training on use of chemical spray, verbal de-escalation techniques, integrity and ethics, the civilian complaint process and the obligation to cooperate with misconduct investigations. Field Training Officers are required to evaluate officer's use of chemical spray. In addition, all training must be documented. The BPD is required to develop and implement an early warning system for tracking officer use of force incidents, civil and administrative claims alleging untruthfulness, physical force or assault and civilian complaints. The BPD must audit all uses of force and supervisors must review the data for patterns and trends that may signal a need for non-disciplinary corrective action. The BPD is required to modify its civilian complaint investigation process to be more open to the public and develop new investigative policies and procedures. Lastly, the City must hire an independent reviewer to monitor compliance with the Agreement. The full Agreement can be accessed at: http://www.usdoj.gov/crt/split/documents/buffalo_police_agreement.htm.

U.S. District Judge Robert Cindrich signed the City of Pittsburgh and DOJ's joint petition to release the Pittsburgh Bureau of Police from the consent

decree. Both sides agreed that the Bureau has maintained substantial compliance with decree requirements since 1999. The Justice Department will continue to monitor the City's Office of Municipal Investigations, the entity which investigates civilian complaints. OMI has failed to achieve operational compliance with the consent decree. OMI must continue to maintain its early warning system, improve staffing, clear its existing backlog of cases, maintain full and accurate investigation records and ensure that all investigators receive ample training. The monitor, Dr. James Ginger, will continue to oversee OMI's operations. The Stipulated Order can be accessed at DOJ's website at http://www.usdoj.gov/crt/split/documents/pitts_stipulated_order.htm.

The Vera Institute of Justice released a report on the impact of the Federal consent decree on the Pittsburgh Bureau of Police ("PBP") and the City of Pittsburgh. The researchers relied on interviews with the police chief, monitor, city administrators, community leaders and residents, in addition to focus groups consisting of officers and supervisors, as well as data on police activity, public safety, discipline and officer morale to conclude that, overall, the consent decree was a success. The PBP's compliance with the consent decree was attributed to a number of factors, including: The monitor's development of a compliance manual; the creation and implementation of an innovative early warning system that identifies potentially problematic officers; an improvement of use of force reporting procedures; and increased supervisory accountability measures. The authors studied variables such as use of sick time, discipline and staff turnover as

indicators of possible decline in morale, and concluded that the data did not evidence a decline in morale. A survey of Pittsburgh residents found that the public's perceptions of the police have improved in some respects, although discrepancies exist between the opinions expressed by African American and white residents. Some community leaders expressed concern that the consent decree had not produced significant improvements in several areas and believe that the PBP fails to hold mid-level supervisors accountable. The full report is available on Vera's website at http://www.vera.org/publications/publications_5.asp?publication_id=180.

New Jersey State Police Superintendent Joseph Santiago announced that he is reorganizing the state police command structure to ensure better supervision of road troopers and enhanced accountability of supervisors. Santiago hopes that the changes will convince the monitors overseeing his organization under a Federal consent decree that he is committed to lasting change. Currently, the state police agency is divided into five troops -- three patrol seven of the state's 21 counties, while the other two are responsible for the New Jersey Turnpike and the Garden State Parkway. Under Santiago's system, each troop will be commanded by a major. Previously, one sergeant might have been the sole supervisor for each troop on duty. The current plan will increase supervisors, in some cases tripling the current number. Santiago claims that using sergeants as patrol supervisors is critical to the plan and the only way to truly manage troopers. The troops will also have two new captains and lieutenants. One of the lieutenants

will monitor any internal discipline problems and complaints from the public. *Philadelphia Inquirer*, September 26, 2002.

Legal Affairs

U.S. District Judge Robert Cindrich ordered the city of Pittsburgh to expedite payment of \$275,000 in settlement funds owing on police misconduct lawsuits. The city and lawyers settled the claims for about 40 cases, but city attorneys have declined to pay because some defendants owe back taxes to the city, claiming that state law prohibits the city from paying until the tax liens are satisfied. In his ruling, Cindrich ordered the city to pay the court by September 7. *Associated Press*, August 31, 2002.

Racial Profiling

The *Police Quarterly* has released, "The Evidence of Racial Profiling: Interpreting Documented and Unofficial Sources," by Michael Buerger and Amy Farrell. The authors highlight the divergence between the narrow definition of racial profiling often used by the police and the broader definition often used by minority communities, government officials and civil rights attorneys. The authors discuss the role of anecdotal evidence and ambiguity in the racial profiling debate. Buerger and Farrell cite court findings in *State of New Jersey v. Soto* and *Wilkins v. Maryland State Police* as evidence that, as a legal and social fact, racial profiling exists. Both cases involved analyses of traffic stop activities during highway drug interdiction efforts, and showed a statistically significant difference in

impact on minorities. The authors conclude that there needs to be an ongoing police-community dialogue to determine acceptable limits and effective means to carry out drug interdiction. *Police Quarterly*, September 2002.

Albert Meehan and Michael Ponder, authors of, "How Roadway Composition Matters in Analyzing Police Data on Racial Profiling," argue that traffic stop data must be compared to the racial composition of drivers on the subject roadway. The use of African American residents or registered drivers as a benchmark assumes that all roads in the community have the same proportion of white and minority drivers, Meehan and Ponder argue. The authors developed their own methodology to determine racial composition of drivers on a roadway. Using a "rolling observational study," the researchers drove down major roadways of a suburban community (mainly white, but which bordered a predominately African American community) for 2 weeks. They recorded the race and gender of drivers, and time and place of the observation. Comparing the observation results with Mobile Data Terminal ("MDT") results, Meehan and Ponder sought to determine whether race appeared to affect officers' decisions to query license plates, postulating that MDT queries are conducted upon suspicion of criminal activity. They found that a small number of officers disproportionately queried license plates. In addition, they found that police surveil and stop black motorists at rates proportionate to their percentage of the driving population when they are driving in or close to black neighborhoods, but stop blacks at higher rates in high-crime areas that

border black neighborhoods. *Police Quarterly*, September 2002.

The *Police Quarterly* published, "Racial Profiling: A Survey of African American Police Officers," by David E. and Melissa H. Barlow. The authors conducted a survey of black officers at the Milwaukee Police Department concerning their personal experiences of racial profiling (defined as "any situation in which race is used by a police officer or agency to determine potential criminality of an individual"). Sixty-nine percent of the officers (predominately male and defined as "light-skinned") who responded to the survey stated that they had been racially profiled in the past; 43% of these officers claimed that the alleged incident(s) had occurred in the past 5 years. Approximately half of these officers claimed they had been questioned in a manner that they regarded as racially discriminatory; 18% of these officers were subjected to search and 22% of these officers were ticketed during these incidents. Seven percent of these officers indicated that they were arrested as a result of racially biased policing practices. The authors suggest that the sizeable gap between those stopped on a "pretext" and those subsequently arrested is consistent with findings of past research studies, indicating that such stops were made in the absence of reasonable suspicion. Forty-three percent of the respondents stated that they had been stopped in Wisconsin, 39% of which occurred in Milwaukee County and 38% within the city. The authors conclude that their study contradicts assertions made by the Wisconsin governor, the Milwaukee Sheriff and the Milwaukee Police Chief that racial profiling does not occur. *Police Quarterly*, September 2002.

Amy Farrell, Jack McDevitt and Michael Buerger, the authors of "Moving Police and Community Dialogue Through Data Collection Task Forces," suggest that, although well-intentioned, traffic stop data collection efforts may be undermined if law enforcement executives fail to consider how to disseminate, and use, the information to increase police-community dialogue. According to the authors, community-police task forces can both enhance police-community relations and educate the public regarding police operations as it relates to the issue of racial profiling. Several agencies, in addition to the Police Executive Research Forum (PERF), have suggested that jurisdictions create such taskforces to identify how best to respond to racial bias allegations and perceptions. This model, the authors argue, is not a new one, but rather an extension of community policing efforts embraced by agencies and communities throughout the nation. An important issue for the task force to agree upon at the outset is the role it will play in the development of data collection protocols, data analysis and recommendations. The task force, the authors argue, must contain members of all constituencies- police, unions, and community leaders- for the intended outcome to be fully realized. The authors suggest that executives bring in independent facilitators to defuse potentially volatile situations and bring a sense of neutrality to the meetings. Lastly, the authors suggest that executives look to evaluations of other criminal task force models, such as multi-jurisdictional drug task forces, to examine how managerial factors, organizational structure and context

relate to effectiveness. *Police Quarterly*, September 2002.

Michael Buerger, author of "Supervisory Challenges Arising From Racial Profiling Legislation," addresses common problems faced by law enforcement supervisors in complying with racial profiling laws. He suggests that supervisors can expect to face new responsibilities and difficulties, including: Preparing officers to deal with public perceptions and expectations about racial profiling; resistance by officers; mediating disputes and citizen complaints; handling declining morale and discipline problems; 'selling' the program to subordinates; and re-channeling resources within the agency. Supervisors may also experience added responsibility to monitor searches or other law enforcement actions. Line supervisors, he argues, are also responsible for explaining the data to officers, managers and the public. *Police Quarterly*, September 2002.

The American Civil Liberties Union of Rhode Island has asked a Superior Court judge to hold the Providence Police Department in contempt for failing to comply with the state law mandating collection of traffic stop data. The ACLU contends that the Department has failed to comply with the law, despite numerous court hearings and orders. The ACLU is requesting the appointment of a Special Master to monitor the Department's compliance with the law; payment of a \$10,000 sanction to the ACLU, and an additional \$10,000 sanction for each month the Department continues to be in non-compliance; and the continuation of traffic stop data collection by the

Department for at least one additional year. *ACLU Press*, September 23, 2002.

Spokane, Washington Police Chief Roger Bragdon, NAACP members, community leaders and city council members discussed racial profiling at a meeting in September. The NAACP claims that racial profiling complaints have significantly dropped over the last several years, following a number of meetings on the subject. The September meeting consisted of group discussions exploring police-community dialogue about law enforcement procedures, expanding access to the civilian complaint process and promoting safety for citizens and police. Bragdon critiqued use of the term 'racial profiling,' preferring instead to question whether police treat all people in a professional and respectful way. Bragdon has been praised by black community leaders for his attention to the issue. *The Spokane Spokesman-Review*, September 25, 2002.

Racial profiling training sessions are scheduled to take place throughout California. By state law, every police officer in California is required to attend the five-hour training sessions, which will define racial profiling and include a video, a history of civil rights and input from community organizations. Constitutional issues, such as protections against illegal searches and seizures, will also be covered. The Museum of Tolerance will train law enforcement supervisors throughout the state in how to organize and lead the sessions for rank-and-file officers. By 2004, all of the State's peace officers will have received the training. Torrance is the first city to begin training. *Copley News Service*, September 18, 2002.

Standards/Training

Cary Rostow and Robert Davis, the authors of "Psychological Fitness for Duty Evaluations in Law Enforcement," argue that fitness for duty evaluations ("FFDE") are a laudable response to potentially problematic officer conduct. According to the authors, an FFDE should be administered by mental health professionals familiar with police psychology. The tests are generally conducted to assess the risk that an individual officer poses to the department and the public. Rostow and Davis suggest that law enforcement executives develop a positive working relationship with the FFDE examiner prior to the actual examination. Law enforcement executives and the police psychologist must consider relevant laws, administrative guidelines and collective bargaining agreement provisions to ensure consistency and compliance. The authors contend that FFDE should not be a replacement for administrative investigations or criminal prosecution. The article addresses the reasons officers may be referred for an FFDE, rights of the individual officer, the role of the police executive in facilitating the examination and possible misuses of the FFDE. The authors argue that FFDEs can preserve the resources of the agency and prevent future misconduct from occurring. *Police Chief, September 2002.*

Stephen Mastroski, Michael Reisig and John McCluskey, the authors of "Police Disrespect Toward the Public: An Encounter-Based Analysis," analyzed whether police are disproportionately disrespectful to the economically or socially disadvantaged or whether disrespect is instead dependant on

citizen behavior. The authors observed police encounters with over 3,000 suspects in Indianapolis and St. Petersburg, two departments that embrace community policing and have made significant efforts to mend relations between police and minority communities. The authors' primary purpose was to analyze three influences on disrespectful policing: The environment, the suspect's behavior and the suspect's personal characteristics. While the authors had assumed that race would be the most significant predictor of police disrespect, suspect behavior was instead found to be the strongest predictor; however, the suspect's age, sex, income and degree of neighborhood disadvantage were also found to be significant. Suspect variables associated with higher incidence of police disrespect include low self-control, male, youth, and low income level. Whether a suspect initiated disrespect was the most prominent factor. The authors concluded that minority suspects experienced police disrespect at a significantly lower rate than whites. They postulate, however, that after controlling for various types of suspect behavior, police did exhibit cultural biases by distributing disrespect disproportionately to those of low or marginal social or economic status. *Criminology, August 2002.*

Massachusetts State police officials have announced that they will appoint a liaison to gay employees as part of a plan to address allegations made by the Gay Officers Action League of New England of workplace harassment of gay rank-and-file officers. The meeting was prompted after a lieutenant and a master sergeant were reassigned after allegations that they had made

inappropriate remarks. A sergeant and commander of the employees' assistance division will serve as a liaison to gays and lesbians both within and outside the state police. *Boston Globe, August 29, 2002.*

Several days after Boston Police Department officers fatally shot a female passenger riding in a car allegedly trying to evade police, Police Commissioner Paul Evans proposed a change in the Police Department's policy on shooting at moving vehicles; a move he claims would remove some officer discretion and could lead to fewer injuries and deaths of officers, suspects, and bystanders. The department's current policy states that "the moving vehicle itself shall not constitute the threatened use of deadly force unless there are no reasonable or apparent means of escape." Evans wants to modify that regulation by requiring officers to "reposition themselves" and wait for reinforcements. *Boston Globe, September 10, 2002.*

The Chicago Police Department is creating specialized teams, consisting of 10 to 15 officers, to perform high-risk entries to serve search warrants and secure crime scenes where suspects are thought to be heavily armed or expecting a raid. The teams will be fully operational in October. The two new teams will be run out of the gang and narcotics unit. The team members will be equipped with new weaponry, including high-powered rifles and automatic shotguns. Members of the teams will continue to investigate drug activity and additionally will rescue officers who have been wounded and are being held captive. Two recent shootings of police officers, while

serving warrants or engaging in other high-risk police activity, may have contributed to the decision to require supervisors to oversee training. *Chicago Tribune, September 11, 2002.*

Corvallis, Oregon Police Chief Pam Roskowski announced that she stands behind the decision to refuse to help federal investigators question foreign visitors in search of possible terrorist links. She believes her department's resources are better spent assisting the FBI with its investigative leads, rather than questioning people who are not suspected of criminal activity. Federal officers had wanted to interview 30 people in the Corvallis area, predominantly Oregon State University students of Middle Eastern descent. Other Oregon officials have echoed Roskowski's sentiments. *Associated Press, September 11, 2002.*

A Portland Police Bureau ("PPB") policy that allows officers to swear at suspects is coming under scrutiny after the PPB found that a significant number of civilian complaints deal with rudeness or use of foul language during arrests. Members of the Citizens Review Committee are reviewing the PPB's policy. Portland police officials said that tightening their written directive to prohibit all profanity is unrealistic and would not necessarily curb its use. A more appropriate step, police said, might be to require that officers document and justify the use of profanity in their written reports. A spokesman for the department stated that while the Bureau discourages officers from using profanity, some situations warrant its use. Critics have claimed that police use of profanity exacerbates volatile situations, and the bureau's policy gave officers an "open-

ended justification" for using it. *Associated Press, September 9, 2002.*

The Baltimore Police Department ("BPD") is in the process of designing an early warning system that will track arrests, car stops, accidents, missed court dates, sick leave and citizen complaints, and will compare officers who are doing similar jobs. The database will alert the officer's supervisor when his/her performance falls outside the normal parameters. The system will not be used to discipline officers, but rather will alert commanders to potential problems that may need to be addressed. BPD officials are hoping to have the system fully operational in a year, although it may take longer. The BPD plans to link to a real-time arrest database, a feature that may take additional time and resources. The system has been criticized by union officials, who have expressed concern that it will inhibit officers from engaging in proactive police work. In addition, some have expressed concerns that criminals may misuse the system by filing false complaints against active officers, in effect tarnishing their careers. BPD officials claim that the database will assist officers who would benefit from counseling before they commit serious infractions that require stringent discipline. BPD officials recently conducted a study and found that many of the 50 police officers who were fired or forced to resign within the last 2 years had long complaint histories. The computer system, in addition to an aggressive training regimen that has been implemented, is intended to help change the culture of the BPD. As part of the training program, officers with a high number of complaints will go through a nine-day course which includes communication techniques,

how to handle arrests and verbal confrontations, and will visit an at-risk youth facility. Upon completion of the training course, officers will be closely supervised and their progress will be documented. Officers will be able to use the training as mitigation in any disciplinary hearings. *Sun Spot, September 25, 2002.*

The Detroit Police Department is in the process of developing a new policy manual. The changes include: Requiring officers to exercise proper judgment in carrying out high-speed car chases of suspects; requiring officers to handle the arrest and interrogation of suspects in a professional manner; and teaching officers how to better communicate with the deaf and hearing impaired. *The Detroit News, September 27, 2002.*

About 60 Indianapolis Police Department ("IPD") supervisors attended a cultural sensitivity training workshop, and must teach officers the lessons learned at the workshop. The IPD is seeking to avoid mistakes made during the Indiana Black Expo Summer Celebration, when black motorists and pedestrians filed 48 complaints alleging mistreatment and rude behavior by some police traffic officers. A special community task force was formed following the Expo incident. The committee will also release a plan for improving IPD operations. Several members of the black community have voiced praise for the IPD's willingness to address the issue. *Indianapolis Indy Star, September 26, 2002.*

IACP's Police Pursuit Database is available at no charge to state and local law enforcement agencies. The database was established following a suggestion

from the National Institute of Justice to develop a method for police to track pursuit data nationally to assist law enforcement executives in making informed pursuit policy and training decisions. The pursuit database allows users to examine data state-wide or by similarly-situated jurisdictions. It also contains searchable features such as number of pursuits, length of pursuits, causes for initiating and terminating pursuits and numbers of fatalities and injuries. Agencies can use the data to analyze pursuit trends, assess technology and training needs, safeguard the agency from future litigation, dispel inaccurate information, and inform citizens. For more information, please contact Laura J. Nichols at 1-800-843-4227, ext. 270, or nichols@theiacp.org.

Use of Force

Elliot Spector, the author of "Improper Tactics and Use-of-Force Liability," argues that while officers' use of force is usually judged in accordance with the circumstances at the moment the force was employed, some situations merit assessment of officers' tactical decisions prior to the use of force. The author cites numerous current court decisions, including *Billington v. Smith*, *Alexander v. City and County of San Francisco* and *Greenridge v. Ruffin*, as supporting the view that tactical errors committed prior to the use of force may render the force unreasonable. Spector argues that, although it is unlikely that officers will be held liable solely for the tactics employed prior to the use of deadly force, they may have to defend their tactics. Tactical training, he argues, can assist officers in avoiding the risk of liability. *Police Chief*, September 2002.

According to a review conducted by NOBLE, the Louisville Division of Police's ("LDP") use-of-force policy should provide firmer guidelines regarding appropriate levels of force, and should stress that deadly force should be used "only after exhausting other non-lethal means." The report recommends that the LDP update its policy to reflect the use-of-force training its officers receive and expand its three-hour civility and diversity training. According to the report, the training unit has inadequate resources to meet the LDP's needs. NOBLE commended the LDP's commitment to controlling police use of force through training but recommended that the LDP's policy be modified to require officers to immediately report use-of-force incidents to a supervisor, rather than waiting until the end of a shift. One police expert has criticized the report, stating that it fails to address specific improvements that could be made to the LDP's early warning system and approach to discipline. Another expert criticized LDP's use of force policy because it failed to make a specific reference to blows to the head with objects other than a police baton. *Louisville Courier-Journal*, September 20, 2002.

Richmond, Virginia Police Chief Andre Parker is seeking an independent review of use of force incidents following five fatal shootings by its officers in 13 months. The study is expected to be conducted by policing professionals and academics who will investigate the recent shootings. *Times Dispatch*, September 24, 2002.

The Prince George's County Police Department will review its pepper spray policy, following an incident in

which an officer used his canister to disband a group of sports fans involved in an altercation following a game. The department considers pepper spray "the first line of defense" for officers when they are outnumbered by a disobedient crowd. If pepper spray fails to disperse the crowd, officers may resort to using nightsticks. *Washington Post, September 19, 2002.*

Interview

PARC recently spoke with Samuel Walker, professor of criminal justice at the University of Nebraska-Omaha and an expert on police accountability issues. Walker is the author of numerous books and articles regarding civilian oversight, the civilian complaint process, early warning systems, and other risk management issues. We spoke with Mr. Walker about the lessons learned from, and the future direction of, early warning systems.

PARC: *The use of early warning systems has proliferated in the past several decades. What do you believe have been the most significant changes?*

Walker: When early warning systems first appeared, they were fairly rudimentary. A deeper understanding has developed that these systems are far more complex than originally imagined. Determining performance indicators, interpretations of the data and management oversight are all issues that are continually being refined.

PARC: *How should a department seeking to install an EVWS begin the process?*

Walker: In the very beginning, department officials should create a planning committee involving

members of all ranks within the agency. The planning process may take a considerable amount of time. A high-quality system will include the input, concerns and suggestions of all persons involved in its implementation. Involving all ranks in the process will further ensure a complete understanding of what data, and how the data, will be used.

PARC: *Should departments involve police unions in the process?*

Walker: Absolutely. Union officials should be represented in the planning committee. Department officials also must analyze the terms of the collective bargaining agreement to determine if it contains any barriers to data collection or maintenance.

PARC: *The first early warning systems collected information solely on citizen complaints. Today, more advanced, innovative early warning systems collect and maintain data on use of force, arrests, traffic stops, and traffic accidents – to name a few variables. Which performance indicators should an early warning system track and analyze?*

Walker: I believe that use of force incidents, complaints, resisting arrest charges, civil litigation, use of sick leave, traffic stop data and field interrogations are the most important indicators which may signal a potential problem. But departments are free to include more indicators, and the more that are used, the greater the capacity to identify a problem officer at an early stage.

PARC: *In your research, have you found common problems departments have*

encountered when creating or applying the system?

Walker: Numerous departments have indicated problems in finding high quality software packages. Departments have also noted problems in attaining a consensus on the general design of the system.

PARC: *How should a department assess the effectiveness of its early warning system?*

Walker: The data are contained within the system. Supervisors can conduct a follow-up study of officers who were placed on review to assess whether their behavior had improved post-intervention. Next, the officers can be compared to their peers who were not on review to assure that the change was related to the individual officer and not attributable to a department-wide improvement.

PARC: *Most early warning systems are used solely to track individual officer trends. Others are used as risk management tools to uncover department, unit, or precinct-level trends. Do you believe one is advantageous to the other?*

Walker: Newer, more sophisticated early warning systems move beyond simply tracking individual officer behavior. They have the capability of assessing department or unit-wide performance and possible problematic trends. If used in a broader manner, early warning systems can alert supervisors to potential problems before they become actual problems and supervisors can recommend preemptive policy, procedural or training changes to address the issue. Systems of this type are fairly rare, predominantly in use in

larger urban police departments, but I believe these systems will proliferate as time progresses.

PARC: *Most early warning systems establish numerical thresholds, such as 3 complaints or use of force incidents within a 6 month time period. Pittsburgh's early warning system, PARS, compares individual officers to the average for their shift and zone and alerts supervisors when an officer deviates from the average. Do you think one system has advantages over the other?*

Walker: I am opposed to using strict numerical thresholds. There are many variables to consider in assessing officer performance that strict thresholds fail to capture. For instance, officers who work certain assignments or times of the day will invariably use more force and engage in more active police work than some of their peers.

There should be a 2 stage discretionary process, whereby supervisors are alerted when officers in their chain of command are deviating from the department or unit mean. Supervisors should then consider assignment, time, crime levels, and any other factors which may account for the apparent discrepancy. If, after controlling for these factors, a disparity still exists, corrective intervention may be necessary.

PARC: *Early warning systems also differ on the issue of intervention. In some cases, if the system identifies an officer, the supervisor immediately must intervene. In others, such as the Los Angeles Sheriff's Department, the supervisor has greater discretion to decide which officers should be placed on review. What are the benefits of each type of system?*

Walker: Again, I think that a 2 stage discretionary process is superior to one that is rigidly formulaic. A system such as the one used by the Los Angeles Sheriff's Department allows supervisors to take into account factors not represented in the sheer numbers.

PARC: *Early warning systems have been criticized for focusing on the rank and file and failing to hold supervisors accountable for using the system as intended. Do you believe departments should audit whether supervisors are using it properly? If so, how would a department do this?*

Walker: Supervisory accountability is the next frontier in early warning systems. Some systems track how often supervisors log on, to determine whether they are using it as intended. This creates a second tier of accountability. A system can be exemplary, but if it is not valued and used by supervisors in the manner intended, it is not useful.

PARC: *There has been some debate over whether EWS should include "unfounded" complaints (or complaints with respect to which the officer has been "exonerated") in the tracking system. Do you have an opinion about this? How might that information be useful to a department?*

Walker: Systems should include "unfounded" complaints. A department would include all uses of force, whether they were deemed justified or not. The same logic applies to "unfounded" complaints. The rate of "sustained" complaints is low in all jurisdictions. Even if all of the complaints filed against a particular officer were "unfounded," they could still indicate possible trends or

problems. Early warning systems should capture as much information as possible.

PARC: *Line officers sometimes voice the fear that early warning systems are used to punish officers based simply on the numbers, without any inquiry into the underlying circumstances. For example, some claim that at promotion time, an officer with 2 "unfounded" force investigations is likely to be passed over in favor of a similarly-qualified officer with no force investigations. Do you believe this concern has any validity? What can management do to quell such fears?*

Walker: In connection with a project I am working on with DOJ's Community Oriented Policing Services (COPS) office, I conducted a survey of law enforcement managers to assess the acceptance of early warning systems among the rank and file. Surprisingly, the survey indicated that very few officers were concerned about the possibility of misuse by department supervisors. While there was often some suspicion about the system before it was implemented, they generally faded away as officers became familiar with it.

Officers should not be punished for active and professional police work. An early warning system which utilizes a strict numerical threshold, as opposed to a more discretionary approach, is more likely to cause concern among officers. If they see officers that they perceive to be professional and proactive being placed on review, they may lose confidence in the system. On the other hand, if they see officers they believe are in need of corrective action placed on review, they will have a more favorable view of the system. Officers

will gain confidence in the process through their own experience. Effective systems will capture what is intended, improving both officer confidence and performance.

PARC: *The early warning systems utilized by the Pittsburgh Bureau of Police, the Los Angeles Sheriffs' Department, Miami Dade Police Department and Phoenix Police Department are regarded by some as 'model' systems. What is your opinion?*

Walker: I would consider the four systems mentioned exemplary. They all track and analyze a broad range of indicators, instead of focusing solely on citizen complaints and uses of force. The Los Angeles Sheriff's Department's system employs a two-stage discretionary process, which I am in favor of. The Phoenix Police Department's system has the capacity to improve the performance of the entire department.

PARC: *The above-mentioned systems range from medium to large urban departments. Clearly, one size does not fit all - smaller departments may not have the funds or the necessity to develop a system as complex as those used by large agencies. Are there any 'model' systems for smaller police departments?*

Walker: That depends on the department. A small department with a history of excessive force, complaints or the like may need a more sophisticated system that captures a broader range of information. This department may want to use an advanced system, like those utilized by large urban departments, and strip it down to a smaller model that serves its own needs. A small department that has not had

such a history may need a less sophisticated and costly model.

PARC: *You mentioned earlier that you are working with DOJ on an early warning system project. The first part of this project produced an article on early warning systems. What are you working on now?*

Walker: I received a second grant from the COPS office to conduct an advanced study on the management and planning involved in developing and maintaining an early warning system. It is currently in the review process. My future research will be focused on this area as well.

In addition, I would like to host a working conference, comprised of law enforcement professionals and outside experts, to develop a consensus on 'best standards' in early warning systems. The study of early warning systems is still in its beginning stages and we need to continually evaluate and share our knowledge, expertise, mistakes and successes.

Director's Cut

A column by PARC Director, Merrick Bobb

This summer, PARC sponsored a conference in Los Angeles entitled *The Monitors and the Monitored* -- an unprecedented gathering of persons involved in and affected by court-ordered monitoring of police departments. Attending the conference were the monitors themselves, police chiefs or other executives of agencies being monitored, academics, and lawyers from the U.S. Department of Justice and the New York and California state attorneys' general offices which had brought lawsuits leading to the appointment of monitors. The goal of the conference was to foster an open and free discussion among and between the monitors and the monitored regarding the strengths, benefits, and potential of the monitoring process as well as problems encountered along the way. The conference further examined the efficacy of the monitoring model in facilitating police reform and, by extension, to improve policing itself.

The conference reached a consensus that monitoring, if done correctly, can bring about rapid and responsible police reform without an undue challenge to the authority and autonomy of the police chief. The conference focused on how to enhance and improve it based upon the experience to date of monitors and police departments subject to monitoring. The conference also examined the ideal qualities of a monitor and a police chief in a jurisdiction subject to monitoring. The consensus was that the key attributes of a good monitor are:

- integrity,
- neutral expertise,
- an ability to avoid conflict,

- a willingness to use police experts in areas where the monitor may lack technical police expertise,
- an ability to avoid self-promotion, and
- an understanding of the need to keep compliance issues separate from informal suggestions.

As regards to the key attributes of a good chief, the conference consensus was that they included:

- a dedication to change;
- a willingness to advocate a common understanding of the consent decree throughout the police department;
- open-mindedness;
- a cooperative approach; and
- the ability to lead effectively.

The conference began with a keynote address by Ralph Boyd, the Assistant Attorney General for Civil Rights, who emphasized the Department of Justice's continuing commitment to ongoing enforcement of its Section 14141 authority – the “pattern or practice” program – and cited instances in which the current Administration has initiated investigations and entered into settlement agreements calling for monitoring. Mr. Boyd discussed DOJ's experience in Cincinnati, emphasizing the positive results achieved through a collaborative process. He noted that the inclusionary process made no material difference in the substance of reform commitments negotiated by DOJ, including use of force reporting, early warning systems, internal force review, and monitoring. Mr. Boyd acknowledged the ongoing need for effective communication between DOJ and chiefs of police.

The conference resulted in suggestions about next steps and PARC's role in advancing the field. The conference participants agreed that field of police monitoring is in its infancy, with little uniformity of practice and no structure in place for the training of new monitors or the professional development of veterans. There was a strongly felt need for support, training, and vehicles for communication among monitors, as well as among chiefs, monitors, and DOJ. It was suggested therefore that PARC organize and deliver a program of professional support and training for potential and experienced monitors.

Additionally, participants from the monitoring and police communities, along with DOJ, articulated the desire for greater uniformity in monitoring and reporting and for better ways to assess progress within a particular police jurisdiction and between jurisdictions subject to monitoring. For example, both monitors and others remarked on the value of uniform ways for law enforcement agencies to capture and report data on the use of lethal and non-lethal force.

Similarly, both chiefs and monitors at the summit expressed a need for greater clarity on how departments would evaluate whether reforms have taken permanent hold. One possibility is that PARC could explore and propose uniform standards of reporting in a variety of key areas commonly found in DOJ settlement agreements and consent decrees. Over the next months, PARC will be exploring these suggestions and recommendations.

Conferences

October 2-4, 2002 - The Society for Police and Criminal Psychology

Annual Conference in Orlando, FL. For more information, visit SPCP's Web site at <http://cep.jmu.edu/spcp/confer.htm>

October 3-5, 2002 - National Institute of Justice, American Bar Association, Criminal Justice Section, American Academy of Forensic Sciences & National Center for State Courts Conference examining roles of science and scientists in the criminal justice system. Miami, Florida. For more information, visit <http://www.ojp.usdoj.gov/nij/new.htm>.

October 5-9, 2002 - IACP Annual Conference in Minneapolis, Minnesota. For more information, visit <http://theiacp02.expoexchange.com>.

October 15-16, 2002 - Community Policing Consortium "Executive Blueprint Symposium on Internal Inspections and Investigations" in Phoenix, AZ. For more information, contact Cassandra Bedeau, Program Coordinator, at 202-833-3305

October 20-24, 2002-International Association of Women Police (IAWP) Annual Conference in Canberra, Australia. For more information go to IAWP's Web site at <http://www.iawp.org/conferen.htm>.

October 31 - November 3, 2002 - National Association for Civilian Oversight of Law Enforcement Annual conference, in Cambridge,

Massachusetts. For more information, visit www.nacole.org/welcome.htm.

Nov. 11-13, 2002 - Americans for Effective Law Enforcement Police Civil Liability and the Defense of Citizen Misconduct Complaints. Seminar, to be held in Las Vegas, Nevada. More information is available at <http://www.aele.org/wkscivil.html>.

November 13-16, 2002 - Commission on Accreditation for Law Enforcement Agencies "Maximizing Excellence" conference, to be held in Portland, Oregon. For more information, visit www.calea.org/newweb/ConferenceInfo/Portland/conferenceinfo.htm.

November 22-24, 2002 - 13th Annual Problem-Oriented Policing Conference Annual conference organized by the Police Executive Research Forum, to be held in San Diego, California. For more information, visit <http://www.policeforum.org/conference.html>.

Dec. 2-4, 2002 - Americans for Effective Law Enforcement Public Safety Discipline and Internal Investigations. Seminar, to be held in Las Vegas, Nevada. More information is available at <http://www.aele.org/wksdisc.html>.

December 2-6, 2002 - 2nd Annual Advanced Issues in Internal Affairs, Police Discipline & Citizen Complaint Conference Public Agency Training Council training seminar, sponsored by the Las Vegas Police Department, to be held in Las Vegas, Nevada. Register online at www.patc.com.

April 28-30, 2003 - Americans for Effective Law Enforcement Critical Incident Response: Management and Liability in Las Vegas, NV. For more

information, visit AELE's website at <http://www.aele.org/wkscrit.html>

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