

Best Practices Review

With the generous support of the Ford Foundation, **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.

Civilian Oversight

Complaints Against NYPD Up

The New York City Civilian Complaint Review Board received 4,193 complaints against officers in the first nine months of this year, marking an almost 25 percent increase compared with the same time period in 2002. Executive Director Florence L. Finkle predicted that by year’s end the Board will have received more complaints than any year since 1996 when 5,360 were made against officers of the New York City Police Department. She declined to speculate on reasons for the upsurge.

The Board has responded to the rise in complaints by requiring each of its 128 investigators to work 50 hours of overtime by the end of November. The full report is online at: <http://www.nyc.gov/html/ccrb/pdf/edoct03.pdf>. *New York Times*, October 9, 2003.

Seattle OPA Releases 2002 Report

The Seattle Police Department’s Office of Professional Accountability (OPA) recently released its 2002 Annual Report. The OPA is an oversight office within the police department, led by a civilian director, Sam Pailca.

In 2002 the OPA received 866 complaints alleging police misconduct. The OPA Investigation Section (OPA-IS) opened 158 cases, down slightly from 191 in 2001, and an additional 38 cases were investigated by the officers’ supervisors. To date, 183 of these complaints have been closed, with allegations sustained in 20 cases. During the same period, Pailca overturned 10 cases after her office’s investigation section recommended a sustained finding.

In eleven other cases, Chief Gil Kerlikowske did not accept the OPA’s sustained findings. As a result of OPA action, the department disciplined a

| Table of Contents | |
|---|----|
| Civilian Oversight | 1 |
| Consent Decrees/Memoranda of Agreement | 2 |
| Community Policing/Problem Oriented Policing | 4 |
| Legal Affairs | 4 |
| Racial Profiling | 5 |
| Standards/Training | 6 |
| Use of Force | 6 |
| News Briefs..... | 7 |
| Interview with Mark Schlosberg, Police Practices Policy Director at the ACLU of Northern California | 8 |
| Conferences | 15 |

total of 28 employees, including three terminations, in 2002.

The report contains the OPA's recommendations on internal investigation policy and procedures and policies concerning professional standards. The report also includes a discussion of biased policing, officer-involved domestic violence, and risk management issues. The full report is available online at: http://cityofseattle.net/police/opa/Docs/OPA_AR_03.pdf.

Consent Decrees/Memoranda of Agreement

Cincinnati Monitor Releases Report

The Cincinnati (OH) Independent Monitor, Saul Green, recently issued his third report on the Memorandum of Agreement (MOA) between the City and the Department of Justice and on the Collaborative Agreement (CA) between the City, the American Civil Liberties Union of Ohio, and the Fraternal Order of Police. The quarterly report covers activities from April through July 1, 2003.

The Monitor reported progress in the Cincinnati Police Department's (CPD's) efforts to meet overall requirements of the MOA, particularly with regard to general policy revisions, use-of-force policies, incident documentation, investigation and review, and management and supervision. Green noted "substantial compliance" in scenario-based training and "commendable progress" in the Field Training Officer Program. The report does, however, raise concerns about the CPD's compliance with the

citizen complaint process. The Monitor found that investigations of citizen complaints undertaken by the Internal Investigation Section ranged from "thorough investigations that met MOA provisions to investigations involving leading questions and lack of rigor."

In his evaluation of compliance with the CA, the Monitor reported tension among the Parties in their efforts to implement community problem-oriented policing (CPOP), the cornerstone of the Agreement. Green noted that the Fraternal Order of Police has tried to withdraw from the Agreement and he urged the union to "remain a vital partner" and emphasized that "rank and file officers are an essential element in the reform of police-community relations in Cincinnati." On the same day the Monitor's report was released, a federal magistrate rejected the union's request to withdraw from the CA.

Although the Monitor credits efforts made to meet the requirements of the CA, he concludes that the City is not in compliance, or only partially in compliance, with the majority of the Agreement's provisions. He stresses the need to develop a CPOP training curriculum and a personnel evaluation system reflecting the values of CPOP. In another development, the Department's CPOP Website, required by the CA and intended as a "clearinghouse of best practices for tackling crime and safety problems," is now online at: <http://cagisperm.hamilton-co.org/cpop/>.

Additionally, the Monitor found the City out of compliance with documentation and analysis provisions

of the CA pertaining to bias-free policing, but expressed hope that data collection and analysis would improve after an outside contractor is hired.

The report also contains summaries of use of force and citizen complaint investigations conducted by the CPD. Each summary includes a description of the incident, the CPD review and the Monitor's assessment. The full report is available online at: <http://www.gabsnet.com/cincinnati/monitor/>; *Cincinnati Post*, October 2, 2003.

Toledo Close to End of Federal Oversight

After almost 30 years of federal oversight, the City of Toledo is close to signing a consent decree that will end supervision of its police department's hiring practices. In 1972, Advocates for Basic Legal Equality (ABLE), a local public interest law firm, successfully sued the city claiming that police hiring practices discriminated against minorities. In 1974, a federal judge issued a consent decree requiring federal oversight to ensure the discriminatory practices ended. At the time the lawsuit was filed, African-Americans accounted for 6.1 percent of the force and Hispanics were representative of less than one-tenth of a percent. Today the department is 18.5 percent African-American and 7 percent Hispanic. The new agreement calls for an end to the 1974 decree, but requires that the court retain jurisdiction until recruit testing procedures are improved to better identify bias. *Toledo Blade*, September 20, 2003.

Detroit's Monitoring Team Announced

The members of the 16-member team tasked with monitoring Detroit's compliance with two federal "pattern or practice" consent decrees were recently announced. The team, which will be headed by Sheryl Robinson of New York-based Kroll Associates, includes Jeff Schlanger, who is also part of the court-ordered monitoring team for the LAPD; Thomas Frazier, former director of the Justice Department's Community Oriented Policing Services Office and former Baltimore Police Commissioner, and former FBI agent Joe Buczek. The team also includes a retired NYPD captain and a former assistant district attorney for King's County, New York. *Detroit News*, October 22, 2003.

LAPD Statistical Report

The Los Angeles Police Department recently released a report – required by the federal consent decree it is operating under – entitled, "Arrest, Discipline, Use of Force, Field Data Capture, and Audit Statistics" covering the period from January 1 through June 30, 2003. The report provides data regarding vehicle and pedestrian stops and searches disaggregated by the drivers' and passengers' age, gender, and race as well as justifications given for stops and searches; arrest statistics; sustained complaint allegations, discipline imposed, and rank of personnel who were the subjects of complaints; use of force statistics; and audit summaries. The report also includes new or revised policies and procedures issued pursuant to the consent decree covering, among other topics: confidential informants; complaint procedures; non-categorical use of force interviews and reporting; documentation of supervisors' efforts to prevent or address retaliation; and supervision of gang enforcement units. The full report can be viewed online at: http://www.lapdonline.org/pdf_files/boi/fdr/03_06_30/fdr_main.pdf.

Community Policing/Problem Oriented Policing

COPS Office Awards Grants

The Justice Department's Community Oriented Policing Services (COPS) Office awarded \$635 million dollars in grants to state, local, and tribal law enforcement agencies for fiscal year 2003. The funds, allocated to 1,477 police departments and sheriffs' offices in all 50 states and four U.S. territories, are intended to support the hiring of more officers; advance community policing; subsidize equipment and technology purchases; and provide training and assistance resources to law enforcement agencies. A significant amount of money was also designated to supplement homeland security overtime budgets. California received the most funds of any state, totaling \$80,654,903. For a breakdown of each grant by state, view the report online at: <http://www.cops.usdoj.gov/mime/open.pdf?Item=959>. *Department of Justice Press Release*, October 2, 2003.

Report on Community Policing and the Media

The National Criminal Justice Reference Service (NCJRS) recently published, "Identifying Strategies to Market Police in the News." The 189-page report revealed that the police have not been successful in promoting community policing through the media. Dr. Steven Chermak of Indiana University and Dr. Alexander Weiss of Northwestern University surveyed 203 police public information officers in large cities, as well as television and newspaper reporters in those cities, to gain insight into their relationships with one another. The researchers found

that media coverage on community policing is often "minimal," and therefore fails to help citizens get involved in community policing efforts. The researchers suggested that law enforcement agencies systematically promote community policing through news media campaigns. The full report is online at: www.ncjrs.org/pdffiles1/nij/grants/194130.pdf.

Legal Affairs

Supreme Court Upholds Promotion of Black Officers

The U.S. Supreme Court rejected, without comment, an appeal from seven white Boston police officers who had alleged that they had been unfairly passed over for promotions in favor of three black officers. The 1st U.S. Circuit Court of Appeals had upheld the black officers' promotions, ruling that they "remedied past discrimination." A lawyer for the Boston Police Department applauded the decision, saying, "The promotions were made pursuant to a federal consent decree that regulates the method by which promotions are being made." *Metro West Daily News*, October 7, 2003.

\$4.5 Million Awarded in Racial Profiling/Use of Force Suit

Cincinnati will pay a \$4.5 million "global settlement" to 16 plaintiffs to end a racial profiling and excessive force lawsuit. The settlement includes a \$1.5 million payout to the family of Timothy D. Thomas, whose shooting death led to four days of riots in 2001, and \$1.6 million to the estate of Michael D. Carpenter, who was shot after being pulled over in a traffic stop.

Fourteen other plaintiffs who alleged racial profiling in traffic stops will split the remaining \$1.4 million. The City Council will raise funds to pay for the settlement by issuing bonds.

Cincinnati Enquirer, September 27, 2003; *Cincinnati Post*, October 29, 2003.

NYPD Settles Racial Profiling Suit

The New York City Police Department has agreed to settle a lawsuit filed by the Center for Constitutional Rights alleging that the department's stop-and-frisk program is based on racial profiling. While the city admits no wrongdoing, it has agreed to pay ten plaintiffs a total of \$167,000. It has also agreed to extensively document all stop-and-frisk instances and pay the Center for Constitutional Rights and an independent auditor to perform quarterly audits of these records. Under the terms of the settlement, a federal judge will maintain oversight of all stop-and-frisk cases until 2007. A hearing to formally approve the agreement was scheduled for November. *New York Times*, September 19, 2003; *New York Daily News*, September 19, 2003.

Racial Profiling

Settlement Considered in Hispanics' Racial-Profiling Lawsuit

Nine Hispanic motorists who sued the city of Rogers (AR) and its police department reportedly have agreed with the defendants on the terms of a possible settlement. The federal judge will decide in November whether to accept the proposed settlement and issue an injunction to change police practices and policies. The judge

previously granted the case class-action status allowing "all Hispanic motorists who believed they were stopped without just cause by Rogers police since March 1998" to join the lawsuit.

The proposed settlement includes requirements for the Rogers Police Department to implement "general orders" prohibiting and preventing racial/bias profiling, including disciplinary procedures for officer violations. It also calls for a general order on immigration inquiries and enforcement. The lawsuit claims Rogers officers would regularly stop Hispanic motorists and request immigration papers. The city denies that its police department uses racial profiling or tries to enforce federal immigration laws. The proposed settlement provides for outside consultants and monitors to oversee the implementation of the settlement's terms. *Arkansas Democrat-Gazette*, October 9, 2003; *Northwest Arkansas News*, October 9, 2003.

Minnesota Publishes Traffic Stop Report

The Council on Crime and Justice and the Institute on Race & Poverty at the University of Minnesota Law School recently published a study detailing data from traffic stops and searches in Minnesota. Sixty-five jurisdictions in the state participated in the study that revealed that police stopped blacks, Latinos, and American-Indian drivers at higher rates than white drivers, and discovered contraband at lower rates in stops involving minority drivers than in searches of white drivers' vehicles. The full report can be viewed online at: <http://www.crimeandjustice.org/Pages/Publications/RacialProfilingStudy.htm>.

Phoenix PD Hosts Racial Profiling Forum

The Phoenix Police Department (PPD) recently sponsored a racial profiling forum with funds derived from a \$200,000 grant from the U.S. Department of Justice intended to help educate officers and prevent racial profiling. The forum's 12 panelists included PPD Police Chief Harold Hurtt, other police officials, and community leaders. The panel discussed methods to eliminate racial profiling and answered questions from the public. The department previously held a youth forum that included role-playing exercises. The PPD plans to write a "best practices" guide and explore additional community outreach programs before the grant period concludes in January 2004. *Arizona Republic*, October 28, 2003.

Standards/Training

Albuquerque Review Finds Excessive Force

The Police Oversight Commission (POC) for the Albuquerque Police Department has ruled that at least one officer used excessive force and ignored department policy in efforts to quell a crowd of 500 protesters at a demonstration opposing the war in Iraq. The department announced that the officer would not be fired but would receive additional training. The protest resulted in 17 arrests and at least 20 complaints to the Commission. The Commission's investigations have led to changes: numbers and colors will be added to the fronts and backs of SWAT team uniforms to allow for easier identification; ammunition for less-lethal weapons will be tracked; and specific guidelines on how to use the

less-lethal weapons have been added to the department's Standard Operating Procedures manual. *Albuquerque Tribune*, October 18, 2003.

Use of Force

Monterey Deputies Issued Tasers

Following the lead of other local police departments in Monterey County (CA), the Monterey County Sheriff's Department has begun issuing Taser stun guns to its deputies. Police departments in nearby Seaside, Sand City, and Salinas began using Tasers months ago, but Monterey waited to distribute them until they had conducted more research and established greater evidence of their effectiveness. *Monterey County Herald*, October 20, 2003; *Los Angeles Times*, October 21, 2003.

Phoenix Buys New Tasers

The Phoenix Police Department has purchased 1,348 new Tasers, upgrading to the Taser X26 from the Advanced Taser M26 model. The department has made the Taser X26 a standard piece of equipment that is issued to new recruits. Chief Harold Hurtt credits a "dramatic reduction in the number of firearm shootings" to use of the less-lethal weapons. Officer-shootings have declined from 15 to 8 in the first six months of this year as compared to the first six months of 2002. The purchase will cost the city approximately \$500,000. *Phoenix Business Journal*, October 16, 2003.


 News Briefs

Detroit Cited for Contempt

A federal judge held Detroit in contempt of court after the city issued an invalid \$359,375 check to pay for its court-ordered police monitor. The city attributed the problem to a computer glitch. The check was intended to pay for the first six months of federal monitoring of the Detroit Police Department. The judge fined the city \$20,000 for the bad check. In September, the same judge fined Detroit \$8,000 for failing to make its first payment on time. *Detroit News*, October 2 and 3, 2003.

Residents Criticize Kansas City Oversight Office

Community members at a meeting of the Kansas City (MO) Board of Police Commissioners criticized the police department's commitment to accountability. One complainant alleged that officers were not using the video cameras mounted in their police cars. The Office of Citizen Complaints (OCC), a civilian-staffed oversight agency that is part of the Board, later reviewed this allegation by looking at 142 complaints made since November 2002. In 54 cases there were no recordings at all and in 21, no audio.

Residents also questioned the ability of the OCC to effectively assess citizen complaints and called for independent investigations of citizen complaints. Currently the OCC refers citizen complaints to the department's internal affairs unit for investigation. The OCC reviews the investigative findings and decides whether or not to substantiate

the complaint. *Kansas City Star*, September 25, 2003; *Lawrence Journal-World*, October 15, 2003.

Push for Oversight in San Luis Obispo

Former Portland (OR) Police Chief Penny Harrington believes San Luis Obispo (CA), the county where she now resides, needs a police oversight agency. For the last 18 months she has chaired the San Luis Obispo Citizens for Justice Oversight, which has sought to define what kind of oversight is needed and how it should be implemented. Harrington believes the most effective agency would receive all citizen complaints, have the authority to investigate them, and have subpoena power.

"This county is just a cauldron of hate and distrust of the police, and they have no place to go to vent it," she said. "Smart police agencies understand that if they don't have the community's support, they're dead in the water. Nobody's going to tell them who's committing the crimes." Harrington attributes concern about policing in the community to the recent in-custody death of a postal worker and an incident in which a young man suffered permanent brain damage during a scuffle with law enforcement officials after being pulled over for a traffic violation. *New Times Magazine*, October 24, 2003.

Congress Debates Immigration Enforcement by Local Police

Members of the U.S. House of Representatives are debating legislation that would empower the nation's 600,000 local police and sheriff's deputies to enforce federal immigration laws. The Clear Law Enforcement for

Criminal Alien Removal Act was proposed by Georgia congressman Charlie Norwood, who stated at a hearing on the bill, “This is part of homeland security.” Rep. Linda Sanchez, who opposes the legislation, stated that the legislation would destroy the trust between police and immigrant communities. Houston City Councilman Gordon Quan, speaking on behalf of the National League of Cities, said the bill would encourage racial profiling and would have a “potentially devastating effect on community policing.” *Atlanta Journal-Constitution*, October 2, 2003.

BJS Issues Report on Federal Law Enforcement Officers

As of June 2002, federal agencies employed over 93,000 full-time personnel authorized to make arrests and carry firearms, according to a recent Bureau of Justice Statistics report on federal law enforcement officers. This number reflects a six percent increase from June 2000. In the same time period, the Bureau of Alcohol, Tobacco and Firearms grew 19 percent, the U.S. Customs Service 11 percent and the Immigration and Naturalization Service 8 percent. This report’s figures do not reflect changes resulting from the creation of the Department of Homeland Security, but the report does describe how agencies with arrest and firearm authority were affected by the department’s creation. The full report is available online at <http://www.ojp.usdoj.gov/bjs/pub/pdf/fleo02.pdf>.

LAPD to Implement Symbol and Vytek Technology

The Los Angeles Police Department has announced the purchase of Symbol

PDT 8100 handheld computers and the implementation of the Vytek high-speed wireless network solution to assist in data collection and communication with police stations and centralized databases while in the field. The handheld computer will collect and upload traffic stop data, and in the second phase of the project, the LAPD will use Vytek technology with the handheld computers and mobile printers to create and print traffic citations on site.

The LAPD hopes the new technology will make data collection more accurate and more efficient and aid its efforts to comply with the consent decree it is operating under, which requires records to be kept on all police traffic stops. *TMCnet.com*, October 13, 2003.



Mark Schlosberg is the Police Practices Policy Director at the ACLU of Northern California, a post he assumed in January 2002. He attended New York University School of Law as a Soros Justice Fellow. He graduated from law school in 2000 and went to work at the Contra Costa County Office of the Public Defender. At the same time, he served on the Berkeley Police Review Commission where he also served while in college, in 1997.

PARC: *How did you become involved with policing issues?*

I initially got involved in policing issues when I was in college. I was working in an office called the Student Advocate Office, which is sort of like a

public defender office for students. They represent students when students have disciplinary problems or are charged with violating campus codes of conduct –there were a lot of protests going on around that time – around issues like affirmative action and things of that nature. Some of the protests resulted in arrests being made and confrontations between police and student protesters. During one of the incidents the police used excessive force, they used pepper spray inappropriately, and there were a whole number of problems. There was really no independent agency at UC Berkeley to review the campus police. After awhile I was appointed to the Berkeley Police Review Commission and I was on it around the time these protests were happening and those events coupled with the lack of oversight made me even more interested, and made me realize the real need for civilian oversight and some independent review of police actions. So that, in combination with the internships I was doing at the public defender's office, made me really interested in the role that police have in society and interactions between police and members of the public. When I went to law school I wanted to be a public defender and I did that for awhile, but then I really wanted to work in a situation where I could have a larger impact on policy and on police practices so I saw this job at the ACLU open up and it was right up my alley and fortunately I got it.

PARC: *What are the primary police accountability issues currently prevalent in Northern California?*

There are a number of significant issues

that I have been working on – and one is racial profiling, which is of course a national issue – but, it exists and is a reality in Northern California just as it is in many other parts of the country – I have been working on that issue here in San Francisco, in Oakland, Sacramento, and elsewhere. Another issue is lax accountability mechanisms in general and the need for independent oversight. In Northern California we have a number of civilian review agencies, but a lot of those agencies lack the teeth to be effective. In San Francisco, for example, we have what many regard as one of the strongest oversight systems in the country, but it has been hampered by what the Office of Citizen Complaints (OCC) terms the pattern of obstruction and delay of their investigations by police officers not cooperating with the OCC. We have also seen cases of serious misconduct dismissed or about to be dismissed because the one year statute of limitations that is established by state law is allowed to lapse by the police department. So that is one example.

In Oakland we also have a police review board that really lacks teeth, it is completely understaffed and they have a ridiculously long backlog. The Review Board does not have a lot of powers, so one of the things that I think is really important is strengthening these systems so that they are actually effective and can provide some confidence for the public that the complaints that are filed are going to be fairly and independently investigated, and if misconduct is found to be true and have occurred that those cases result in discipline.

PARC: *Do you have any*

recommendations for civilian oversight models?

I think there are pieces of different polices that are done in other areas that are beneficial. I don't think that there is any one size fits all model. In San Francisco there's an Office of Citizen Complaints that essentially functions as the internal affairs unit for the police department – it is all civilian. I think that it has its merits, but it needs to be strengthened. Oakland has its police review board, Berkeley has its Police Review Commission as well, but you know that Berkeley is more effective than Oakland in investigating cases, so while there are pieces of different systems that I think would be very beneficial, I don't think that there is a one-size fits all perfect model that is out there. We are really trying to make San Francisco's into a model that could be used elsewhere and one that will provide effective oversight for the San Francisco Police Department.

PARC: *Do you believe that the police misconduct issues that you work on are unique to the region?*

I don't know if they are unique to the Bay Area. We have a lot of protests in the Bay Area and that is not unique, there have been a lot of protests against the war on the East Coast as well, but there have been a lot of issues around police response to the protest activity, and we have seen that in Oakland, where I believe it is the only place in the country where police actually opened fire on protesters during a recent anti-war protest against the war in Iraq. We are involved in litigation right now against the City of Oakland and the Oakland Police Department

around that response and are hoping to achieve some reforms in terms of crowd control policies.

PARC: *Proposition H, a San Francisco Charter Amendment that was passed on a November 2003 ballot called for greater police accountability measures. Can you describe this Amendment in greater detail and the ACLU's position?*

The ACLU supported Proposition H, an amendment designed to strengthen the San Francisco Police Commission – an independent body that oversees both the police department and the Office of Citizen Complaint – and empower the OCC. It is based on a series of studies that were done: one by the ACLU of Northern California; one by the City Controller, which was a best practices review of other jurisdictions; and one by the OCC itself. With regard to the Police Commission, Prop H. will divide appointment power for the OCC between the mayor and the supervisors and provide confirmation hearings for mayoral appointees. At the same time it will empower the OCC to bring cases of misconduct that have been sustained and found to be true directly to the Police Commission for discipline if/when the Chief does not act on a case of sustained misconduct that is about to be dismissed because of that one year timeline for state law. So, it addresses the two problems that have been illustrated in a number of studies on the SFPD – one being the lack of independence of the Police Commission, and two, the lack of strength of the OCC. This measure has received widespread support in both the civilian oversight community and in law enforcement. All three candidates

in San Francisco for District Attorney have endorsed Prop. H, as well as the Public Defender and if you can get all of those people to agree on something you know that you are on the right track. Also, it has been endorsed by a lot of policing oversight experts, including Teresa Guerrero-Daley from San Jose, Sam Walker and others.

PARC: *Did any particular event(s) prompt the introduction of Proposition H? Can you briefly describe the event(s)?*

The issue involving SFPD officer Alex Fagan, Jr. and his father, Assistant Chief Alex Fagan, put a spotlight on the problems of civilian oversight, but that just led to more studies and those studies revealed all of these numerous problems. In San Francisco there have been a number of real problems in policing that go well beyond this issue with Fagan. There has been a number of controversial officer-involved shootings over the past couple of years. A couple of whistleblowers in the department revealed that in up to 3,500 criminal cases, evidence of officer conduct was not turned over to the court in response to Pitchess motions. This left Public Defender Jeff Adachi to ask the Police Commission to hold hearings. The Commission refused to hold hearings and it is going to be costing over \$100,000 for the city to review all of these files and determine if any of these cases need to be reopened. At the same time we have started to see the results of some of these officer-involved shootings in terms of civil suits being brought and one was recently settled for half a million dollars. It is a combination of all of these things which has really

demonstrated the near complete breakdown of some of the accountability mechanisms within the department.

PARC: *What were the primary arguments against Proposition H?*

The opposition came from the police officers' association and they made a two-fold argument. One argument was that there really are no problems, which I think is really laughable given the numerous studies that have come out and the numerous reports that have occurred with regard to the breakdown of oversight systems. The second argument was that this isn't about accountability, but rather is about politics and I think that argument fails for the same reasons. This is based on numerous studies, best practices reviews, etc. and it is probably one of the most studied measures on the ballot. Both of those arguments are fatally flawed because of that and needless to say, they poured in hundreds of thousands of dollars if not millions into the campaign to defeat Proposition H. This is pretty typical of Police Officer Association responses to attempts to strengthen civilian oversight. In other jurisdictions police officers rarely embrace these types of reforms despite the fact that they are overwhelmingly favored by the public. San Francisco does have a long tradition of supporting civilian oversight from the time they approved the creation of the OCC back in 1982 overwhelmingly, it was a 63 to 37 percent vote.

PARC: *What are the ACLU's concerns about new counter-terrorism powers that were granted to police after 9-11?*

We are very concerned that the administration is severely overreaching in both the application and the accumulation of new counter-terrorism powers in a way that will significantly impact our civil liberties. The list is too long to complete – the Patriot Act, the Ashcroft intelligence guidelines, and the special registration programs – just to name a few. We do not need to sacrifice our civil liberties to achieve greater safety and security, but that is just what the administration is seeking to do. We need to investigate and prevent terrorism, but we don't need to sacrifice the very freedoms that form the basis of our society to do that. We can be both safe and free.

PARC: *Please describe the ACLU's tactics and methodology in pursuing these types of reforms?*

Tactics and methods in achieving reforms really depend on the given situation – and I would be hesitant to speak for the entire ACLU in terms of tactics and strategy. As an advocate, I look at areas where significant problems exist, reach out to other affected and interested individuals and organizations, and try to build an effective strategy from there. Generally, we issue reports and directly lobby decision makers in combination with grassroots organizing and a robust media strategy. But some reforms are best pursued quietly and others are best pursued publicly. It really depends on the situation. Some reforms are best pursued through litigation, others through non-litigation efforts. What is important from an advocate's perspective is to tailor the approach to the given situation.

PARC: *You presently serve on the racial profiling task force that is responsible for overseeing the racial profiling assessment project for the Oakland Police Department. Please describe the purpose, responsibilities, and status of the task force and the project?*

Well, basically the task force is put together with the OPD and different community and civil rights groups. The goal is to figure out best practices for analyzing data in conjunction with RAND. We are just starting the work on the data analysis, but aside from that we are also developing a policy for the OPD and so far there has been some good give and take on that policy and hopefully it will result in some good policy changes.

PARC: *Are there any anti-racial profiling policies that you would advocate as models?*

From what I have seen there are good pieces that you can take from several policies, and I would be hesitant to call any particular one a model policy. For example in San Francisco there is a very strong ban on racial profiling, but the San Francisco policy doesn't address issues like consent searches which the California Highway Patrol does. There is also a policy in Michigan that addresses issues on consent searches, only allowing them with reasonable suspicion. Hopefully some of the processes pertaining to developing policy in Oakland, will serve as model policy as well.

PARC: *Are there any racial profiling studies that you would advocate as models?*

In Northern California the response that some departments have had to data collection has been a little disappointing. Some departments have had very good responses. The Menlo Park Police Department, for example, has been very receptive to giving a real hard look at the data, seeing how they could change their policies in response to the data and has really made an effort to work with community members on addressing the data issues. The OPD developed a task force, which I think is a good start and we will see what the data analysis project leads to. Those have been good responses in terms of addressing how we are going to do this. In Oakland it is still yet to be seen what the end result is going to be, but I think it is a good process so far. Other departments, some that have been lauded nationally, such as the Sacramento Police Department, have been disappointing. Sacramento came out as a leader in data collection when the whole data collection movement was beginning a few years ago and since then has only done a couple of reports, and the police department, despite the fact that they have shown these incredible disparities have yet to change their policy. They still have a policy that is very vague and does not provide a lot of direction to individual officers. Sacramento is sort of falling behind what is being done in California and nationally in terms of what racial profiling means and how to try to prevent it. I think it is important to collect data, collecting data is vital, but it is equally important to do something with the data that address the disparities that exist, if they are shown to exist. It is important that the data be used and not just ignored. So, I think it is important to collect data, but that data

needs to be a means to an end, and not an end in itself.

PARC: *Have you observed any major changes in attitudes and positions towards the issue of police reform in recent years on the part of the public, police reformers and government officials?*

I think we have made a lot of progress in Northern California in the last couple of years. I think that is in part because there have been a lot of documented problems and that those problems really provided an impetus for reform. I think that there is a real pro-reform, pro-accountability atmosphere and it is a question of getting good policies passed. Oakland is sort of a different nut than San Francisco, and each community in California is different, but at least in San Francisco there is an impetus towards reform. Oakland, despite the fact that they have had all of these problems and are now under a really sweeping settlement agreement that was reached by John Burris and Jim Chanin in the Riders Case still hasn't really tackled the issue of their civilian review process, or lack thereof an effective one, and that still needs to be done. Overall I think there is a growing movement to create good accountability and reform in police departments here in Northern California. I should also say that there are a couple of good pieces of state legislation pending, bills that were introduced by Assembly Speaker Herb Wesson.

PARC: *Are there any jurisdictions in Northern California that should be subject to a federal pattern or practice inquiry?*

Oakland is under the consent decree in the Riders case, but that department continues to have significant problems. We shall see what happens in San Francisco. I am not sure what federal involvement would add right now in Oakland given that they are under this sweeping consent decree.

PARC: *How has the ACLU impacted and improved American policing?*

The ACLU has really been at the forefront pushing a lot of these issues from racial profiling to civilian oversight. I am happy to be working for an organization that has such a long and rich history in the area.

PARC: *What changes have you observed in the performance of American police agencies since becoming involved in this field?*

Intelligence gathering in a post-September 11th environment, we have done a lot of work on that including work to get good guidelines issued from the Attorney General's office prohibiting inappropriate police spying and things of that nature. There are a lot of things that I am working on and plan to continue to work on in other areas besides Proposition H.

PARC: *How have your views on policing changed since assuming your position with the ACLU?*

I think it is important to recognize that there are a lot of good police officers who do care about reform and who can be allies for pushing reform within the department that is good for policing and good for the community. The other thing that I have noticed is that things

are very complicated. There is very seldom a simple solution to a complex problem, but you have to look at what kind of system you can put in place that will effectively address those complex problems.



Conferences

November 19-22, 2003 – Commission on Accreditation for Law Enforcement Agencies, Fall Conference, Colorado Springs, CO. Online at:
<http://www.calea.org/>

November 19-22, 2003 – Police Executive Research Forum, 2003 Problem-Oriented Policing (POP) Conference in San Diego, CA. Online at:
<http://www.policeforum.org/>

November 20 -22, 2003 – National Black Police Association, Western Region Fall Conference, Las Vegas, NV. Online at:
<http://www.blackpolice.org/>

June 26-30, 2004 – National Sheriff's Association, Annual Conference and Exhibition, Seattle, WA. Online at:
<http://www.sheriffs.org/>

July 10-15, 2004 – National Organization of Black Law Enforcement Executives, 28th Annual Training Conference and Exhibition, Dallas, TX. Online at:
<http://www.noblenatl.org/>

August 19-22, 2004 – National Association of Women Law Enforcement Executives, 9th Annual Conference, Arlington, VA. Online at:
<http://www.nawlee.com/>

October 14-16, 2004 – National Latino Peace Officers Association, 31st Annual Training Institute and Convention, Miami, FL. Online at:
<http://www.nlpoa.com/>

April 21-23, 2004 – Police Executive Research Forum, Annual Meeting, San Antonio, TX. Online at:
<http://www.policeforum.org/>

The Best Practices Newsletter is published 12 times a year by the Police Assessment Resource Center (PARC). Copyright © 2003, all rights reserved. Material in this newsletter may be reproduced and/or circulated without permission when proper acknowledgement is made.

No copyright is claimed in the text of the statutes, regulations and excerpts from court opinions quoted in this work.

The opinions expressed herein are not those of PARC and their inclusion herein does not constitute an endorsement by PARC.

To subscribe to the Best Practices Review (or to access the Review electronically), visit our Website at www.parc.info.