

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.

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DOJ recommendations include: adopt a “find and bark” canine policy; adopt a use of force continuum; require decontamination following pepper spray use; modify the use of force reporting form to include narrative sections; investigate and review all uses of force; require Professional Standards Office roll-outs to serious use of force incidents; modify training to include scenario-based instruction; and develop a risk management capability that includes supervisory review, an early warning system, and periodic quality assurance audits. The full letter is available at http://www.usdoj.gov/crt/split/documents/schenectady_ta.pdf.

Agencies Under Investigation

The Department of Justice released a technical assistance letter in connection with its pattern or practice investigation of the Schenectady, New York Police Department (“SPD”). In the letter, DOJ recommended the SPD adopt a permanent and comprehensive use of force policy which specifies approved types of physical force and the circumstances in which they may be used, and clarify its current deadly force policy to specify the circumstances in which such force is appropriate. Other

A year after the Portland, Maine Police Department (“PPD”) requested a Department of Justice investigation into the policies and procedures of the PPD, DOJ released its preliminary findings. The letter recommended that the PPD report, investigate and track all uses of force, develop consistent use of force and search reporting procedures, and enhance its community policing initiatives. The Justice Department has yet to conclude its full investigation into the PPD, and must still review the civilian complaint process, arrest procedures and use of force options. The Portland Police Chief, City Manager and Mayor have all expressed support for DOJ involvement, believing that its review will improve the department's

operations. *Portland Press Herald*, April 1, 2003. The text of the letter is available at http://www.usdoj.gov/crt/split/documents/portland_ta_ltr.pdf.

As part of its pattern or practice investigation of the Miami Police Department (“MPD”), the Department of Justice (“DOJ”) has issued a technical assistance letter addressing the MPD’s use of force policy, its force continuum and force reporting procedures, canine policy, firearms and M-26 Taser procedures, vehicle pursuit policy, search and seizure policies and procedures, citizen complaint procedures, early warning system, and training program. DOJ recommended that the MPD develop a consistent standard for appropriate use of force, create a departmental order governing use of force that includes a force continuum, and develop standard use of force reporting procedures requiring supervisory review. Other recommendations include: adopt a “find and bark” canine policy; thoroughly investigate Taser deployments; broaden its early warning system performance indicators; modify the system’s trigger criteria; and centralize, improve and audit the training program. The full letter is available on the Justice Department’s website at http://www.usdoj.gov/crt/split/documents/miamipd_techletter.pdf.

Civilian Oversight

The City of Albuquerque, New Mexico’s Police Oversight Commission (“POC”) and Independent Review Office (“IRO”) released their 2002 annual report. The Commission is responsible for overseeing the investigation of citizen complaints and officer-involved

shooting investigations, holding public meetings and issuing policy recommendations. Under the direction of the POC, the IRO receives misconduct complaints and claims, participates in investigating complaints, oversees all investigations and makes policy recommendations. One hundred ninety-eight complaints were filed in 2002, a slight increase from 186 in 2001. The POC heard five citizen appeals from the IRO’s findings and voted against further action. Stemming from a report by consultant Richard Jerome and the Police Assessment Resource Center, the POC recommended nine policy and procedure changes to the City Council, where the proposals remain pending. The POC recommended that the Police Department clarify and standardize its investigation and disciplinary timelines, and develop adequate procedures for handling informal complaints; that the Independent Review Officer’s contract be extended from one to two years; that IRO and POC staff receive sufficient training; that the department’s early warning system receive additional funding; and that the Risk Management Division issue bi-annual reports so that the POC would be able to examine patterns and trends. The full report can be accessed electronically at <http://www.cabq.gov/iro/irostats02.pdf>.

Eight organizations and ten individuals have been nominated to serve on the Key West, Florida Civilian Review Board. Organizations that may be represented on the seven-member board include the National Organization for Women, the Coast Guard Auxiliary, the Navy League and the Libertarian Party. The first four board positions will be filled by the City Commission from applications by civil and social

organizations. The final three members will be chosen by the initially appointed board members. The Civilian Review Board was approved by city referendum in November 2002 and is expected to cost approximately \$250,000 per year. *Key Noter, February 26, 2003.*

Following the recent indictments of several San Francisco Police Department (“SFPD”) officials for alleged misconduct (and the dismissal of indictments against the Chief and Assistant Chief), the American Civil Liberties Union of Northern California (“ACLU”) released a report evaluating the city’s police accountability measures. While recognizing the strengths of the Office of Citizen Complaints (“OCC”) and the Police Commission, the report finds deficiencies in San Francisco’s police accountability system that include an inadequate early warning system, officer non-compliance with OCC investigations, lack of whistleblower protection measures, lack of appropriate disciplinary action and the failure of oversight bodies to adequately respond to community concerns. The ACLU criticized the Police Commission for failing to suspend all of the officers under criminal indictment, pending resolution of the charges, claiming that this failure could undermine the SFPD’s credibility. The report recommended that the SFPD act on OCC complaints in a more timely manner, suspend officers who fail to comply with OCC investigations, issue quarterly reports detailing sustained misconduct cases, and upgrade SFPD’s early warning system to include data on use of force, cases dismissed because of constitutional violations, civil and tort claims, discretionary charges (such as resisting

arrest or obstructing a peace officer), vehicle accidents, pursuits, and traffic stops. The report advised the SFPD to initiate automatic disciplinary investigations of probationary employees with excessive complaint or use of force histories, officers with sustained excessive force or dishonesty allegations, officers with tort or civil claims, and officers found at a suppression hearing to have obtained evidence unconstitutionally. It recommended the SFPD adopt the city of San Francisco’s whistle blower protection policy and prevent officers with significant disciplinary histories from being promoted. The full report is available on the ACLU’s website at <http://www.aclunc.org/police/030312-report.pdf>.

The Springfield, Illinois City Council has under consideration an ordinance that would create a civilian review board that would receive complaints and issue recommendations and reports to the city council. The proposed board would have access to Springfield Police Department Internal Affairs and complaint investigation files and could subpoena information relevant to the complaint. At the invitation of several community groups, the Springfield Police Department’s union and the Race Relations Task Force heard testimony from several civilian oversight experts. One expert expressed concern that the city was receiving input from outside experts and police administrators only near the end of the process. He also questioned the relatively low number of excessive force complaints, which he suggested may be indicative of the public’s lack of trust in Internal Affairs. The experts on the panel also warned that civilian review boards often do not

have the authority to meet the community's goals and that members have limited time and expertise to devote to the board, causing some boards to become defunct. Lastly, they cautioned that the expense of hiring investigators and staff may be an impediment. *Springfield Journal-Register, March 14, 2003.*

San Diego's Citizen's Law Enforcement Review Board ("CLERB") has released its annual report summarizing 2002 citizen complaints against the San Diego Sheriff's Department ("SDSD").

CLERB, which consists of 11 citizens who receive and investigate complaints against SDSD employees, reported a large increase in citizen complaints in 2002, a change they hypothesize may be due to increased education regarding the complaint process. Discrimination allegations rose 67 percent; excessive force allegations rose 73 percent; false arrest allegations rose 32 percent; and false reporting allegations decreased by 26 percent. CLERB cautioned that the high percentage increases and decreases are in part due to the small overall numbers of cases (150 total in 2001 and 229 in 2002). The full report can be accessed electronically at <http://www.sdcounty.ca.gov/clerb/docs/02anlrpt.pdf>.

The Department of Justice denied Boise, Idaho's request to allow Community Ombudsman Pierce Murphy access to the Boise Police Department's ("BPD") criminal intelligence information, stating that sharing such information with persons other than law enforcement officers would be "inappropriate and inadvisable." Civic and community organizations, including the American Civil Liberties Union and the Green Party, criticized the City Council's 2002

decision to create the unit to monitor domestic terrorism groups, drug traffickers and theft rings. The groups argued that allowing the Ombudsman access to the data would ensure that the unit is collecting appropriate information. Idaho's congressional delegation and U.S. Attorney Tom Moss had also supported the city's request. *Idaho Statesman, April 2, 2003.*

Community Policing/Problem Oriented Policing

In "Satisfaction with Police: What Matters?" Stephen Mastrofski, Roger Parks, Albert Reiss, and Robert Worden analyze the factors that contribute to positive perceptions of police performance. The researchers conducted telephone interviews with residents of 58 neighborhoods in St. Petersburg, Florida and Indianapolis to determine the extent to which personal experiences with police, perceptions of neighborhood safety, neighborhood economic status, and homicide rates affect public perceptions of the police. The authors found that while quality of life seems to have the greatest influence on citizens' satisfaction with the police, residents' personal experiences with the police were nearly as significant. The researchers found that whites and non-black minorities, homeowners, residents over the age of 32, and those that feel safe in their communities expressed greater satisfaction with the police. They also found that neighborhood homicide rates affect residents' perceptions of the police: as rates increase, levels of satisfaction with police decrease. The authors assert that their findings about citizens' interactions with the police may have policy implications: changing a

person's perception of an individual officer is easier than changing residents' perceptions of community safety. The authors recommend increases in community policing programs, police-community communication training, and citizen satisfaction surveys. The full report can be accessed electronically at <http://www.ncjrs.org/pdffiles1/nij/194077.pdf>.

The National Institute of Justice released its third of four contemplated reports on community policing in Chicago, entitled: "Community Policing and 'The New Immigrants': Latinos in Chicago." The Chicago Alternative Policing Strategy ("CAPS") was instituted in 1993 to improve police effectiveness through problem-solving in partnership with the city's diverse communities. Teams of patrol officers are assigned to all of the city's 279 police beats to study crime problems and trends and become attuned to neighborhoods. A sergeant coordinates patrols for all shifts and all officers meet quarterly to discuss tactics and priorities. Officers and sergeants attend community meetings to provide residents with an opportunity to meet local police officers, voice concerns, and get involved in problem-solving initiatives. To handle community concerns beyond the purview of police work, the department created a special service-request process to mobilize other city agencies that may be of service. The authors found that Latinos have enjoyed fewer benefits than those in other urban neighborhoods and experience higher levels of violent and property crime, social disorder and physical decay. Non-English-speaking Latinos were the least likely group in the study to be aware of the CAPS program and did not attend CAPS meetings at a level commensurate

with their perceived crime problems. They were also more likely to have negative perceptions of police helpfulness, fairness, concern and responsiveness. While the majority of Chicago residents believed the quality of policing had improved during the 1990s, blacks and Latinos were more likely than whites to view police officers negatively. Nonetheless, the CAPS program has been credited with an overall improvement in perceptions of the police, even among the most dissatisfied communities. A future NIJ report on the CAPS program will examine long-term trends. The full report is available on NIJ's website at <http://www.ncjrs.org/pdffiles1/nij/189908.pdf>.

Consent Decrees/Memoranda of Understanding

At the request of the Chair of the Committee on the Judiciary of the Council of the District of Columbia, the Office of the Independent Monitor ("OIM") for the Metropolitan Police Department ("MPD") released a summary of compliance activities from June 2001 to February 2003. Despite delays, to date the MPD has addressed a number of the requirements delineated in the Memorandum of Agreement with the Department of Justice, including: creation or revision of policies governing the use of force, use of firearms, canines, and OC spray; preparation of public quarterly reports; and improvement of its training for recruits, in-service officers and the specialized canine unit. MPD has created a use of force reporting form, but has not always used it consistently. The department's efforts to distribute copies of the new general orders were delayed,

as was training on new DOJ-approved policies and procedures. OIM noted improvements of use of force and misconduct investigations, while noting that timelines were not always observed. MPD is noncompliant with some of the MOA provisions that concern the receipt, investigation and review of citizen complaints, revision of its disciplinary policy, and early warning system creation and implementation. The full report can be accessed electronically at http://www.police-monitor.org/mpdreport_030224.pdf.

The Cincinnati Black United Front announced that it will withdraw from participation in the collaborative agreement between civil rights groups and the Cincinnati Police Department ("CPD"), claiming city officials asked the organization to choose between involvement in the collaborative agreement and its ongoing boycott of downtown businesses in protest of police misconduct. Front leaders claim the city of Cincinnati has been hesitant to implement reforms and that city officials were using the boycott as justification for resisting them. The plaintiffs in the class action suit that led to the collaborative agreement, which include the ACLU, are forming a citizens' panel of persons representing the African-American community to replace the Front. Under the proposal being considered by attorneys, the panel would interact with the Cincinnati Police Department and the court-appointed monitor to help implement changes called for in the collaborative agreement. The agreement developed out of a settlement of a racial profiling lawsuit filed by civil rights groups in March 2001. *Cincinnati Post, March 28, 2003.*

Cincinnati's Independent Monitor released his first quarterly report summarizing the Cincinnati Police Department's ("CPD") compliance with the Department of Justice Memorandum of Agreement ("MOA") and the Collaborative Agreement ("CA"). The report states that while the city and the CPD have made progress in several areas, both have failed to meet most of the required MOA and CA deadlines. Progress made by CPD includes: mental health training of 90 officers; development of foot pursuit and canine policies; revision and implementation of new use of force report forms; revision of internal investigation procedures; creation of a firearm discharge review board and creation of the Citizens Complaint Authority. CPD has failed to achieve compliance with several MOA requirements, including: developing use of force and chemical spray policies and training of CPD staff in new policies. The report stated that the parties are not in compliance with numerous CA provisions, including issuance of problem-solving reports, revision of training, and development of a problem-tracking system. The report noted that the parties are in partial compliance with provisions related to researching best police practices, developing a best practices library, and creating a Community Relations Unit. The report also criticized the City and the CPD for failing to embrace the reforms in the agreement and involve the other parties in implementing community-oriented policing programs. The full report can be accessed electronically at <http://www.gabsnet.com/cincinnati/monitor/>.

Legal Affairs

Four civil rights lawsuits alleging improper use of force, civil rights violations, and departmental failure to address officer misconduct have been filed or are being prepared against the city of Inglewood, California and the Inglewood Police Department (“IPD”). The lawsuits allege that IPD failed to adequately address officer misconduct, despite a string of civilian complaints against several officers, including Jeremy Morse and Bijan Darvish. Those two officers, who were involved in a videotaped use of force incident involving African-American teenager Donovan Jackson, had accumulated more than ten complaints, either together or separately, in a two-and-one-half-year period. Although the department sustained only one of these complaints, some claim that the IPD should have recognized the pattern and addressed it to prevent future occurrences. A lawyer representing Neilson Williams, who was hospitalized after Morse and another officer applied a chokehold for resisting arrest, has filed a claim against the city and may file a “pattern and practice” lawsuit against the IPD. Inglewood Mayor Roosevelt Dorn claims that former officer Morse was an exception to an otherwise outstanding police department. *Los Angeles Daily Journal*, March 19, 2003.

Mental Illness

A federal judge in Pennsylvania has held that the Americans with Disabilities Act (“ADA”), which prohibits denial of service, program, or activity benefits of a public entity to disabled individuals,

includes police practices. Therefore, the court held, law enforcement agencies can be sued for failing to train officers in handling disabled suspects. Other federal courts, however, have reached the opposite conclusion. The ruling stemmed from an ADA claim in a civil rights suit brought by the parents of a mentally ill man, alleging that his death could have been prevented with proper training in handling the mentally ill. The court found that the police department had not been compliant with ADA training requirements by failing to institute policies to accommodate disabled persons and provide officers with the tools to handle situations without resorting to lethal force. *Schorr v. Borough of Lemoyne*, February 10, 2003. The full opinion can be accessed electronically at <http://www.pamd.uscourts.gov/opinions/kane/01v0930.pdf>.

The Las Vegas Metropolitan Police Department (“LVMPD”) has developed a Crisis Intervention Team (“CIT”) training program to address officer response to persons with mental illness. Local mental health professionals educate officers about mental illness, ways to handle incidents involving persons experiencing psychotic episodes, common psychiatric medications, and the local resources available for the mentally ill. The LVMPD’s program is based on the Memphis Police Department’s model. The 28 officers who underwent the 40-hour training program are assigned to each of the department's seven area commands. Patrol officers who encounter persons exhibiting bizarre behavior associated with mental crises have been directed to notify dispatchers, who then send the nearest CIT-trained officer to assist with the call. Within the next few years, the

department hopes that 15 to 20 percent of patrol officers will be CIT-trained. *Las Vegas Review-Journal*, March 28, 2003.

Racial Profiling

The *San Antonio Express-News* has analyzed 12 months of San Antonio Police Department (“SAPD”) traffic stop data—involving 290,000 records. It found that police stop white and minority drivers at roughly the same rate. Blacks, however, were three times more likely than whites to face probable cause searches during traffic stops and more likely to face both consensual and probable cause searches in pedestrian stops. Consensual searches of black motorists were equally likely to yield contraband as searches of white or Hispanic motorists. During all traffic stops that resulted in searches, whites were slightly more likely to have contraband than blacks or Hispanics. One department official claimed that the results could have been skewed by the actions of SAPD’s gang task force, which focused its law enforcement actions on a neighborhood with a high concentration of African Americans. Police Chief Albert Ortiz stated that it is too soon to develop conclusions about the data because of the lack of a reliable benchmark for comparison. The SAPD will hire an outside firm to analyze the results based on field surveys that record race and ethnicity. *San Antonio Express-News*, March 9, 2003.

Law Enforcement News critiqued recent *Boston Globe* and *Seattle Times* analyses of Massachusetts and Washington traffic stop data which focused on the higher search rates for black and Hispanic

drivers rather than comparing those higher search rates to the lower “hit” (discovery of contraband) rates for blacks and Hispanics. The article quotes Police Executive Research Forum research director Lorie Fridell’s assertion that disparities in hit rates would provide greater evidence of racial bias than disparities in search rates alone. Fridell stated, “What the hit rate does is give us indirect evidence of different standards being applied to the decision to search.” *Law Enforcement News*, January 15/31, 2003.

Maryland Governor Robert Ehrlich’s office asserted that the administration is satisfied with a proposed settlement of a racial profiling lawsuit against the state. The agreement was negotiated by the former administration and Ehrlich delayed approval to allow his administration time to review and make changes to the agreement. In the lawsuit, minority drivers claimed that state troopers stopped them because of their race. The proposed settlement would establish an advisory panel to monitor reports of racial profiling and require state troopers to obtain written permission from motorists to search vehicles and provide information on filing complaints to motorists. The settlement is expected to go to the Board of Public Works for a final vote. *Baltimore ABC News 2*, March 28, 2003.

The plaintiffs in a Phoenix federal court class action suit accusing the Arizona Department of Public Safety of racial profiling have asked that a stay on prosecution of the case be lifted. In addition to money damages, the class action suit seeks an end to racial profiling and public release of records

relating to automobile stops by the department. The case, which was originally filed in 2001, had been stayed while state criminal charges against some of the plaintiffs were litigated. The request to the federal court followed the dismissal in state court a week earlier of felony drug charges against eight defendants on the grounds that the Department of Public Safety was unable to produce records relating to the stops and searches of the arrested individuals. The prosecutor is appealing the dismissals. *Arizona Daily Sun, March 24, 2003.*

The Arkansas State Senate unanimously passed legislation that would require local law enforcement agencies to prohibit officers from relying on race, ethnicity or national origin as a basis for traffic stops and would create a racial profiling task force to address the issue. Agencies would be required to investigate racial profiling allegations and to train officers to avoid engaging in profiling. The bill awaits House action. *Associated Press, March 31, 2003.*

New Jersey Governor James McGreevey signed legislation that makes any law enforcement officer's use of race, color, religion, ethnicity, handicap, gender, age or sexual orientation to discriminate against any individual a crime with penalties of up to five years in prison and \$15,000 in fines. Profiling incidents involving an assault or death may result in stiffer penalties. African-American ministers, civil liberties activists and lawmakers applauded the legislation. Governor McGreevey also signed a law intended to give minority and female troopers an equal opportunity for promotions and assignments within the

New Jersey State Police. *Star-Ledger, March 15, 2003.*

A study conducted by University of Washington researcher Anthony Greenwald confirmed a previous study conducted by Dr. Bernadette Park which identified the existence of racial biases in responses to shoot/don't shoot scenarios in video games. College students were asked to play the role of police officers in video game scenarios involving unarmed and armed targets. Participants were told to shoot at armed targets and not shoot at unarmed targets. In Greenwald's study, as in Park's, students were more likely to erroneously conclude that black men held guns. The studies hypothesize that the responses show unconscious biases rather than racial prejudice. Greenwald suggests that police officers use tests similar to those utilized in his study to examine their own biases and assist in racial sensitivity training. Similar tests can be found on the Southern Poverty Law Center's website at www.tolerance.org/hidden_bias/, *Law Enforcement News, January 15/31, 2003.*

Standards/Training

The International Association of Chiefs of Police released a new model foot pursuit policy. Key points made are:

- Officers should not pursue suspects alone unless warranted by exigent circumstances, such as an immediate threat to civilians or other officers.
- Officers should terminate foot pursuits immediately if they lose sight of the suspect, unless the suspect poses an imminent threat to others. Even then, lone officers should not attempt to

apprehend the suspect alone, but instead follow the suspect at a safe distance and coordinate a containment.

- Officers who decide to pursue a suspect should contact the communications center immediately to provide data on the reason for the pursuit, officer location and travel direction, suspect's description, and whether the suspect is armed.
- Supervisors should take command of foot pursuits as soon as possible and respond to the end of the pursuit immediately.
- Prior to engaging in a pursuit, an officer should develop a plan which includes alternatives to a foot pursuit and an assessment of the dangers and risks involved. Risk factors include: whether the officer is alone, familiarity with the area, whether the suspect is armed, officer fitness level, weather and light, whether there are multiple suspects, and whether back-up is available. Consideration of one of these factors alone, or in combination, should alert an officer to seek alternative means.
- Officers are strongly encouraged to use tactically superior alternatives or adjuncts to foot pursuits, such as the use of helicopters, canines, or area containment.
- If suspects should enter a building or confined space, the primary officer should stand by, radio in his/her location, and wait for back-up to establish a perimeter around the location.
- Officers should continually assess the situation to determine whether public safety concerns outweigh the seriousness of the alleged offense and the need to immediately apprehend the suspect.
- Officers should avoid drawing handguns unless the suspect is a known violent felon or believed to be armed.

Keeping guns holstered reduces the risk of accidental discharge or a subsequent struggle for the officers' weapons.

IACP Foot Pursuit Model Policy, February 2003. The full Model Policy and Discussion Paper can be ordered from the IACP at <http://www.iacp.com> or by calling 1-800-THEIACP.

Both chambers of the Illinois General Assembly passed similar bills that would require videotaping of all homicide interrogations and confessions. If one of the bills is approved by both chambers and the governor, Illinois would be the first state to legislatively mandate this reform. By court orders, the states of Minnesota and Alaska require videotaping. The Chicago City Council proposed a similar ordinance. One Chicago alderman noted that such a move would protect officers from false accusations of coercion. The proposals come in the wake of former Governor George Ryan's pardon of all Illinois death row inmates, some of whom alleged that the police had coerced confessions and falsified evidence. *Chicago Tribune, April 7, 2003*, and *Crime Control Digest, February 14, 2003*.

Washington DC has enacted a law requiring the Metropolitan Police Department ("MPD") to electronically record, to the extent feasible, all interrogations of persons suspected of committing dangerous or violent crimes. The MPD must issue an annual report summarizing electronic recording statistics, benefit analysis, and any disciplinary action taken as a result of noncompliance with the general order implementing the legislation. The text of

the act is available at <http://dccouncil.dc.gov/images/00001/20030109102215.pdf>.

Lieutenant Mike Langston of the Aurora (IL) Police Department addresses the need for a uniform definition of gang-involved crime in February's *FBI Law Enforcement Bulletin*. Langston claims that current inconsistent definitions of gang-involved criminal activity and reporting across different jurisdictions may be resulting in unreliable statistics, thereby skewing national estimates of gang-related problems. The author presents a model policy which includes: definitions of a criminal gang, criminal gang member/associate, and gang-involved crime; reporting instructions; training; information sharing; investigations; and legal issues. *FBI Law Enforcement Bulletin, February 2003*. http://www.fbi.gov/publications/leb/2003/feb2003/feb03leb.htm#page_8

In *Police Quarterly* author Ivan Sun addresses "A Comparison of Police Field Training Officers' and Nontraining Officers' Conflict Resolution Styles: Controlling Versus Supportive." Past research suggests that FTOs' instructions, attitudes and training can affect recruits more than any other factor, including organizational rules and regulations. Sun collected data from the Indianapolis and St. Petersburg police departments through direct observation and interviews, categorizing law enforcement actions into control categories (advise, command, verbal threat, investigation, physical restraint and arrest) or supportive categories (counsel, concern and courtesy) and then analyzed them along two dimensions: diversity and aggressiveness. He found that FTOs display more tactical diversity and performed more supportive actions

than non-FTOs in encounters with citizens; neither group, however, used a higher level of force. Policy recommendations include establishing a set of outlooks and behaviors for FTO selection and developing FTO programs according to community needs. *Police Quarterly, Volume 6, Number 1, March 2003*.

Proximity Digital Network has developed a sensor-based technology which may enable law enforcement to detect gunshots fired. The "On Alert" Gunshot Detection System, which may enable police to distinguish between friendly and enemy fire, is currently in beta testing with several U.S. law enforcement agencies. The system consists of acoustic sensors that may be hung from street lights or power lines which are programmed to recognize particular sounds. The sensors are connected to a central server that will have the capability of transmitting the information to wireless PDAs and smartphones within several seconds of the incident. Proximity executives claim that one sensor is needed for approximately every 400 yards, with each sensor priced at about \$2,500. The system will have the capability of determining the exact number of shots fired, the make and caliber of gun, and the trajectory of the bullet. *Inquirer Inside, February 21, 2003*.

Several Denver City Council members have raised concerns about the high incidence of secondary employment within the Denver Police Department ("DPD"), following recent publicity concerning a lieutenant accused of working a second job while on duty. The DPD's internal investigation into this incident has expanded its focus to 10

additional supervisors. Chief Gerry Whitman claims that the extra duty work has saved the city more than \$10 million by relying on off-duty officers to provide security at various locales rather than on-duty officers paid with city dollars. Since January 1999, approximately 85 percent of DPD officers have worked an additional job at some point. Nearly one quarter of DPD officers worked at least one extra shift per week. According to DPD policy, officers are forbidden from working more than 16 hours per 24-hour period or more than 64 hours per calendar week. *Rocky Mountain News, March 10, 2003.*

The Detroit Police Department (“DPD”) is seeking to acquire a computerized early warning system. DPD had abandoned plans to make its current rudimentary system fully operational. A city council member has criticized the DPD for not having a system after five years of discussion. She may ask the Council to register its concerns with DOJ, which is investigating the department on an ongoing basis. *The Detroit News, March 12, 2003.*

Use of Force

In *Angry Aggression Among Police Officers*, authors Sean Griffin and Thomas Bernard apply a theory of angry aggression to officers’ use of extralegal force, the “willful and wrongful” use of force knowingly applied by officers. Angry aggression theory, they assert, posits that the chronic stress endemic to police work, along with the inability to respond to the actual sources of stress, increase both the officers’ perception of threats and their response to the perceived threat. The theory also asserts

that the social isolation that officers often experience may make them displace aggression onto vulnerable targets in their immediate environment, particularly citizens or suspects who come into contact with police. Social isolation from citizens and a tendency to fraternize with other officers who share similar experiences may create a subculture of persons who reinforce similar beliefs. To deal with these issues, Griffin and Bernard recommend dissemination of physiological stress reduction techniques and discussions of distortions of threat perceptions with officers. *Police Quarterly, Volume 6, Number 1, March 2003.*

William Terrill of Northeastern University explores police use of force and suspect resistance in March’s *Police Quarterly*. Using observational data from police encounters in St. Petersburg and Indianapolis, Terrill found that most of the force used was minimal (such as verbal commands) and most of the resistance displayed by suspects was passive or verbal. Terrill found that police force occurs more often than suspect resistance. When police officers use both verbal and physical forms of coercion, they are more likely to use multiple force techniques throughout the encounter. When multiple types of force and resistance are used, both tend to increase. When officers begin an encounter with force (even a verbal command) in the absence of suspect resistance, they are more likely to encounter suspect resistance later in the encounter and to use a higher level of force, suggesting that officers’ attempts to control the situation in the beginning by using verbal force may actually result in a counterproductive effect. In general, he found that officers elected to use

lower levels of force initially, with the level increasing as the situation dictated. *Police Quarterly, Volume 6, Number 1, March 2003.*

Following a report which criticized the Sioux Falls, South Dakota Police Department for employing overly aggressive officers, the Mayor has ordered changes that will make the department's operations more transparent. The department will release arrest, use of force, discipline, and other law enforcement action data to the public, modify the citizen complaint procedure to ensure appropriate case tracking and investigation, and hire a consultant to provide diversity training. The Mayor also asked Washington State University criminal justice researchers to evaluate the department. *Law Enforcement News, January 15/31, 2003.*

Interview

Keenan Keller is Democratic Counsel for the Judiciary Committee of the United States House of Representatives. In that role he works for the ranking Democratic member of the Judiciary Committee, Representative John Conyers of Michigan. His responsibilities include drafting and analyzing legislation on a range of civil rights, criminal and constitutional law issues. He was formerly associated with the law firms of Latham & Watkins in Washington, DC, and Davis Polk & Wardwell in New York, where he was a litigation and health care law specialist. He is a graduate of Brown University, with a B.A., magna cum laude, in international relations focusing on East Asia, and Yale Law School.

PARC: *What do you believe are the major issues currently facing police reformers?*

KK: I think it boils down to a single issue: How we deal with the erosion of civil rights and liberties resulting from policies that are being implemented by the Department of Justice in the wake of September 11th. We have observed that pre-9/11 issues with respect to use of force, racial profiling and police brutality generally have been exacerbated by the creation of a new suspect class of individuals – predominantly Arabs and Muslims – who have been targeted for scrutiny. As a result of that, you see a broad use of racial profiling and many more invasive tactics by law enforcement. Some law enforcement agencies are even trying to dust off problematical practices and bring them back for present use without resolving the questions of abuse in the past. Police departments which have been subject to consent decrees for domestic spying, like in New York and Los Angeles, are now trying to make a case for rolling back those orders. To a limited extent, they have been successful. Because there are scant legal limits on the use of this new authority, I think we now have a broader set of concerns that goes beyond counter-terrorism.

PARC: *Do you feel that policing in the U.S. is transforming, and if so, how?*

KK: I think there is a move towards what some would call the “professionalization” of police forces in that there is a greater emphasis on education and training. Many police departments are mandating substantial

post-secondary education as an entry level requirement. These policies have been supported by research which has shown that older, more mature, highly educated officers bring life experiences to their jobs that improve their potential in the area of community relations. This kind of maturity provides dispute resolution skills that make them less likely to go to their gun. In minority communities, these policies have been very important in limiting the use of deadly force. In a related area, departments have also improved training and hiring to serve non-English speaking populations.

In addition, we have observed improved training with respect to encounters with the mentally ill. The development of "Crisis Intervention Teams" provides the officer with the skills and tools to cope with people who are mentally ill and, again, reduce the use of force. In general, the emphasis on training is giving the officers more intellectual tools to do their job without resorting to lethal force, which is a win for both the community and the individual officer.

The Department of Justice has accelerated the development and dissemination of improved police practices through its pattern or practice (42 U.S.C. §14141) enforcement authority. It is important that the Justice Department continue to have robust law enforcement authority, backed by consent decrees, to ensure that the evolution toward professionalization is maintained.

PARC: *Police brutality and racial profiling have been key issues for Congressman Conyers. What objectives are presently being pursued and what is*

your involvement?

KK: We are monitoring the tactics that are being utilized by the Justice Department and local law enforcement agencies. In our oversight capacity, we are pushing the Justice Department to evaluate their policies within the framework of the Constitution and to send strong reminders that there are limitations to what they can do. We can propose legislation or evaluate proposed legislation in a way that puts strict limitations on the utilization of problematical tactics. For example, with respect to the USA Patriot Act, we have sent probably a dozen information requests to the Justice Department to determine the kind of abuses that have occurred. When Patriot Act II comes forward, this information will allow us to address any open issues and better tailor proposed legislation to the challenges raised by terrorism, without impacting the rights of ordinary Americans.

PARC: *What legislative measures are presently being considered by Congress that will have an impact on U.S. policing?*

KK: The two major legislative initiatives are the End Racial Profiling Act and the Law Enforcement Trust and Integrity Act.

PARC: *How will the Law Enforcement Trust and Integrity Act impact U.S. policing?*

KK: The Law Enforcement Trust and Integrity Act was originally introduced in March of 2000. The legislation provides incentives for local law enforcement organizations to adopt

performance-based standards to minimize misconduct through appropriate management training and management tools.

PARC: *Have you observed any major changes in attitudes and positions towards the issue of police reform in recent years?*

KK: During the 2000 presidential campaign, we saw a major shift in public and political perceptions concerning law enforcement accountability. Both Gore and Bush, in their presidential debates, came out vehemently against profiling. In February of 2001, both President Bush and Attorney General Ashcroft addressed the need to end racial profiling and outlined a series of policies to achieve this goal. They invited Congress to introduce legislation that they would support to effectively end profiling. However, even before September 11th we had strong indications that we were going to have difficulty getting them to follow through. In the wake of September 11th, not only have they failed to follow through on any of the statements that they made about data collection and the implementation of federal anti-profiling protocols, they have actually expanded on those discriminatory policies in a way that has resulted in a loss of civil liberties.

PARC: *Congressman Conyers recently renewed the call for passage of the End Racial Profiling Act that was initially introduced to Congress in June 2001. Describe the primary points of the Act and how it would affect law enforcement policies and procedures?*

KK: The End Racial Profiling Act bans the practice of racial profiling, defined

generally as the practice of a law enforcement agent relying, to any degree, on race, national origin, or ethnicity in selecting which individuals to subject to routine investigatory activities, or in deciding upon the scope and substance of law enforcement activity following the initial routine investigatory activity. Racial profiling would not include reliance on such criteria in combination with other identifying factors when the law enforcement agent is seeking to apprehend a specific suspect whose race, national origin, or ethnicity is part of the description. The legislation also mandates data collection by all federal, state and local law enforcement agencies that receive federal funds and provides financial and technical support from the Department of Justice to ensure that the best practices are deployed to fight racial profiling.

PARC: *What is the status of the End Racial Profiling Act and what is the nature of opposition to its passage?*

KK: We are holding the bill for re-introduction in the 108th Congress and expect to introduce the legislation some time this spring. Opposition to the legislation falls into two groups: one believes that racial profiling is an effective technique and that it shouldn't be eliminated. The other side believes that racial profiling is wrong, but wants to tinker with the definition in a way that would weaken the bill.

We believe that it is appropriate to use race in combination with other factors in the context of a criminal investigation, but not in routine encounters. Attempts to use race in the routine context as a proxy for criminal propensity is nothing

more than racial prejudice that can cloud other more accurate indicators of reasonable suspicion. Attempts to conflate the investigative and routine contextual uses of racial or ethnic factors are the best indication of how entrenched race is as a factor for generating suspicion. We are trying to get law enforcement to focus on the non-racial characteristics as indicia of reasonable suspicion under the law. There are beliefs that certain kinds of individuals in certain places commit more of certain crimes. So, even in the routine context, that belief results in the greater number of searches, for example, from traffic stops for African Americans that produce a lower hit rate than from stops for whites.

PARC: *What role can the House Judiciary Committee and Congress play in the improvement of American policing?*

KK: Congress can create a climate for the development of improved police practices and community accountability. For example, in Mr. Conyers' Law Enforcement Trust and Integrity Act, our primary goal is the creation of national accreditation standards. Currently, there is no requirement for accreditation tied to the receipt of federal funds. CALEA has a set of standards, but they are narrow and are not performance-based. That's why we have had departments receive accreditation on the eve of DOJ opening Section 14141 investigations. Moreover, Congress must ensure that adequate funding is available to support the training programs that flow from the adoption of comprehensive accreditation standards.

PARC: *Have you had any success*

expanding the accreditation standards, and if so, can you provide an example?

KK: The best example of success would probably be CALEA's racial profiling standards. Although the definition used in the standard is overly narrow, focusing race as the "sole" motivator, the fact that CALEA and other law enforcement groups have begun serious discussion of the issue in the management context shows that we have had some success.

PARC: *What difficulties have arisen when attempting to establish new accreditation standards?*

KK: The main issue is that law enforcement fails to look at itself as a national entity, rather than a series of individual departments. The accreditation model that we are using comes from the healthcare field, where the Joint Commission on Accreditation of Healthcare Organizations ("JCAHO") was created in the 1950's through cooperation between health care providers and the federal government. The federal government had specific standards for Medicare and Medicaid providers that they discovered were incredibly cumbersome to enforce. So, they helped create an essentially self-enforcing regime from within the health care community. What we quickly found in the health care context was that the providers were dedicated to the improvement of their industry and that they developed a comprehensive set of standards that moved far beyond what we had at the federal level for Medicare and Medicaid. The JCAHO standards actually became broader and stricter than the federal standards; so if you were JCAHO-accredited, you were deemed to

be in compliance with all of the federal standards.

Law enforcement has yet to take full ownership of the development of best practices. There has been a great deal of resistance within the law enforcement community, and even within CALEA, to broaden its mandate because there is a very narrow view within some law enforcement agencies about who is really qualified to create standards and how they would apply. We made some headway during the late Clinton Administration when they established their commission to begin the development of a limited range of best police practices. That effort was a solid step toward the evolution of an industry-driven regulatory model. Still, there seems to be a desire for central internal authority within law enforcement agencies that will slow the drive toward accreditation.

PARC: *What incentives exist for law enforcement agencies to embrace and value accreditation?*

KK: Most law enforcement agencies are very small, with limited training budgets. When they commence the accreditation process, they are introduced to practices and procedures which will act as an immediate check on department operations. Further, the process will introduce best practice development through the maintenance of accreditation. Without the continuing review of an accreditation regime, departments are really trying to develop these best practices on an expensive *al a carte* basis and that method is not systematic.

PARC: *What changes have you*

observed in the performance of American police agencies since becoming involved in this field?

KK: Since the introduction of Mr. Conyers' Traffic Stop Statistics Study Act back in the 105th Congress, the whole question of how race is used in law enforcement has come under much stronger scrutiny. The issue is being taken seriously by main-line law enforcement agencies and by the Justice Department. Since the enactment of 42 U.S.C. §14141, there has been a much more critical look at the over-reliance on the use of race and use of force in law enforcement and we are trying to approach that question much more systematically.

PARC: *What is the role of legislation in shaping police services that communities receive?*

KK: Legislation can help shape standards and training and provide bright markers about what kind of conduct is permissible and what kind of conduct is impermissible. The End Racial Profiling Act is an important example because the legislation would set out bright markers about the permissible uses of race and, at that same time, put in place training programs and funding programs to help support the development of more appropriate tactics.

PARC: *What are the limitations of that role?*

KK: The greatest limitation is that we are actually behind the curve, always reacting to changing developments. It is much tougher to legislatively get in front of the curve and start trying to implement solutions. We are actually

working indirectly at resolving a broad range of societal problems, and that is again, one of the reasons that we wanted the Law Enforcement Trust and Integrity Act to address accreditation. That is really the best way of getting in front of the issue of police accountability to their communities.

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

KK: As committee counsel, I am searching for systemic solutions, rather than looking at the issue of police accountability on an episodic or community basis. What I have tried to do in this position is determine how to get ahead of the curve so that we can figure out how to stop these issues before they occur and ensure that Congress builds a partnership with the law enforcement community so that we don't get involved on either side of an "us versus them" relationship. We need to foster an environment of respect within law enforcement communities and communities of individuals and advocates so that they see one another as being on the same team.

PARC: *Would you say that building those partnerships is a considerably difficult feat?*

KK: Without question. Some law enforcement agencies and communities see themselves as being under siege. The development of community accountability and the simultaneous pursuit of public safety is more complex than one would probably believe. Generally, law enforcement agencies have a difficult time hearing a critique

from someone who is not in a uniform or their uniform. The trust issues are something that both sides need to overcome, or we will never accomplish anything.

Director's Cut

A column by PARC Director, Merrick Bobb

On March 27 and 28, Professor Sam Walker of the University of Nebraska at Omaha convened the First National Police Auditors Conference. Professor Walker will prepare and publish a full account of that successful event. Leaving it then for Sam to cover in detail the substantive work accomplished at the conference, I would like to describe the individuals who were there and their responsibilities and duties, as well as the excellence of their work.

First, however, some definitions—principally, what is a Police Auditor? Although some of the attendees actually have the title of “auditor,” the group of professionals who gathered in Omaha included persons whose titles included Director of the Independent Review Division, Ombudsman, Special Counsel, Attorney in Charge, Director of the Office of Integrity and Accountability, and variations on these themes. The group gathered in Omaha thought the title “auditor” was only partly descriptive and tended to over-emphasize the quantitative at the expense of the qualitative aspects of the job. The term “monitor” sounded more apt, but that term has acquired a particularized meaning in the police community associated with individuals appointed pursuant to consent decrees or settlement agreements arising from investigations by states’ Attorneys General or the Civil Rights Division of the Department of Justice. “Inspector General” got close to describing the job, especially if a cabinet-level federal department’s Inspector General is taken as a model, although the search for waste, fraud, and fiscal mismanagement that is generally a large part of an Inspector General’s job is somewhat wide of the mark when speaking of what this group does. Perhaps a new term needs to be invented.

The job descriptions of this group were varied and complex. Most of the participants played some role in the review of citizen’s complaints, but only a few had independent investigatory authority on complaints. Some were empowered to recommend findings disposing of the complaints; others, not. Some could interrogate witnesses directly; others could only ask or suggest questions for a police official to ask. Some had authority to participate in ongoing investigations initiated by a critical incident, such as an officer-involved shooting. A small handful had a mandate to investigate broadly into

the policies and practices of the law enforcement agency and make recommendations to eliminate or minimize the risk of police misconduct.

The individuals had varying degrees of autonomy: Some reported directly to a designated city official such as a City Manager and were considered part of that city agency's staff. Others were more independent. Still others performed services on a contract basis with the jurisdiction in question. Some enjoyed civil service protection; most served at will; and a few had contracts.

With that background, I will now turn to who these remarkable individuals are and what they do.

Tristan Bonn is the first Public Safety Auditor for the city of Omaha. Pursuant to city ordinance, her office has jurisdiction over both the Police and Fire Departments. The office started up in April 2001 and Tristan came aboard in June of that year. Tristan has a small staff but large responsibilities. She is assisted by a staff of one and one volunteer—Denise DeForest, an attorney who was formerly with the Colorado Attorney General's Office and the former Chair of the Denver Public Safety Review Commission.

The office was established to increase public confidence in the integrity of the Omaha Police Department's Internal Affairs process. Tristan's office is an independent city department reporting to Omaha's Auditing Committee, consisting of the Mayor, City Council, the Chief of Police, and the Chief of Fire.

Tristan is empowered to review all Internal Affairs investigations for fairness, completeness, and objectivity. She may ask questions during interviews through the Internal Affairs investigator and may request that additional witnesses be contacted or further investigation be conducted. In cases where she cannot attend, the tape of the witness interview is transcribed and sent to her for review. Tristan does not have independent investigatory authority but has the ability to review the entire investigative file and is in contact with the Internal Affairs lieutenant throughout the course of the IA investigation. Once an investigation is complete, it is sent to the Omaha Chief of Police to determine the findings and discipline, if any. If Tristan disagrees with the final outcome as determined by the Chief of Police on the grounds that the evidence does not support the result, she reports it to the Auditing Committee and notes it in her quarterly report. In Omaha, the entire investigation must be completed, if discipline is to be

imposed, within an unusually tight 45 working days from the moment a command officer learns of the complaint.

Tristan compiles and publishes a statistical database of citizen contacts and complaints. The thorough and informative quarterly public reports (available at http://www.ci.omaha.ne.us/departments/public_safety_auditor/default.htm) contain detailed descriptions of statistics regarding complaints as well as trends and patterns she perceives in them. She makes recommendations about the citizen's complaint and investigatory process for consideration by the Auditing Committee.

A common theme raised at the conference was the misinformation (and occasionally disinformation), suspicion, and distrust that permeate and, in some instances, poison the atmosphere as a police auditor struggles to gain credibility and authority. Tristan Bonn has had to battle to win the confidence of the police and fire personnel and continues to do so. As is the case with several of the Police Auditors, Tristan Bonn is a lawyer.

Don Casimere is the first Director of the Office of Public Accountability ("OPA") for Sacramento, California and has served in that position since August 1999. After serving for 12 years as a police officer and sergeant in the Berkeley (CA) Police Department, Don worked as a senior investigator for the San Francisco Office of Citizen Complaints. Thereafter, he served with the Richmond (CA) Police Commission as its investigative officer and for the City Council of Richmond as its Investigative and Appeals Officer and Senior Investigator.

As Director of OPA, Don reports to the Sacramento City Manager. His authority includes "broad oversight powers to review both ongoing and completed investigations of citizen complaints and to encourage procedural and systemic reforms on behalf of the City Manager." OPA's website is www.sacto.org/cityman/monitor.html. The role of Police Monitor was a result of a 1998 Blue Ribbon study of the Sacramento Police Department.

Don puts substantial emphasis on community relationships and raising the level of awareness within the community about his office, the citizen's complaint process, and the Sacramento PD. At the direction of the City Manager, Don monitors high profile and serious complaint cases to conclusion, reviews completed investigations, and advises the

City Manager if investigations appear deficient. As a member of the city's critical incident call-up team, Don responds to the scene of officer-involved shootings and deaths in custody where he participates in a walk through and then monitors interviews of involved officers at police headquarters. He further audits formal investigations by the Sacramento PD's Internal Affairs bureau and has the authority to make recommendations or request further investigation after his audit.

Ellen Ceisler is an attorney who formerly was an investigative producer for CBS in the early 1990's. She is currently the Director of the Philadelphia Police Department's Integrity and Accountability Office ("IAO"). Her office was created as a result of the settlement of private litigation initiated by the ACLU, NAACP, and Police-Barrio Relations Project against the City of Philadelphia in 1996. The litigation arose from a series of highly publicized police scandals in that city, most notably the 39th District scandal involving allegations of widespread corruption and civil rights violations. The settlement, which calls for comprehensive reform of the Philadelphia PD, remains under the jurisdiction of a federal district judge. The IAO was created by the settlement agreement and opened its doors in January 1997. Its mandate is to minimize and deter police corruption and misconduct.

Ellen's responsibilities include auditing and monitoring the operations, policies, and practices of the Philadelphia PD and making recommendations to improve the Department's ability to deal with corruption and misconduct. Ellen has discretion to initiate studies and audits and has access to virtually all Department records and personnel. She can make her findings public, and does so in thoroughly researched, persuasive reports. Ellen's hard-hitting reports have contributed to the improvement of the Philadelphia PD's recruit hiring and training policies and practices; the quality of internal investigations of corruption and misconduct; the effectiveness and efficiency of the use of force reporting system; the disciplinary system; and the enforcement of the narcotics laws.

Ellen has managed to do it, amazingly, with a tiny staff of one deputy. Ellen is appointed by the Mayor and is an at-will employee. The budget for her office, however, comes from the Philadelphia Police Department. The paucity of resources has been and remains problematic—particularly relative to the nearly 7000 sworn officers in the

Philadelphia Police Department. Ellen has proven adept at weathering a difficult and constantly shifting political environment.

Mike Gennaco is the Attorney in Charge of Los Angeles County's Office of Independent Review. Los Angeles County is unique in having three oversight mechanisms working in tandem to monitor the Los Angeles County Sheriff's Department ("LASD"). The first such oversight mechanism in time is the office of Special Counsel, created in 1993. I have served as Special Counsel since its inception. Special Counsel has a broad mandate combined with unfettered access to documents and individuals within the LASD to inform the County's Board of Supervisors, the Sheriff, and the general public about trends or patterns of police misconduct or other risk giving rise to possible exposure and liability. Through reports which disclose and analyze those trends and patterns and make recommendations for their elimination or control, Special Counsel broadly impacts how patrol and custody services provided by the Sheriff can be accomplished in an effective but safer way that is sensitive both to concerns of officer safety and a suspect's civil and constitutional rights.

The second oversight mechanism is the County's Ombudsman, Robert Taylor, who is empowered to mediate and help resolve a citizen's concerns about how a given complaint was handled by the LASD. The Ombudsman can recommend further or additional investigation of a complaint and attempts to facilitate an outcome acceptable to the citizen. Additionally, the Ombudsman helps individuals with the process of making and filing a citizen's complaint.

The Office of Independent Review ("OIR"), headed by Mike Gennaco, is the third and latest leg to be added. Like Special Counsel, Mike is appointed by the County's Board of Supervisors and serves as an attorney and advisor to the Board. Although housed within the Sheriff's Department, OIR is not part of the LASD, although it is empowered to participate in, oversee, and ultimately pass judgment upon any internal investigation undertaken by the LASD. OIR was conceptualized as the guarantor to the public of the thoroughness, completeness, fairness, and objectivity of internal investigations with particular focus on the most serious investigations of use of force, officer-involved shootings, and potential criminal misbehavior. No investigation can be completed without review and clearance by OIR, which makes recommendations to the

Sheriff as to disposition and discipline, if warranted. Mike has created a strong, competent team of attorneys to work with him. Mike has had to both develop the trust and confidence of the managers and executives in the LASD while at the same time demonstrating primary loyalty and accountability to the Board of Supervisors—a difficult task. OIR's website is www.laoir.com/.

Prior to taking the job with the OIR, Mike was Chief of the Civil Rights Section in the U.S. Attorney's Office for the Central District of California, the large federal judicial district centered in Los Angeles. Prior to that, Mike served for ten years as a trial attorney in the Civil Rights Division of the Justice Department in Washington.

Teresa Guerrero-Daley is the Independent Police Auditor for San Jose, California. The office was created by a vote of the citizens of San Jose and opened in 1993. The office has three principal functions: first, to provide an alternative site where an aggrieved citizen may file a complaint against the San Jose Police Department ("SJPD"); second, to monitor and audit the SJPD's investigation of complaints; and third, to promote wider understanding of the citizen's complaint process. After an internal investigation of a citizen's complaint is completed, a copy of the file is sent to Teresa's office for review. Teresa, assisted by a staff of five, then has two weeks in which to notify the SJPD of any concerns her office might have. The SJPD and Teresa then work to resolve those concerns, including ordering further investigation, if necessary. Upon resolution of the Auditor's concerns, or an agreement to disagree, the file is closed and notifications are made to the citizen and the subject officer.

The Auditor's annual reports provide detailed statistics on citizen's complaints, their resolution, and discipline imposed, as well as recommendations for improvement and explicit descriptions of when and why the Auditor has disagreed with the disposition of a citizen's complaint by the SJPD. Prior to becoming San Jose's first Independent Police Auditor, Teresa was a lawyer who specialized in criminal law. Before that, she was a private investigator and worked as a Drug Enforcement Agent for the U.S. Department of Justice. Teresa has built the office into a respected San Jose institution and has personally mentored fledgling monitors and auditors across the country, as well as assisting several municipalities set up offices analogous to hers. The Auditor's website is www.ci.san-jose.ca.us/ipa/home/html.

Iris Jones heads the Office of the Police Monitor in Austin, Texas. Prior to becoming its first police monitor, Iris served as City Attorney for Austin. Iris has a staff of seven persons. She took office in February 2002, and since then, her office has been active in community outreach and community education efforts in addition to its core responsibilities regarding citizen's complaints.

Among Iris's early accomplishments are a series of exceptionally well-done pamphlets in English and Spanish put out by her office. One, entitled "*What To Do If the Police Knock on Your Door*," sets forth in plain and easily followed language everything an Austin resident needs to know about interactions with the police. Another, entitled "*Flashing Lights in Your Rear View Mirror: How to Respond to Traffic Stops*," similarly is an excellent, simple-to-read guide. The graphics and text of the brochures are clear and appealing. They can be found on the Police Monitor's website at www.ci.austin.tx.us/opm/.

The Austin Police Monitor receives citizen's complaints and counsels complainants regarding the process that will unfold as the complaint is investigated by the Internal Affairs division of the Austin PD. The Monitor and her staff can be present at interviews of witnesses. She reviews completed investigations, monitors discipline, and recommends policies and procedures to the Chief of Police. If either a citizen or the Monitor disagrees with the Chief's disposition of a citizen's complaint, either may turn to Austin's Civilian Review Board, which is empowered to hear the matter and make its own non-binding recommendation to the Chief. Iris sits as a non-voting member of the Review Board and can help shape its agenda.

Pierce Murphy is the Community Ombudsman for Boise, Idaho. His office was established by the Boise City Council in July 1999 to investigate citizen's complaints of police misconduct by law enforcement in Boise, including the Boise PD and the Boise Airport Police. Pierce's office is independent of other city departments, and Pierce reports directly to the Mayor and City Council who in turn appointed him. Pierce began his career as a police officer in Menlo Park, California in 1972. Following graduate studies, he was involved in human resources management and consulting.

Pierce receives citizen's inquiries and is empowered both to mediate and investigate. If a complaint does not allege police misconduct but rather reflects

dissatisfaction with police service or a misperception about police procedure, the Ombudsman will attempt to facilitate and mediate a solution satisfactory to the complainant. If, on the other hand, the complaint alleges misconduct, the Ombudsman initiates an investigation, using staff investigators. At the conclusion of the investigation, the Ombudsman makes findings on the complaint. The Chief of Police is not bound by the Ombudsman's findings but nonetheless agreed with the Ombudsman in 14 of 18 cases that went through the complete cycle in 2001.

The Ombudsman investigates all complaints that come to his office. Complaints that are received directly by the Boise PD, however, are investigated in the first instance by the PD's Internal Affairs Office. In those cases, the Ombudsman audits the internal investigation to determine whether it was complete, fair, and unbiased. The Ombudsman may disagree with elements of the investigation and recommend that it be re-opened if necessary.

The Ombudsman is further empowered to respond to all critical incidents involving the Boise PD, including officer-involved shootings as well as other uses of deadly force, pursuits, and non-lethal uses of force that cause serious bodily injury. He is required to act as an observer in any criminal, civil, or internal investigation flowing from such an incident and can conduct his own independent investigation if he chooses. Pierce also makes policy recommendations to the Boise Police Department and reports on the results.

In thorough and detailed annual and semiannual reports, Pierce details the investigations, the findings, and the disciplinary results. He tracks and reports on the frequency with which given officers receive complaints, and he discusses the circumstances and outcomes. His website is www.boiseombudsman.org.

Sam Pailca, in contrast to all the others gathered in Omaha, is directly employed by the Seattle Police Department and reports directly to the Chief of Police. Sam is the first appointed Director of the Office of Professional Accountability within the Seattle Police Department, functioning as the civilian head of the Police Department's internal affairs unit. Sam is a lawyer who has experience both in private and public practice. In the mid-1990's, she joined the Civil Division of the King County Prosecutor's Office. Her responsibilities included advising county agencies on the investigation and discipline of

employee misconduct where she accumulated expertise in civil rights and police law issues while advising the Sheriff's Department and the King County jail. Sam was appointed by Seattle's Mayor and confirmed by its City Council in January 2001.

Seattle's City Council established the Office of Professional Accountability ("OPA") within the Seattle Police Department in 1999 to bring a civilian's perspective and voice to the resolution of citizen's complaints. Complaints of police conduct are investigated by the Investigative Services Section of the OPA. As Director, Sam oversees the intake, classification, and investigation of complaints, certifies investigative findings, and makes recommendations on disposition and discipline to the Chief of Police.

She also reports to the Mayor and the City Council on OPA activity, issues concerning the professional standards of the Department, and recommendations on strategies and policies to improve complaint gathering and investigative procedures. She is also deeply involved in community outreach in order to educate the citizenry on the complaint process and to get feedback from both the community and police officers about ways to improve the process.

Sam has the final say regarding where a given citizen's complaint will be investigated—within the officer's chain of command or by the Investigative Services section of OPA. She further can direct whether the investigations within the chain of command should result in discipline or only in counseling or training. Complaints handled by the Investigative Services unit are reviewed and critiqued initially by a lieutenant within the unit who may order further investigation. The file is then referred to the section captain, who proposes findings. The completed file with the proposed findings is then circulated to the officer's chain of command and to Sam. If all agree, Sam certifies the completion and findings in the case. Disagreement triggers a meeting to discuss the case, with Sam empowered to make the final determination in instances where the proposed finding is "exonerated," "not sustained," and "unfounded." If a "sustained" finding is proposed, the Chief of Police has the final word both regarding the finding and the appropriate discipline, if any. A meeting is convened with the Chief, Sam, the subject officer's Bureau Chief and Captain, the OPA Investigative Services captain, and the Department's Legal Advisor. Investigations by OPA must be completed within 180 days from notice to the subject officer of the allegation and intention to impose discipline.

Sam issues both interim and annual reports. The OPA Annual Report is a well-written and intelligently conceived document that provides exhaustive information about the disciplinary process and the resolution of complaints. Sam charts the instances in which she made additional inquiries or directed additional investigations in cases she reviews. She charts where she differs with the proposed findings that come to her up the Investigative Services chain of command and how she has exercised her authority to change the findings. Similarly, she reports on those instances (only three cases out of 26 in 2001) in which the Chief did not accept OPA's recommendation for a sustained finding. Her reports describe the discipline imposed and discuss officers with multiple complaints. She compares Seattle precincts to each other with respect to complaints and patterns. She offers recommendations and suggestions for improvement and notes trends and patterns. They can be found on OPA's website at www.ci.seattle.wa.us/police/opa.

Liana Perez is the Independent Police Auditor for Tucson, Arizona. Her position was created in 1997 by the Mayor and City Council for the purposes of auditing the investigations of citizen's complaints against the Tucson PD to determine if they were complete, thorough, objective, and fair. Liana is empowered to be present at the interviews of civilian witnesses and may ask questions through the Tucson PD's Internal Affairs investigator. Following completion of an investigation, Liana may recommend further investigation if she does not find the investigation sufficient. Liana does not have the power to initiate independent investigations.

She is appointed and directed by Tucson's City Manager and has an administrative assistant. Her responsibilities include coordination with the City's Citizen Police Advisory Review Board. She responds to that Board's request for monitoring of a particular complaint or for a review of action taken on a given complaint. The City Manager controls when and if the Independent Police Auditor makes a written report. If requested, the Auditor may report statistics, patterns and trends, recommendations, a review of disciplinary action taken by the Tucson Police Department, and other issues that came to the Auditor's attention. Liana regularly publishes reports on her activities.

Liana has directed much of her energy into community outreach efforts to inform and educate Tucson residents about the complaint process. Over the course of 2001, for example, she made presentations to 41 community groups, organizations, neighborhood

associations, media representatives, and schools.

Richard Rosenthal is the Director of Portland, Oregon's Independent Police Review Division ("IPR") of the Portland City Auditor's office. IPR was created in June 2001 by the City Council to assume a major role in accepting, reviewing, and investigating complaints about police behavior. Prior to becoming Director of IPR, Richard Rosenthal was a Deputy District Attorney in Los Angeles assigned to the Special Investigations Division of the DA's office, where he investigated and prosecuted public officials and police officers. He is credited with uncovering the Los Angeles Police Department's Rampart scandal based upon his investigation and prosecution of Rafael Perez, a police officer turned informant.

Richard's work in Portland begins with the filing of a citizen's complaint. His office conducts a preliminary investigation through a detailed interview with the complainant and the gathering of documentation related to the incident. Following the interview, IPR classifies the complaint by type (use of force, disparate treatment, discourtesy, etc.). Richard reviews the preliminary investigative report and can take one of four steps: 1) decline the complaint on the grounds that it is trivial, frivolous, or obviously false, or contains no actionable allegation of misconduct; 2) refer the case to the Police Bureau's Internal Affairs Division ("IAD") for their review and handling; 3) offer the complainant the opportunity for mediation with professional mediators with the consent of the subject officer, the complainant, and the head of IAD; or 4) refer the case to other Portland City Bureaus that can more appropriately deal with the matter.

Cases referred by Richard to IAD can in turn be declined, disposed of in a truncated manner under certain conditions, or fully investigated. Richard receives the completed investigation report with its findings for review and comment. The IPR may not recommend or impose discipline, but it is empowered to report and comment on discipline in an aggregate manner in its annual report. Citizens who are aggrieved with the results of the IAD investigation may appeal to the Citizen Review Committee. At that point, Richard reviews the appeal and can ask IAD to conduct further investigation. If IAD declines, IPR may independently conduct further investigation into the case if it desires. If the Citizen Review Committee takes the appeal and agrees with the Police Bureau, the case is closed; if it disagrees, the matter is resolved in conferences between

the Review Board and the Police Bureau and, if no consensus is reached at that conference, by City Council.

The IPR has a broad mandate and recommends policy changes to the Chief of Police and City Council. IPR regularly publishes complete, detailed, well-written quarterly and annual reports summarizing IPR's activities and analyzing the data it collects. Richard has a permanent staff of eight.

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In sum, the models of police oversight represented by the group that Sam Walker assembled in Omaha are varied and diverse, as are the individuals who head them. What unites them are dedication, perspective, high ethics, political judgment, varied life experience, intelligence, and a desire to bring greater integrity, rigor, and fairness to internal police procedures and investigations. They represent what is turning out to be a highly successful experiment in a new form of police oversight that differs from the traditional civilian review board model. Unlike the monitors appointed pursuant to federal consent decrees generally for about five years, these auditors are there for the long haul and to provide permanent and constructive oversight. Each has the difficult task of winning respect and the confidence of both the police and the community. Each walks a tightrope. Each deals with a constantly shifting cast of politicians and police chiefs and their varying philosophies and biases about civilian oversight. In all, the group that gathered in Omaha is doing difficult work exceptionally well.

Conferences

April 22-26, 2003 – National Center for Women in Policing 8th Annual Conference, to be held in Los Angeles, California. More information is available at www.womenandpolicing.org/conference.asp.

April 28-30, 2003 – Americans for Effective Law Enforcement Critical Incident Response: Management and Liability seminar, to be held in Las Vegas, Nevada. For more information, visit <http://www.aele.org/wkscrit.html>.

June 21-25, 2003 – National Sheriffs' Association Annual conference and exhibition, to be held in Nashville, Tennessee. More information is available at www.sheriffs.org/defaults_s_annualconference.html.

July 11-17, 2003 – National Organization of Black Law Enforcement Executives Annual Training Conference and Exhibition, to be held in Tulsa, Oklahoma. More information is available at www.noblenatl.org.

July 31-August 3, 2003 – National Association of Women in Law Enforcement Executives 8th Annual Conference, to be held in Tempe, Arizona. More information is available at www.nawlee.com/conference/html.

September 21-24, 2003 – National Association for Civilian Oversight of Law Enforcement 9th Annual Conference, to be held in Los Angeles, California. More information is available at www.nacole.org.

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