

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

Report on Prince George’s County Police Reforms

The Office of Police Reform (OPR) – established in December 2002 to assist the Prince George’s County (MD) Executive and Chief of Police on police reform issues – has released a preliminary report. The report discusses the findings of a series of prior reviews of the county’s police department. It describes the OPR’s activities, including its drafting of a reform plan for the department’s Canine Unit and its implementation of a pilot Neighborhood Peace Officers program. It also reports on OPR’s efforts to address Hispanic officers’ complaints of discrimination stemming from the department’s over-reliance on officers fluent in Spanish to provide translation services and related transfer and duty assignment inequities. The OPR’s review of the department’s current operations revealed the following problems:

- divided leadership under previous administrations;
- lack of accountability for supervisors who fail to properly supervise subordinates;
- failure to address problems in a timely manner;

- supervisors’ failure to consult “in-house” experts in decision making;
- ineffective communication and cooperation with surrounding agencies;
- inadequate allocation of officers to respond to calls for service; and
- failure to promptly fill departmental vacancies.

The report’s recommendations emphasize the need to improve accountability at every level of the police department. The full report is available online at:

www.co.pg.md.us/PGCounty/NewsRoom/PressReleases/PressReleases/news_article2165.asp?h=80&n=0

Table of Contents	
Civilian Oversight	1
Consent Decrees/Memoranda of Agreement	4
Community Policing/Problem Oriented Policing	5
Legal Affairs	5
Racial Profiling	6
Standards/Training	6
Use of Force	8
News Briefs	9
Interview with Boise Ombudsman Pierce Murphy	11
Conferences	16

LASD Audit Reveals Lax Disciplinary Oversight

An audit by the Office of Independent Review (OIR) has revealed that the Los Angeles County Sheriff's Department (LASD) has failed to ensure that personnel comply with orders to undergo training or counseling. The OIR reviewed 19 "settlement agreements" in which employees found responsible misconduct agreed to the training or counseling instead of being subjected to penalties such as days off with pay. In nine of those cases, LASD personnel failed to comply with those agreements. Moreover, the OIR found that no system was in place to track compliance with the agreements. The LASD enters into about 200 similar agreements annually. According to the OIR's Chief Attorney, Michael Gennaco, the problem of non-compliance appeared to be widespread. *Los Angeles Times*, August 27, 2003.

Boise Ombudsman Releases 2002 Report

The Community Ombudsman for Boise (ID) has released his 2002 Annual Report. The Ombudsman's office reports that it received 1,052 citizen contacts during the year, resulting in the opening of 233 cases in which misconduct was alleged or officers' actions were questioned. An additional 16 contacts with the office were made to commend officers' actions. During the year, 114 findings were issued, with 12 percent of the cases sustained. Descriptions of the sustained cases are presented, including whether the chief upheld the Ombudsman's sustained findings in each case. The report describes the Ombudsman's policy recommendations, together with the police chief's response to each one. The full report is available online at: www.boiseombudsman.org/2002%20Annual%20Report.pdf

Report on Boise Department's Rape Investigative Practices

The Boise Ombudsman has released a report detailing its investigation stemming from a complaint made about the Boise Police Department (BPD) investigation of a rape allegation. The complaint alleged that the BPD did not thoroughly and vigorously investigate the assault committed against the fifteen-year-old victim because they did not believe her story. The complainant (a close friend and advocate for the family) filed the complaint months after the incident, when the media began reporting on a serial rapist in the area.

The Ombudsman found that the detective who took the initial report from the victim began a four-week absence from his duties a day after he started the investigation without arranging for the investigation to be reassigned -- an omission for which the ombudsman sustained a "performance of duty" complaint. According to the Ombudsman's report, a second detective who later became involved in the case focused on attempting to resolve inconsistencies in the victim's account while neglecting to make substantial efforts to gather evidence and develop leads to solve the case. The report finds that the reviewed evidence "points to established practices and an organizational culture that may result in delayed rape investigations when detectives determine that perceived inconsistencies and questions about a victim's account point to the falsification and/or concealment of information by the victim. The report proposes a plan of action, including analysis of current policies and practices, research of best practices, and consultation with other agencies and national experts. The full report is available online at: www.boiseombudsman.org/OMB02_0261.pdf

OIG Report on PA State Police Sexual Misconduct

The Pennsylvania Office of the Inspector General (OIG) submitted its report to Gov. Edward Rendell concerning allegations of sexual harassment and sexual misconduct committed by Pennsylvania State Police members. The OIG examined -- and made recommendations to improve -- complaint procedures, disciplinary procedures, pre-employment background investigations and probation, and sexual harassment policies and procedures. It also reviewed the organization's attitudes and culture relating to these issues. The OIG found problems with the processing and investigation of complaints and shortcomings in disciplinary procedures that often led to "minimal, disparate, or diminished," if any, punishment. The report also describes how some members who eventually became the subjects of more than one allegation of sexual misconduct had initially been disqualified for service before successfully appealing their exclusions.

Furthermore, the OIG "observed several factors exhibiting organizational culture and attitudes that do not regard sexual harassment and sexual misconduct as serious issues." Three sustained cases described in the report stemmed from incidents involving three State Police Majors who avoided punishment. One Major was charged with indecent assault and allowed to retire. Another who stalked and harassed a subordinate was allowed to retire prior to being dismissed, with the third subjected to a "constructive counseling" session and permitted to remain on the force.

The OIG recommended that the governor form an independent commission to monitor the State Police that would remain in place for three years. In response to the OIG report, Governor Rendell hired Kroll Associates to review the complaints and

monitor the progress of reforms implemented by the State Police. The governor also called for revisions to Act 111, (part of the state's statute governing collective bargaining rights for the police), to make police disciplinary arbitrations subject to the same review standards that apply to other public employees. *Philadelphia Daily News*, September 8 and September 17, 2003; *Pittsburgh Post-Gazette*, September 17, 2003; http://www.oig.state.pa.us/inspgen/lib/inspge n/PSP_Final_Report.pdf

Advice for Handling Public Reaction to Police Shootings

In an article entitled, "Police Shootings and Public Reaction," San Jose (CA) Independent Police Auditor Teresa Guerrero-Daley provides guidance on the appropriate ways for police agencies and civilian overseers to manage the aftermath of officer-involved shootings. Noting that a plan is essential, Guerrero-Daley draws upon recent experiences in San Jose (where an extended period without any officer-involved shootings was broken by four such events in the space of two months) to illustrate strategies used by the Auditor's office and the San Jose Police Department to address the complex issues those events raised. The Auditor recommends that law enforcement and oversight agencies:

- expect, accept and acknowledge public criticism and anger after a shooting;
- give the public opportunities to be heard and inform the public about the roles of the agencies involved in the investigation and review of the incident;
- keep the public informed about the facts of the case, and of developments as they occur;
- distinguish the roles and responsibilities

of the various agencies involved in the investigation of shootings to help the public clearly understand the process;

- maintain public trust by working with and helping the families of the deceased, and by ensuring that biased or irrelevant information is not released to the media by the police agency (e.g., that the deceased had a criminal record may be of no value if the officer did not know that at the time of the incident); and
- build long-term relationships involving the public in decision-making as a means of fostering good community relations. *The NACOLE Review*, Summer 2003.

Consent Decrees/Memoranda of Agreement

LAPD Monitor's Report Highlights Complaint Process Failures

The Office of the Independent Monitor for the Los Angeles Police Department (LAPD) has released its eighth quarterly report. In June 2001, the City of Los Angeles and the LAPD entered into a Consent Decree with the U.S. Department of Justice. Out of 59 requirements in the Consent Decree, the Independent Monitor determined that there was compliance with 24 requirements and non-compliance with 31, withholding determinations for the remaining four.

A key area of concern raised in the report is a failure of most (57 percent) LAPD personnel targeted in a sting audit to comply with Consent Decree requirements governing the processing of citizen complaints. The Monitor calls these failures "shocking" and contends that the failures, "call into question whether there has been the necessary cultural shift in the LAPD to comply with this Decree

and adopt best policing practices. This failure, two years into the Consent Decree, is both outrageous and discouraging." The Monitor's concern about the citizen complaint process was exacerbated by the stalled adjudication of the administrative proceedings against the officers who failed to accept and process citizen complaints properly. The report also raises concerns about the Board of Rights' mandate and operations, persistent deficiencies in the tracking and reassignment of gang unit personnel, and a continued failure by under-resourced auditors to conduct audits in accordance with Consent Decree requirements.

Positive developments recognized by the report include continued improvements in anti-discrimination training, the issuance of a Request for Proposal for analysis of pedestrian and vehicle stop data, and the development of a strategy by which trainers will be assessed to ensure training consistency. The full report is available online at: www.lapd.org

NJ Monitor Report Describes Progress and Concerns

The Independent Monitors' eighth report on the compliance of the State of New Jersey with the December 1999 Consent Decree it entered into with the U.S. Department of Justice has been released. The report notes that:

- the state has continued to provide mandated training to officers;
- supervisory review systems have been revised to ensure compliance with State Police procedures and Consent Decree requirements;
- progress has been made towards

implementing the computerized performance management system, and;

- the quality of the Office of Professional Standards investigations remains strong.

The report also highlights areas of concern, including a pause in the reform process caused by a change in the leadership of the State Police, but notes that the new Superintendent “understands and is committed to the consent decree in ways not previously seen by the monitors.” The full report is available online at: www.njpublicsafety.com/monitors_report_8.pdf

Community Policing/Problem Oriented Policing

Report Describes Benefits of Mediation Programs

In “How Police Departments Can Benefit from Referral to Community Mediation Programs,” Craig Coletta of the National Association for Community Mediation (“NAFCM”) describes how organizations providing mediation services can help police agencies deal with disputes among residents in the communities they patrol. Mediation programs provide disputing parties an opportunity to meet with a neutral, trained facilitator to resolve their disagreements. Coletta writes that mediation services have a proven track record of freeing police resources that would otherwise be spent handling disputes between community members, preventing the recurrence of disputes, and improving quality-of-life community issues. Mediation’s success is credited to its confidential, non-discoverable nature, which encourages openness and honesty, as well as to its capacity to discover the root causes of disputes. The types of

cases identified as most appropriate for referral to mediation programs by police include:

- disputes in which neither party has committed a citable offense, but where the disagreement is likely to continue and escalate after officers leave the scene;
- disputes in which both parties are equally “right” or “wrong”;
- disputes leading to multiple calls for service; and
- disputes in which the parties will continue to live or work in close proximity to one another.

The author notes that police departments and local mediation centers can agree to lists of cases appropriate for referral, and that case-by-case determinations can be made when criteria are not exactly matched. Police agencies are advised to establish relationships with mediation centers by having officers observe mediations and mediators participate in ride-alongs with officers. Police departments seeking more information on mediation are invited to contact the NAFCM at 202-667-9700, or to visit its website at: www.nafcm.org *The Police Chief*, August 2003.

Legal Affairs

Lawsuit Claims CHP Discriminated Against Minority Employees

A federal jury is hearing claims that the California Highway Patrol (CHP) denied promotions and coveted assignments to minority officers during the early 1990s. A class action lawsuit alleges that the CHP denied career advancement opportunities to

African-Americans and tolerated racial slurs and other forms of abuse directed at minorities. The CHP's defense attorney has said that the allegations will be refuted by the testimony of minority officers, which will demonstrate that the CHP has been "one of the most progressive law enforcement agencies" in California.

The plaintiffs are seeking compensatory damages and an injunction that would mandate increased diversity training, external oversight of the promotions process and the creation of percentage targets for the promotion of minority officers. *Los Angeles Times*, September 5, 2003.

Women Allege Mistreatment in SF Jail

Two women have filed lawsuits alleging that they were strip-searched and held unclothed in view of male employees in the San Francisco County (CA) Jail. Their claims have sparked calls from city leaders and civil rights attorneys for an immediate investigation. One of the women had been arrested for public intoxication, the other for felony vandalism. Neither was ultimately prosecuted. The attorneys representing the women reported that they had received calls from others who had been held at the jail, alleging mistreatment. *San Francisco Chronicle*, September 6, 2003.

Man Shot by Sheriff's Deputy Awarded Millions

A federal jury awarded a Ventura County (CA) man, retired police officer Anthony Morales, more than \$2 million in damages after he was shot by a Ventura County sheriff's deputy. The jury found that the deputy had intended to shoot Morales, had violated his civil rights, and had acted negligently. Both the District Attorney's office and Sheriff's Department had ruled the May 2000 shooting justified. *Los Angeles Times*, September 16, 2003.

Racial Profiling

Mandatory Anti-Discrimination Training for All Virginia Officers

Virginia's governor announced that anti-discrimination training will be required for all police officers and sheriff's deputies employed by the state's more than 300 law enforcement agencies. The new training standards were developed by the Advisory Panel on Bias-Based Policing, which was formed last year after concerns were raised about racial profiling.

In addition to the new training, all traffic tickets issued in the state will soon feature a telephone number drivers can call to make complaints. Pocket cards are being developed that will explain in 15 languages that the officer performing a traffic stop will require the production of a driver's license and a vehicle registration document, and officers will be provided with a list of interpreters to assist them, as needed. According to the director of the state's Department of Criminal Justice Services, Virginia is the only state to require anti-discrimination training for all of its law enforcement officers. *Washington Post*, August 21, 2003.

Standards/Training

Proposal to Curb Domestic Abuse by Officers

Claiming that the stress officers face at work is a factor impacting officers' risk of engaging in domestic violence, Washington's Attorney General, Christine Gregoire, has called for reforms that would include the introduction of stress testing for the state's law enforcement officers, as well as domestic

violence background checks for prospective recruits. The proposal follows the April 2003 murder-suicide in which David Brame, the chief of the Tacoma Police Department (TPD), shot and killed himself after fatally shooting his wife. In the wake of that incident, the TPD adopted a policy requiring that the Pierce County (WA) Sheriff's Office review court records for domestic violence complaints involving its officers.

Meanwhile, the Seattle Police Department (SPD) now requires that officers report all protection orders filed against them, and the Washington State Patrol is considering a similar policy. The SPD's Internal Affairs Division will conduct regular reviews of court records to ensure that officers are complying with the new requirement. The Attorney General has proposed that prospective officers be questioned about domestic violence during polygraph examinations, that former wives and girlfriends should be interviewed before officers are hired, and that applicants' previous addresses be checked for 911 calls relating to domestic violence. She has requested that, pending the establishment of statewide standards, all police executives implement the International Association of Chiefs of Police's domestic violence model policy. Since the Governor issued her call for reforms, a separate investigation into the Brame incident by the Washington State Association of Sheriffs and Police Chiefs has revealed a series of deficiencies in the TPD's hiring processes, including that: TPD leaders ignored negative psychological evaluations of candidates, including the recommendations of two psychologists who opposed the TPD's hiring of Brame as a patrol officer in 1981; Brame's status as an insider weighed heavily in the process of his selection as chief despite the availability of more qualified, external candidates; and city leaders should have conducted a more

thorough investigation into an allegation of rape made against Brame in 1988. *Crime Control Digest*, Volume 37, Number 29, July 25, 2003, and *News Tribune (Tacoma)*, September 6, 2003.

COPS Report on Early Intervention (EI) Systems

The Office of Community Oriented Policing Services of the U.S. Department of Justice has released a new report entitled, *Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide*. The report, prepared by Professor Samuel Walker of the University of Nebraska provides a comprehensive review and analysis of Early Intervention (EI) systems, defining such systems as a "data-based management tool designed to identify officers whose performance exhibits problems, and then to provide interventions." Among the report's key findings:

- EI systems are an effective mechanism for the enhancement of internal police accountability;
- experienced police managers report that EI systems strengthen supervision and improve officer performance;
- EI systems are complex and require close attention from police managers;
- extensive training of supervisors is required for an EI system to work effectively;
- EI systems are consistent with community policing and can assist in the improvement of police-community relations; and
- careful planning, involving officers of all ranks, is essential to the development of an effective EI system.

The full report is available online at www.cops.usdoj.gov/mime/open.pdf?Item=925

Guidance to Improve Communication During Traffic Stops

An International Association of Chiefs of Police report advocates a “customer service and educational” approach to communications by officers who engage in traffic stops. The report, “Communication During Traffic Stops,” notes that traffic stops are a frequent and significant point of contact between officers and the public, and asserts that effective communication during these encounters will improve police-community relations, save time, enable officers to better perform their traffic enforcement duties, and reduce complaints. Attitude and demeanor, regardless of what is actually said, are cited as important factors that will influence motorists’ perceptions of officers who stop them. A deliberately courteous, respectful approach is recommended, and is described as involving assertive, non-aggressive body language, along with a positive and friendly tone. It is suggested that officers avoid attempting to provoke guilt or hostility, remain calm when faced with difficult or accusatory individuals, and resist personalizing their encounters with motorists.

The report claims that a failure to listen effectively can lead to the degeneration of an encounter between a motorist and an officer, and recommends that officers always pay attention, interpret messages from the speaker’s point of view, evaluate what is being said, and respond accordingly. Finally, basic customer service skills are highlighted as a means of enhancing police-community relationships.

International Association of Chiefs of Police/National Law Enforcement Policy

Center, *Policy Review*, Volume 15, Number 1, Spring/Summer 2003.

Use of Force

PARC Review of Portland Police Shootings and In-Custody Deaths

In August, the Police Assessment Resource Center (PARC) released a report, entitled, *The Portland Police Bureau: Officer-Involved Shootings and In-Custody Deaths*. The report reviews 32 officer-involved shootings and two in-custody deaths that occurred in Portland (OR) between January 1997 and June 2000. PARC’s study was contracted by the Independent Police Review Division of Portland’s City Auditor’s office. It features a comprehensive evaluation of the Portland Police Bureau’s (PPB) handling of officer-involved shootings and deaths in custody, assessing its deadly force policies, field tactics and related training, investigative procedures, investigation quality, internal incident review, and record-keeping.

The report compares PPB policies, procedures, and practices with national best practices, and makes 89 recommendations. Among other findings, PARC concluded that: the tactical and strategic performance of officers and supervisors involved in shooting incidents, while sometimes excellent, was often flawed in ways that unnecessarily exposed officers to harm, increased the likelihood that they would need to use force in self-defense, and almost always ignored methods trained by the PPB; PPB investigations of officer-involved shootings and in-custody deaths were conducted solely by Homicide detectives and found to be too narrowly-focused on the question of whether officers had committed a crime, leaving important tactical and administrative issues relatively unexplored; the PPB had not

adhered to its own internal review policies in a significant percentage of shooting cases.

Among other recommendations, PARC called for substantial changes to the internal review process, underpinned by an organizational commitment to meaningful review and urged that the Homicide-only model of investigation be replaced with a multi-disciplinary model which would provide for a more comprehensive examination of the complex issues raised by such incidents. PARC also highlighted PPB practices that are potential models of best practice, including the Traumatic Incident Committee, (a group of volunteer officers who provide support to officers involved in shootings), and the PPB's use of an interview checklist designed to ensure that key issues are consistently raised by detectives interviewing officers involved in shooting incidents. The full report is available online at: www.parc.info

News Briefs

Oakland PD "Riders" Case Verdict

Three former Oakland police officers known as the "Riders" were acquitted on October 1 on eight counts that included kidnapping, assault and false arrest, but the jury deadlocked on 27 other related charges. The trial began more than a year ago, and the jury deliberated for four months. A fourth officer, Frank Vazquez, allegedly escaped to Mexico to avoid prosecution. Defense lawyers contended that the officers were responding to pressure to curtail crime in the crime-ridden neighborhood. Community members who protested the verdict noted that those accusing the officers of crimes were African-American, while no

jurors were black. *San Francisco Chronicle* and *Los Angeles Times*, October 1, 2003.

NY Supreme Court Justice Upholds Ruling Against "48-Hour Rule"

A New York Supreme Court Justice upheld a decision by a hearing officer with the Public Employment Relations Board that found that the 48-hour rule could no longer be negotiated into the contract between the city and police union. The 48-hour rule allows NYPD officers two days to obtain union or legal representation before being questioned by internal affairs investigators. The NYPD's corporation counsel praised the ruling because it would allow the police commissioner the ability to question officers promptly, while a representative of the Patrolmen's Benevolent Association immediately told reporters that it would appeal the decision. Critics of the rule have long argued that the rule results in special treatment for officers accused of misconduct. *New York Daily News*, September 17, 2003; *New York Times*, September 17, 2003.

NE Police Chiefs Initiate Partnership

Four Northeastern police chiefs are organizing the first information exchange consortium, designed to facilitate communication between departments and share ideas about police work and policies. Police departments in Providence (RI), Boston (MA), New Haven (CT), and Lowell (MA) are participating in the process. The four departments plan to share information about reducing shootings in the city, programs that focus on at-risk teenagers, race-relations, mentoring programs, and field-training. Said Providence's police chief, "if [among the departments] there is a best practice, why not adopt it?" Eventually, the chiefs plan on including more New England cities, such as Manchester (NH), Portland (ME), Worcester and Springfield

(MA), and Stamford (CT). *Providence Journal-Bulletin*, August, 20, 2003.

COPS Office Awards Training Grants

The Community Oriented Policing Services (COPS) Office, part of the U.S. Department of Justice, recently awarded \$23 million in grants to 31 Regional Community Policing Institutes and the Community Policing Consortium. The Institutes are designed to focus on community policing and crime prevention training for law enforcement agencies in all 50 states. The grants are designated for training programs that enhance integrity practices and policies within law enforcement agencies, further trust and cooperation between police and citizens, and emphasize homeland security and emergency response planning. The Consortium is based in Washington, D.C. and includes the International Association of Chiefs of Police, the Police Executive Research Forum, the National Sheriffs' Association, the National Organization of Black Law Enforcement Executives, and the Police Foundation. It provides training and technical assistance to law enforcement and communities. *Department of Justice Press Release*, September 11, 2003.

Critics Allege Cincinnati PD Slow to Analyze Traffic Stop Data

Civil rights groups recently criticized the Cincinnati Police Department for failing to analyze more than two years of traffic stop data. Officers have filled out more than 50,000 contact cards since May 2001, intended as a way to measure whether officers engaged in racial profiling. Department officials attribute the analysis postponement to slow and inaccurate data entry, poor initial data collection by officers, and inadequate computers. John Eck, a University of Cincinnati professor, has been directing the analysis and had predicted that it would be completed by the end of

September.

David Harris, a University of Toledo professor, said the delay could eventually have a harmful effect on police-community relations. "At some point, after 2 1/2 years, you start to wonder," Harris said. "And just the wondering is a problem because it undermines the police department's credibility." City officials decided to implement the data collection program in May 2001, a month after one of the city's worst race riots. *Cincinnati Enquirer*, September 7, 2003.

Interview

The Boise (ID) Office of the Community Ombudsman was established in July 1999 to conduct unbiased investigations of citizen complaints, provide independent review of police actions, formulate policy recommendations, and enhance public outreach related to all law enforcement activities or personnel in Boise City. The Office releases bi-annual reports of its findings, and occasionally produces special reports that address a specific complaint, incident or investigation. Pierce Murphy was selected as the Ombudsman by the Mayor and City Council in March 1999. Murphy began his career as a law enforcement officer with the City of Menlo Park (CA). He received a Master's degree in Pastoral Studies from Loyola University in New Orleans (LA), and an MA in Counseling Psychology from Gonzaga University in Spokane (WA). Murphy managed a Human Resources management consulting practice with an international client base from 1986 to 1994. The Ombudsman's office is independent from all other City departments and reports to the Mayor and City Council. Murphy's office recently released a report detailing the findings of its investigation of a 2002 citizen complaint alleging that Boise Police Department Officers failed to properly investigate the rape of a fifteen-year-old girl. The report is available online at: http://www.boiseombudsman.org/OMB02_0261.pdf. PARC recently spoke with Pierce Murphy about his investigation of that complaint.

PARC: *Could you summarize the complaint your office received about the BPD rape investigation?*

PM: The complaint was that the victim of a sexual assault, which occurred on June 9,

2002, felt that police officials assigned to the case had not believed her story and that she had, in a subtle way, been accused of lying. In addition, there was a feeling on the part of the complainant (who was not actually the victim herself, but a close friend and advocate for the family) that the police response was less than it should have been, because of this disbelief. The victim and her family are recent immigrants to this country and there was some concern expressed at the time that the nature of the police response was related to that fact. The complaint centered around the response of the police: That they didn't investigate the case thoroughly based on a belief that the victim was hiding something from them or being untruthful in some way. The complaint was received by my office in December 2002, six months after the sexual assault itself. What prompted the complainant to call was a press report that a serial rapist was at work in Boise. The complainant was upset about the possibility that the police had failed to thoroughly investigate the sexual assault, and that now the perpetrator had struck a second and third time. DNA tests had confirmed that the same person responsible for the original assault had gone on to commit two more rapes in Boise.

PARC: *Your office received 233 complaints and inquiries in 2002. Why did this particular case become the subject of a published investigative report?*

PM: This is a subject of some criticism we've received from the police department, wondering what the basis is, and wondering if we report based upon sensationalism or controversy. From the inception of the office, our practice has been to publicly release investigative reports only when the existence of the complaint investigation is known to the public by means other than our office. If, because of the press reporting on an incident,

or the actions taken by a complaint or another, it becomes publicly known that my office is investigating a complaint, and it is necessary to inform the public as to the rest of the story, I release a public report on that basis. The only other public reporting we do is through annual and mid-year reports, which are broader and statistical in nature.

PARC: Once your office received the complaint, how was the investigation initiated?

PM: What we did in this case is what we do in all cases. Our first steps are to conduct a preliminary investigation to more specifically determine what the allegations are and what potential evidence might exist. So, the first steps were to thoroughly interview the complainant, the fifteen-year-old victim, and the victim's parents in person. Also, we reviewed the police reports that had been compiled at the time of the assault. We conduct these preliminary steps to establish the factual basis of the incident, as well as to determine the identities of the officers and employees involved.

PARC: What kinds of information were gathered in the course of the investigation, and how was that information obtained?

PM: First, we gathered copies of all police reports that were filed about the incident. That included computerized dispatch records, any audio tapes of radio traffic and phone calls into dispatch. All officers in this jurisdiction carry digital audio recorders and they're required in most cases to create an audio recording of their interactions with members of the public. Once we determined which officers or detectives were involved, we gathered any recordings that were created. Because this case had gone beyond a patrol report and had been investigated by the Criminal Investigative Division, we obtained

and reviewed copies of all investigative notes, records, narratives, evidence sheets – anything that was part of the case file. We also looked at press reports, using Internet searches and other means, to look at what information was made available to the public, and what statements were made by the police department at the time. We collected information through personal interviews with all involved officers, detectives, other employees such as victim-witness coordinators, the victim herself, her family, and the complainant. When you talk to people you find out who else may have been present when the police interacted with the victim and her family, and in this case there were others – friends of the family and translators. We also looked at applicable laws, policies, and protocols.

PARC: How was information managed during the investigative process?

PM: One of the things we do, particularly when the allegations may be serious or the case is complex, is to create written transcripts of interviews and of audio tapes that we've obtained. This helps to manage the information. I create a master inventory of all the information, its sources, where it came from and the major topics covered in that information. Also, in a complicated case such as this one, I create different files within the case file to segregate information, typically by source. And lastly, to keep track of what's coming in, we keep an up-to-date narrative of the investigation which records what we're learning and what we're being told.

PARC: How did you go about analyzing the information your investigation produced?

PM: A technique that I use, and that I used in this case, is to create a matrix or table. I often break apart the different steps in an event,

and this is particularly useful in use-of-force cases. In this case, it was more a question of the different issues that were under scrutiny. What I did was to break the larger complaint into sub-issues and sub-events, and by using a matrix approach I identified what I had learned about each issue from each of the various sources. Sometimes I learn different or contradictory things from the same source, and the identification of contradictions can be useful in verifying credibility. It helps me, rather than having information rattling around in my head or on loose pieces of paper, to have all the information in a matrix format. The format allows me to look at all the information and identify patterns.

PARC: *Could you summarize the investigation's findings, and provide some insight as to how those findings were determined?*

PM: We issue two sets of findings: One set of findings is composed of facts, and the other set of findings pertains to policy. In terms of findings of fact, we determined that the police were called by the victim and her family some time after the event took place, and that the police had responded and taken a series of investigative steps that day. One fact that is interesting to note is that the victim had incorrectly identified a specific individual, vaguely known to her and the family, as the perpetrator. The police quickly took steps to either verify or eliminate this person as the perpetrator and did in fact eliminate him through a verifiable alibi. That created some problems for the police, raising questions about why the victim would identify this person when it could be quickly proven that this person was not the perpetrator. We found that there was nothing said to the victim on the day of the report from which a reasonable person could draw the conclusion that she wasn't being believed, other than the fact that the person

she named as the suspect had a reliable alibi. We found no indications of racial or ethnic bias in the police response. Another finding of fact, however, was that the detective who went out on the initial call and wrote the initial report went on a combination of vacation and training leave for the next 28 days following the report. This detective, other than doing the necessary paperwork that day, took no specific steps to assure himself that another detective or supervisor would pick up the case during his absence. In fact, it was his stated intention to the victim's family that the case would be picked up by him when he returned, so no work would be done on it while he was gone. We also found that, because of the complainant's intervention two days later, another detective did get involved. The victim was interviewed again three days after the event. It was during this interview that a series of questions was asked that would lead a reasonable person in the victim's position to believe that the police felt she was either not telling the truth in every respect, or that she was withholding information.

In terms of the findings of policy, it was my finding that the first detective violated a department policy that mandates that an employee perform his or her duties at an acceptable level of competence, and that failing to ensure follow-up on this case over 28 days was a violation of that policy. As to the second detective's actions and interviewing of the victim, as uncomfortable and difficult as that interview was for the victim, it was my finding that the detective was acting in a manner that was consistent with an accepted practice within the department and so did not constitute a violation of policy.

PARC: *The report lays out an action plan that will lead to future recommendations. How did you determine what action was*

required, and how will you assess what reforms should be recommended?

PM: To put this in context, the case, and particularly the factual findings about the victim's experience of being disbelieved, was similar in some ways to the findings of a previous complaint that I had investigated in 2000 and that was reported upon in 2001. We refer to that earlier investigation as the "Barber Park" case, as that was the location where the sexual assaults in question had taken place. In that case there were two victims whose stories were challenged by patrol officers, and there were indications that the investigations did not proceed in a rapid fashion because of a conclusion that the victims were potentially not telling the whole truth, or that they were withholding information. It was later determined that both victims had been subject to sexual assaults by an armed stranger who, a week later, abducted, sexually assaulted and murdered a co-ed from a local university not far from where the Barber Park rapes had taken place. I was faced with two concrete cases I had investigated where there were some similarities, particularly around how the victims felt the police had responded to their case and their experiences of being disbelieved and the re-traumatizing impact that had on them. In both cases it was clear to me that the questioning of the victim shortly after the crime was reported, questioning in a way that clearly communicated that the police either did not believe or had substantial questions about the victim's account, was an accepted practice. In addition, I also possessed anecdotal information that had come to my office in various ways that suggested that other victims had had similar experiences but had chosen not to file formal complaints. We were faced with an opportunity to look at the police response to sexual assaults in our

community and determine whether improvements could be made.

I determined that there was a need to establish a process improvement team to look at the department's protocols and procedures regarding sexual assaults. We spent a great deal of time trying to identify the best individuals to have on the team. We selected the Assistant Ombudsman, the manager of the police department's victim-witness coordination unit, a detective experienced in dealing with sexual assaults, a second detective who was relatively new, the director of the Women's Center at Boise State University who works closely with victims of sexual assault, a doctor who directs the forensic unit in a local hospital and works with child victims of abuse and sexual assault, and the director of psychological services at a local counseling center. I have asked the process improvement team to use what is called a "process improvement model" to examine the problem. They will examine the current process being used and look at the outcomes of that process from the perspective of what can be broadly termed as the "customers:" the victim, the victim's family, and close acquaintances; the prosecutor; and the community itself. Once the outcomes of the process have been assessed relative to those three customer groups, they will benchmark best practices. I have encouraged the team to look to a variety of professional organizations, academics and other resources throughout the nation and even internationally for best practices to determine what other jurisdictions have learned about the police response to sexual assault that could be applied here to better meet the needs of our customers.

PARC: What were the principal challenges you encountered in the conduct of this

investigation?

PM: Top of the list is the topic itself. It's a distressing event, and so personally and professionally one has to deal with one's own feelings and personal reaction to the horrible crime of sexual assault. Then, related to that, all of us who are in civilian oversight know that we must remain objective. Particularly in a case like this where the complainant's and the victim's outrage (and that is really the proper word in this case) regarding their perceived treatment from the police is the key issue, this can be difficult. Of course, we have to remain objective and we do this by focusing on the facts and applying the "reasonable person" approach to evaluating officers' actions in the face of the totality of what they knew at the time. Meeting the challenge involves remaining personally objective, maintaining professional distance, while at the same time having adequate empathy for the victim, the complainant, and the officers. The other thing that was a principal challenge was that this was an open criminal investigation where the perpetrator had not been identified or brought into custody and so I had to be very careful about not becoming a player in the investigation itself, not doing anything that would sway or in any way impact the investigation.

PARC: *What do you hope the impact of the investigation and the subsequent publication of the report will be on Boise Police Department policies and procedures?*

PM: I'm hoping for, as I think the police department is as well, continuous improvement, for the possibility of different processes and protocols that can better meet the needs of the victims, the community and the prosecutors who prosecute these cases. I'm also hoping that this experience will be one that will lead to greater openness to

change and more responsiveness to the needs and desires of the community that they serve. Not that they aren't already open, but I think that greater openness is always helpful to any organization and its culture.



Conferences

October 5-7, 2003 – Canadian Association for Civilian Oversight of Law Enforcement, 2003 Conference: Civilian Oversight – Balancing Risk, Rights and Responsibilities, Banff, Alberta. Online at www.cacole.ca

October 5-8, 2003 – National Internal Affairs Investigators Association Annual Training Conference, Phoenix, AZ. Online at: www.niaia.org/members/events/default.asp

October 21-25, 2003 – International Association of Chiefs of Police, Annual Conference, Philadelphia, PA. Online at: <http://iacp.expoexchange.com/>

November 2-5, 2003 – Northwestern University, National Symposium on Racial Profiling, Chicago, IL. Online at: <http://www.northwestern.edu/nucps/>

November 20-22, 2003 – Police Executive Research Forum, 14th Annual International Problem-Oriented Policing Conference, San Diego, CA. Online at: www.policeforum.org

April 21-23, 2004 – Police Executive Research Forum, Annual Meeting, San Antonio, TX. Online at: 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.