

POLICE PRACTICES REVIEW

A Publication of the Police Assessment Resource Center

March 2004
Vol. 3, No. 3

- 1 **CIVILIAN OVERSIGHT**
Changes For Florida Review Board
NYPD Adopts Warrant Recommendation
- 2 **CONSENT DECREES/
MEMORANDA OF AGREEMENT**
Walkill Monitor Issues Third Report
Oakland Monitor Issues Second Report
- 3 **RACIAL PROFILING**
LAPD to Use New Data Collection Tool
Study on Reno PD Refutes Racial Bias Claims
Tulia Profiling Case Ends in Settlement
PERF Publishes New Guide on Race Data
- 4 **STANDARDS/TRAINING**
UK Reports Examine Vehicle Pursuits
- 4 **FORCE MANAGEMENT**
New Restrictions on Firing at Moving Vehicles
Pittsburgh Board to Assess Force Training
- 5 **LEGAL AFFAIRS**
Second Trial for Miami Officers
LAPD and Police Union Settle Lawsuit
- 5 **NEWS BRIEFS**
- 7 **INTERVIEW**
Civilian Oversight Expert Sue Quinn
- 11 **CONFERENCES**

CIVILIAN OVERSIGHT

Changes for Florida Review Board

Orange County Commissioners and Sheriff Kevin Beary approved a plan to provide greater independence for the volunteer Orange County Citizen Review Board (CRB), which is responsible for reviewing allegations of excessive force or abuse of power by deputies. Under the new plan, residents will be able to file complaints with the CRB directly instead of submitting complaints to the Sheriff's Office and the CRB's meetings will be televised. Residents pushed for greater CRB powers after a controversial February 2004 shooting by deputies who shot and killed a fleeing man they mistakenly believed was a murder suspect. *Orlando Sentinel*, March 10, 2004.

NYPD Adopts Warrant Recommendation

The New York City Police Department recently issued an interim order requiring that officers show a copy of a search warrant, when able to do so safely, to occupants of searched premises even if the officers are executing a "no knock" warrant. New York law currently requires that officers provide a search warrant if asked, but it does not cover "no-knock" search warrants. The Civilian Complaint Review Board had recommended that the department establish guidelines to ensure that officers show all search warrants to occupants when their homes or businesses are searched. *New York City Civilian Complaint Review Board News Release*, February 13, 2004.

PARC

POLICE
ASSESSMENT
RESOURCE CENTER

Biltmore Court
520 South Grand Avenue, Suite 1070
Los Angeles, California 90071

Tel (213) 623-5757
Fax (213) 623-5959
Email: information@parc.info

POLICE ASSESSMENT RESOURCE CENTER

With the generous support of the Ford Foundation, PARC, in cooperation with monitors, law enforcement executives, civic and government officials, and other interested constituencies, aims to strengthen police oversight so as to advance effective, respectful, and publicly accountable policing.

Board of Trustees

John Dunne, *Chairperson*
Esther Bush
Zachary Carter
Geoffrey Cowan
Michael Graham
Wade Henderson
Bonnie Guiton Hill
Lowell Johnston
Christopher Stone
Elizabeth Watson

Senior Advisors

Ronald Davis
William Finney
Thomas Frazier

President

Merrick Bobb

The *Police Practices Review* is published 12 times a year by the Police Assessment Resource Center.

Copyright © 2004, 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 *Police Practices Review* (or to access it electronically), visit our website at www.parc.info.



CONSENT DECREES/ MEMORANDA OF AGREEMENT

Walkkill Monitor Issues Third Report

Monitor Dean Esserman and PARC, which acts as his staff, recently issued their third report on the Walkkill (NY) Police Department's progress in implementing reforms required by the Consent Decree agreed to by the Town and the New York State Attorney General. The report, which covered the period from August 2002 to February 2004, noted that the department has made progress in many areas and that the abuses that had prompted the Attorney General to intervene have ceased. The monitor commended Police Chief Robert Hertman for increasing the level of professionalism within the department, implementing even-handed disciplinary policies, and expanding the racial, ethnic, and gender diversity of the department through successful recruitment efforts. The report focused on the department's handling of citizen complaints and related investigative processes, with the monitor assessing how the department handled the 105 complaints that were received in 2002 and 2003. The monitor commended the department's outreach efforts and its thorough and fair investigation of complaints, but highlighted three areas of concern: certain officers and sergeants have abused the complaint process in attempts to settle personal grievances; certain officers who have a history of serious misconduct received a disproportionate number of complaints; and the investigation process has been unreasonably slow. The monitor also recommended the development and implementation of a plan for an adequate police station house, and improvement in the timeliness of early warning system reports and in the quality of personnel evaluations. The full report can be accessed at www.parc.info

Oakland Monitor Issues Second Report

The Oakland (CA) Independent Monitoring Team recently issued its second quarterly report reviewing the Oakland Police Department's (OPD) progress in implementing reforms required by a settlement agreement resolving allegations of police misconduct raised by private plaintiffs. It requires the OPD to revise the department's use-of-force policies, standards, and training; supervision of

officers; community policing standards; and internal affairs procedures. The monitoring team commended the OPD for making considerable progress in the development of a Personnel Information Management System (PIMS), establishing improved systems to track training of settlement agreement policies, and implementing a revised process for drafting and reviewing policies. Despite the progress, the monitoring team expressed concern over the timeliness of OPD internal investigations, noting “systematic delays at nearly every step of the process.” The full report can be accessed at <http://www.relmanlaw.com/IMT%20Second%20Quarterly%20Report.pdf>

RACIAL PROFILING

LAPD to Use New Data Collection Tool

The Los Angeles Police Department is in the process of equipping officers with hand-held portable data entry devices to record information about traffic stops. The Portable Officer Data Device System (PODDS) was designed to allow officers to input data about traffic stops including the reason for the stop, the action taken by officers involved, and the presumed race, ethnicity, or nationality of the driver stopped. According to city officials, the data will be uploaded to a database instantaneously and should eliminate data collection and transposition errors that sometimes occur when paper forms are used. The LAPD is required to collect data on vehicle and pedestrian stops to comply with a 2001 federal consent decree. *Daily News of Los Angeles*, March 13, 2004; *NBC 4 News*, March 12, 2004.

Study on Reno PD Refutes Racial Bias Claims

A recent study authored by Eric Herzik, a University of Nevada political science professor, indicated that Reno (NV) police did not arrest a disproportionate number of minorities during a classic car event last year. The city commissioned Herzik to direct the study designed to determine whether police targeted minorities during the event. The study was prompted by allegations that police mistreated and profiled blacks and Hispanics at the gathering. A riot occurred at the event in 1998, leading to the arrests of more than 200 people and subsequent complaints of police brutality. Herzik’s team calculated the racial composition of last year’s crowd to obtain a baseline for the study. The researchers estimated that the crowd

was 25.6 percent African American, 27.2 percent Hispanic and 44.1 percent white. According to a 2000 Census, Reno’s population is 2.6 percent African American, 19.2 percent Hispanic and 77.5 percent white. Herzik found that arrest figures corresponded with the crowd statistics. Of the 143 people arrested during the four-day study, 25.2 percent were African American, 23.8 percent were Hispanic and 44.8 percent were white. Herzik plans to conduct a community-wide racial profiling study later this year. *Reno-Gazette Journal*, February 26 and March 1, 2004.

Tulia Profiling Case Ends in Settlement

The City of Amarillo will pay a \$5 million dollar settlement to former defendants as part of the nationally-publicized Tulia (TX) case involving 46 people, almost all of them black, who were arrested on fictitious drug charges in 1999. Nearly all of the defendants were convicted or pleaded guilty, but last summer the Texas Governor pardoned 35 of the people who had been convicted. The narcotics agent primarily responsible for the arrests gave conflicting testimony and is expected to go on trial for perjury in May. The Amarillo-led, 26-county drug task force responsible for the arrests has been terminated. The settlement payment will be divided among 45 former defendants; one former defendant is deceased. *New York Times*, March 11, 2004; *Amarillo Daily News*, March 19, 2004; *Houston Chronicle*, March 19, 2004.

PERF Publishes New Guide on Race Data

The Police Executive Research Forum recently published, *By the Numbers: A Guide for Analyzing Race Data from Vehicle Stops*. The guide is designed to show law enforcement agencies and other stakeholders how to analyze, interpret, and understand vehicle stop data. It describes the potential and limitations of police-citizen contact data collection efforts and highlights obstacles that social scientists have encountered. Portions of the guide can be accessed online at <http://www.policeforum.org/PERF%20Subsite/LL/AI/RBP/BTN.htm>

STANDARDS/TRAINING

UK Reports Examine Vehicle Pursuits

The Police Complaints Authority (PCA), an independent body in England and Wales responsible for overseeing complaints by members of the public against police officers, recently published two reports on police pursuits. The reports, "Following Fatal Pursuit," and "Police Pursuits in Wales," call for police forces to review current policies regarding the pursuit of vehicles and motorcycles. In "Following Fatal Pursuit," the PCA examined road traffic incidents involving police that resulted in serious injuries or in fatalities, relevant policies, and post-incident investigations. Researchers found that the longer a pursuit lasted before the collision, the greater the number of fatalities. Their findings supported the "escalation hypothesis," which contends that risk-taking escalates as pursuits persist, increasing not only the likelihood of collision but also its severity. The PCA made a number of recommendations:

- The Association of Chief of Police Officers' pursuit policy should be codified in order to incorporate uniformity between forces so that departments that opt to deviate from national recommended best practices are identified and forced to justify the policy variation.
- Clear guidance and instruction should be designed for pursuits involving two-wheeled vehicles.
- Additional resources should be utilized to identify new options that will increase officer and public safety.
- Uniform minimum experience and training requirements for Senior Investigating Officers undertaking fatal or serious injury investigations following road traffic incidents should be established.

The PCA and four Welsh police forces collaborated to produce "Police Pursuits in Wales," which includes an assessment of the degree of risk involved during pursuits for police and other drivers. Between September 2002 and August 2003, 344 pursuit summary forms were submitted by Welsh police officers, showing that:

- 22.7 percent of pursuits (78 incidents) resulted in a collision involving a total of 48 injuries and one fatality.
- Less than half of the incidents included a plan for safe resolution, most commonly involving the use of a helicopter or tire-deflation devices; in only 6 percent was a tactical plan actually implemented.
- Pursuits occurring at higher speeds and longer durations resulted in more collisions, injuries, and higher average numbers of arrests.

The reports are available online at www.ipcc.gov.uk. *Police Complaints Authority*, March 2004. (The PCA will be replaced by the Independent Police Complaints Commission as of April 1, 2004.)

FORCE MANAGEMENT

New Restrictions on Firing at Moving Vehicles

California Highway Patrol (CHP) Commissioner D.O. "Spike" Helmick and Los Angeles Police Chief William Bratton recently announced that officers should generally be banned from firing at moving vehicles. A draft revision of CHP policy requires officers to get out of the path of vehicles and "seek a place of safety." The policy previously allowed officers to fire at a suspect in a moving vehicle even if the officer could have safely avoided contact with an oncoming vehicle. The guidelines also state that officers "shall not intentionally stand and/or step into the path of a vehicle, creating circumstances where the use of deadly force becomes necessary." Chief Bratton plans to prohibit LAPD officers from shooting at moving vehicles unless the officer or other persons are threatened by deadly force from means other than the oncoming vehicle. On February 23, LAPD officers shot and killed a robbery suspect as he slowly backed his car toward their patrol cars following a 90-minute televised vehicle pursuit. *Daily News of Los Angeles*, March 5, 2004; *Los Angeles Times*, March 5, 2004.

Pittsburgh Board To Assess Force Training

The president of the Pittsburgh (PA) City Council has asked the Pittsburgh Citizen Police Review Board (PCPRB) to assess the police department's use-of-force training, to compare it to state standards and the curriculum of other cities'

departments, and to recommend whether additional or revised instruction is needed. The proposal stemmed from a January conference organized by the National Association for the Advancement of Colored People on safer ways for police to apprehend suspects. The PCPRB's executive director noted that any recommendations resulting from the analysis would be advisory because the board is not empowered to impose changes in training. At the same time, Pittsburgh Police Chief Robert W. McNeilly Jr. stated that his department's training curriculum surpasses state guidelines and includes specific instruction regarding handcuffing, taking suspects down safely, using pepper spray, and confronting suspects armed with sharp weapons. *Pittsburgh City Council Meeting Minutes, March 9, 2004; Pittsburgh Post-Gazette, March 15, 2004.*

LEGAL AFFAIRS

Second Trial for Miami Officers

Jurors are reviewing charges against three Miami police officers accused of participating in a cover-up eight years ago in an incident in which officers allegedly planted guns beside two fleeing robbery suspects who were shot and killed. Two of the officers could face up to 10 years in prison on charges of perjury before a grand jury, obstruction of justice for allegedly fabricating sworn depositions, and conspiracy. The third officer may face up to five years if convicted of conspiracy for allegedly planting one of the guns. The three officers are being retried after jurors deadlocked on charges against them nearly a year ago. *Associated Press, March 18, 2004; Miami Herald, March 19, 2004.*

LAPD and Police Union Settle Lawsuit

The Los Angeles Police Department (LAPD) and the Los Angeles Police Protective League recently settled a class-action lawsuit, filed in 2000, by agreeing to a compromise over the information included in "Brady" letters notifying officers of duty restrictions and related credibility concerns. Under the settlement, the LAPD is barred from including details in the letters regarding misconduct allegations, disciplinary histories, or other concerns;

the letters now will simply notify officers of duty assignment restrictions, without elaboration. The lawsuit filed by the Police Protective League and a group of officers alleged that the letters' contents violated their privacy and other rights because personnel complaint details were included in the letters that were disseminated to the district attorney and defense counsel. The Los Angeles County Public Defender's Office, which relied on relevant details in "Brady" letters to impeach officers' credibility, opposed the settlement. The agreement also included a provision to allow officers to administratively appeal their reassignments. A copy of the settlement may be found at http://www.lapdonline.org/pdf_files/lappl_roe_vs_parks.pdf. *City News Service, March 4, 2004; Los Angeles Times, March 7, 2004.*

NEWS BRIEFS

Consultant Reports on Texas City PD Review

The Texas City police department's internal affairs processes and procedures were recently reviewed and assessed by Junction Consulting, a Tyler (TX) consulting firm. The firm's 17-page report criticizes the department's process for receiving, investigating, and resolving complaints. The consulting firm found that files were often incomplete, and that no written procedures existed on how to document and track a complaint within the department. The report, which was presented to a joint meeting of the city's Civil Service Commission and City Commission in mid-March, included ten recommendations for implementing an improved complaint procedure within the department. The city hired the firm to review how internal affairs investigations were being handled following allegations of sexual harassment of women by several police officers, including then-acting Police Chief Anthony Morgan; Morgan denied all of the allegations and has since retired. *Texas City Sun, March 4, 2004; Galveston County Daily News, March 18, 2004.*

Calls for Better Mental Health Training in Phil.

A mentally ill man was shot in the head and killed by Philadelphia police officers on February 19, marking the third time in six months that officers used deadly force to subdue a subject with a history of mental illness. The incidents prompted city mental health experts to advocate improved training for officers' treatment of mentally ill suspects. Philadelphia police officials told reporters that all three shootings were justified. *Philadelphia Daily News*, March 3, 2004.

Possible DOJ Probe of Las Vegas Police

According to the *Las Vegas Review-Journal*, federal investigators from the U.S. Justice Department's Civil Rights Division have been conducting a confidential inquiry into allegations of misconduct by Las Vegas police. According to reports, investigators have been conducting a preliminary "pattern or practice" inquiry to determine whether a more comprehensive investigation is warranted. The Department of Justice declined comment. Sheriff Bill Young announced that he would welcome an examination of the department's use-of-force policies. One source alleged that the inquiry not only pertained to use of force, but also included claims of inadequate medical care at a detention center and allegations of racial profiling by police. *Las Vegas Review-Journal*, March 5, 2004.

L.A. County D.A. Reports on Flare Incident

The Los Angeles County District Attorney's Office has issued a report concluding that sheriff's deputies who threw burning road flares into a suspect's home to try to force him out acted reasonably and legally under the circumstances. The man, who barricaded himself in his desert plain home, was a suspect in the August 2003 fatal shooting of a sheriff's deputy. Officers tried different tactics to get the suspect to surrender, without success, before they tossed lit flares into his home, setting it ablaze. The cause of death was determined to be multiple gunshot wounds "with a contributing factor of probable effects of thermal burns." The incident is being reviewed by the Sheriff's Department's internal affairs unit and by the Office of Independent Review. *Daily News of Los Angeles*, March 25, 2004; *Los Angeles Times*, March 25, 2004.

DOJ Ends New Orleans Inquiry

The U.S. Justice Department reportedly has ended its investigation of the New Orleans Police Department (NOPD) that began in the mid-1990s in response to corruption and brutality scandals. In notifying city officials of its decision to discontinue its investigation, the Justice Department reportedly stated, "We believe that the changes you have made will remedy past constitutional deficiencies, promote best practices and help protect the civil rights of those who come into contact with the NOPD." In response to Justice Department pressure, the NOPD had improved hiring and training standards, created an early warning system, and reformed its internal affairs unit. The Justice Department also cited improvements to the NOPD's use-of-force tracking, citizen complaint procedures, and restraint techniques. According to reports, citizen complaints have dropped from 440 a year in 1998 to 267 in 2003. *Times-Picayune* (New Orleans), March 30, 2004; *NOPD Press Release*, March 29, 2004.

Council Report Criticizes D.C. Police

In a report issued by the Judiciary Committee of the Washington, D.C. City Council, which investigated Metropolitan Police Department (MPD) policies and practices in handling demonstrations, the Committee criticized MPD leaders for mishandling protest-related misconduct complaints and investigations. The Committee found that MPD officials conspired to avoid taking the blame for police actions, violated department general orders, and ignored conflicts of interest during the MPD's investigation into misconduct allegations. The report focused primarily on the MPD's handling of a September 2002 protest, finding that the police did not tell demonstrators to disperse before arresting them for failing to follow the nonexistent dispersal order; hundreds of people, including protesters, bystanders, and journalists, were arrested. The report also criticized the MPD for using undercover officers to infiltrate protest organizations in the absence of any criminal activity. More generally, the report faulted the police department for the way it handled protests dating back to 2000, criticizing the department for: failing to follow its own guidelines relating to mass demonstrations; for conducting slow and incomplete investigations of protest-related

misconduct allegations; and failing to hold MPD personnel accountable for misconduct associated with demonstrations. The 150-page report contains scores of recommendations.

The full report can be accessed at <http://www.dccouncil.us/patterson/pages/prinfo/MPDreport31104.doc>

INTERVIEW

PARC recently interviewed civilian oversight expert Sue Quinn.

PARC: Please describe your background and current occupation.



Sue Quinn: I am someone who has worked for community and individual cohesion in the justice system for over thirty years. I spent twenty years at San Diego County Probation before switching over to civilian oversight in 1992, when San Diego opened its Citizens' Law Enforcement Review Board, or CLERB. We opened CLERB's doors at the time of the LA riots that followed the Rodney King verdict.

While at Probation, I was the training manager for a large urban justice agency. Part of that job required diagnosing organizational problems to determine if they were caused by poor policies, misconduct, faulty hiring, training, supervision or some other reason. This background in organizational diagnostics and training at Probation was invaluable in my later work in civilian oversight.

Since leaving CLERB in 1997, I have spent most of my time working to advance the delivery of civilian oversight, principally through building the National Association for Civilian Oversight of Law Enforcement (NACOLE) into a national resource for communities and law enforcement agencies that strive to serve their communities fairly, firmly, and consistently. I am also a psychotherapist and writer.

PARC: Can you provide an overview of the purpose, role, and objectives of NACOLE?

SQ: I'm happy to. NACOLE is a nonprofit organization of civilian oversight practitioners and supporters who want to promote fair, firm, and consistent law enforcement in the U.S. through the practice of civilian oversight. NACOLE is based on a belief that law enforcement derives its authority from the community and requires a two-way dialogue between the community and those charged with the duty to enforce the law. So, based on that foundation, NACOLE provides training, referrals, information sharing, and technical assistance to the oversight community and to persons and jurisdictions who are attempting to establish or improve oversight.

PARC: What were the primary achievements accomplished during your term as president of NACOLE? What is your role within the organization now?

SQ: During my term as president, we established the listserv where articles about police accountability and civilian oversight are circulated throughout the U.S. and the English-speaking world. It is free and anyone who wants to can sign up.

We established the Web site which has many content-rich documents to help anybody who wants to learn the basics about oversight. Anyone can go to our website and begin to get some very practical information that will help them recognize where their community is in the process of oversight, what models of oversight exist, what the pluses and minuses are of every model, and what kind of expectations you can have about the political difficulties of implementing civilian oversight.

We have posted guidelines about what investigative or monitoring models should be able to achieve to do a good job. We've posted an annotated roster of all the oversight agencies in the country we're aware of, what they do, how they do it, and how to contact them. We provide basic training recommendations for oversight agency members. The website also includes information on mediation, a thorough oversight resource list, and all of the NACOLE newsletters. That's a major piece of work we accomplished during my tenure. We continue to do outreach and to give technical assistance to

communities who ask for it, and we continue to hold our annual conference.

I continue to be involved in NACOLE as the Past President and Finance Chair; I contribute to the newsletter; website and conference design. I'm working on three of the conference workshops for the September 2004 Conference.

I recently wrote guidelines for purposeful ride-alongs, and I am writing a paper on the importance of the news media's investigative oversight of police, especially in those places that do not have formalized oversight agencies. The paper describes guidelines journalists can use in performing investigations of police actions and accountability.

PARC: *What changes/progress have you observed in the models of oversight in recent years?*

SQ: I see the whole field of oversight in last ten years becoming much more knowledgeable. People who started in this field ten years ago did not have a lot of interaction with their peers in other jurisdictions; and there were far fewer jurisdictions with oversight processes.

People had to invent the wheels of oversight in their own towns, and little useful information was shared. There were few transparent and readable reports clearly discussing the basic issues every jurisdiction faces, such as: what constitutes excessive force; what are the uses of force that happen in this community; what have police errors, misconduct or flawed policies cost a community; what weapons are being used to apply force; are police dogs, Tasers, and OC spray being used appropriately; are flashlights being used as weapons; are in-custody deaths including jail suicides and homicides preventable; are applications of force being made that are preventable and are there ways to affect police objectives with less injury to the police officer or to the community members?

"...folks in oversight in the early 90s and mid-90s did not have much benefit of learning from one another. What I see changing in the last 12 years is that there is much more sharing of information and there's much more transparency in reporting."

These are the questions every jurisdiction faces, but folks in oversight in the early 90s and mid-90s did not have much benefit of learning from one another. What I see changing in the last 12 years is that there is much more sharing of information and there's much more transparency in reporting. The transparency and information sharing generate better reports and education to and for the communities. This then assists the law enforcement agencies in learning to do a better job, to work smarter, with more respect for the community, and to reduce civil liability.

When I started in 1992 in a new oversight office, I had to train myself as to how to analyze the issues. I used what I had learned at Probation and began to research the oversight field. Several documents provided my tutorial and these documents are still helpful to anyone in oversight. They include the important reports coming out of Los Angeles — the Christopher Commission Report and the Kolts Commission report — and then the L.A. County Special Counsel's semiannual reports that were

coming out following up on the Kolts commission. Paul Chevigny's *Edge of the Knife: Police Violence in the Americas*, gives us a comparative

analysis of several cities, and outlines how citizen oversight and police executives must examine law enforcement activities, analyze them and educate themselves and the community.

Chevigny's book and the L.A. reports were my tutorials. Recognizing how much communities needed this kind of information, I started as much outreach as I could, both in San Diego and to other parts of California and the country. My goal to see NACOLE become a national information source for oversight stemmed from this recognition.

The lack of information has changed radically since 1992. With information has come more recognition by political leadership and law enforcement itself of the value of oversight.

This is what I see changing a great deal as a result of the transparency and the models of analysis that the Christopher, Kolts, and Special Counsel reports gave the rest of the country. You can see that in the fine reports now coming out, such as San Jose 's Independent Auditor Annual Report and Portland, Oregon's, Independent Review Division report on officer-involved shootings. Every year we are seeing growth in this field with public annual reports and presumably all the internal reports are getting better too.

We are often asked what model works best. The fact that there is not a simple answer is more recognized than it was ten years ago when models might be pitted against each other, or police agencies might voice support of oversight as long as they could control the model. For example, some police departments wanted to place any oversight agency under the department's control by controlling its budget, training, appointments, or staffing. We have learned that many models can work and that, ideally, an agency will have both robust internal and external oversight.

For oversight to work, the community leadership must have the political will to make it work; and must treat it with the integrity. Where that occurs, any of the models can work. Some of the models are going to work better in some cities than in other cities.

What is critical to realize is that various models function differently. Models that audit internal affairs, whether they are independent auditors or a panel of auditors, function to make the internal affairs division do a better job just as any of us do a better job if someone is watching us and our work is being monitored or scrutinized. An independent investigation model, whether it's an auditor conducting an independent investigation or a review board that independently investigates, functions not to improve internal affairs but to make the community have confidence that an independent investigation is being done. And those are two different functions.

The challenge is always going to be how to maintain this because we citizens in democracies are not good at maintaining vigilant scrutiny of something if

there's not a crisis going on. We are apt to be more energized when we're reacting to something. So there is an ongoing danger of reactivity and episodic commitment in oversight. What oversight and good policing require of the citizenry is ongoing, painstakingly careful scrutiny of policing whether or not we are in a crisis.

Earlier I spoke of community leadership needing the will and the integrity to make oversight work and I want to explain that. I mean leadership must make the oversight independent; select people for oversight positions who have patience and integrity; they must allow oversight agencies to go where the facts take them; they must supply overseers with adequate budgets, training and time; and they must expect the overseers to listen carefully and to address detailed issues with fairness, patience, and compassion — which is exactly what we also want from law enforcement.

PARC: Do you think citizen oversight entities should impose discipline on officers found responsible for misconduct? Why or why not?

SQ: No, I do not. While I said earlier that monitoring boards/auditors have a different function than investigating boards/auditors, I also want to underline that I see the mission or goal of all models is to help the law enforcement agency do a better job providing firm, fair, and consistent services in the community. I believe that whoever has the authority to hire, train, define what the job is, and define the policies is the entity that I think must carry the responsibility of discipline or retraining or termination decisions.

When the police executives and administrators manage their departments well, policy problems and officer errors, misconduct, or mistakes are handled in a timely and appropriate way. Then it is unlikely that communities will take on the tremendously labor intensive task of establishing oversight. Communities generally want to support their law enforcement agencies. Drives to start oversight begin when communities are forced by some crisis to examine in detail what a police agency has done in their name, and they find it somehow offends the community's mores or the taxpayers' bottom line.

PARC: *Do you think review boards should make recommendations with regards to discipline?*

SQ: Absolutely. Review boards should make recommendations on discipline and policy. The more review boards and auditors get involved with understanding the policies and disciplinary system of their law enforcement agency, the more assistance they are going to be able to provide to that agency.

PARC: *Do you think that the threat or fact of citizen oversight has made internal police investigations better? Are there any good ways to judge whether citizen oversight generally, or in a specific jurisdiction, is improving policing?*

SQ: That's three questions; let me take them in order. Is the threat of oversight making internal investigations better? I don't think so.

Is the fact of citizen oversight making it better? I believe it is. As I said earlier, I think any of us do better when we are being scrutinized. Whenever we work in government or other fields, as a cop or a teacher or a plumber or a doctor, if somebody is scrutinizing my work, I'm going to do it more carefully because I want to be proud of what I have done.

If a community does not scrutinize its police we are doing them a disservice, because we have given police a great deal of power to exercise in our name, and those who are given power need assistance in using it. The more power we have, the easier it becomes to use it. If we as citizens fail to carefully watch what our law enforcement civil servants do, we have given them tacit approval to do anything they decide they should do, and we have signaled that we won't look too close.

We should never give that message. What police do is done in the name of the entire community. So the entire community has to bear witness to what is done and to take action if what is being done is somehow inappropriate.

To address the last part of your question, one of the things that's very important is that the community has to maintain institutional memory of what the issues were that led it to establish oversight and

then to continually scrutinize the product of the police department — the arrests, the injuries, and the crime statistics — and go back and compare it to what started the drive for oversight. That's how to monitor whether the oversight process is having an effect, but a danger is that people lose institutional memory.

PARC: *And you think that review boards can be a part of preserving institutional memory?*

SQ: Oh yes. They should be. I would suggest every oversight agency construct a chronology of what led to oversight in the jurisdiction and what oversight has accomplished and that this be an addendum to their annual reports every year.

The media also have the responsibility of helping the community maintain jurisdictional memory, especially the print media, which I see functioning as an informal oversight process. While the boards and auditors are formal oversight processes, the news media, when it's doing its job, is scrutinizing what the law enforcement agencies are doing as well as what the review boards and the auditors are doing. This is another thing that has changed in the last ten years. Now when there is a police use of force incident, more newspapers are summarizing the history of force applications in an area over five years or ten years. That's where statistics can be very useful.

PARC: *What are the major challenges faced by citizen oversight agencies?*

SQ: I touched on this a little bit, because I touched on how oversight is susceptible to being reactive and episodic. It's hard to maintain the constant scrutiny and do the work when the work is very tedious, which this work can be.

But also, there are three mistakes that citizens engaged in any model of oversight must try to avoid. The first is the failure to be adequately prepared and informed as to the relevant case details and to the governing policies and laws. The others are really flip sides of each other: the second is over-identification with the community or the complainant and the third is over-identification with the police.

If persons conducting oversight avoid those mistakes they will be doing good work. So, the challenge is to avoid those three mistakes. It's a simple answer, but it's a very, very labor intensive answer, and it's an answer that requires a lot of patience and compassion and the ability to deeply listen to everybody and to model the kind of patience that we are asking the police to model in the communities.

PARC: How does a typical mediation process work?

SQ: A typical mediation process works by having the parties agree to sit and speak to one another and listen to one another with a mediator assisting them in that listening and speaking process, in hopes of coming to a respectful and confidential agreement between the two parties.

Many citizen complaints about police are not particularly appropriate for the adversarial, administrative process that have been applied to them to determine whether or not an act of misconduct was committed.

Many people come complaining about what happened to them. Sometimes what they want is to understand what happened and why it happened and sometimes what they want is an apology or explanation. These kinds of cases are appropriate for mediation.

The full investigation process is time-consuming and ultimately not very satisfactory for those issues where someone was looking for an apology, an admission that someone made a mistake, or an explanation. When I worked in oversight, one of the things that I always asked the complainant was, "what remedy are you looking for?" And it was moving to often hear people say, "I just want to understand what happened," or "I just don't want this to happen to someone else."

PARC: Which cities have reputable police-citizen mediation programs?

SQ: Portland, Oregon, Washington D.C., and the City of San Diego, California, all have recognized mediation programs that are sub-programs of their citizen complaint process. All are worth examining as model programs. Dr. Sam Walker at the

CONFERENCES

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

June 16-18, 2004 – Office of Community Oriented Policing Services (COPS), Second Annual National Community Policing Conference, Washington D.C. Online at <http://www.cops.usdoj.gov>

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

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

July 13-14, 2004 – Police Executive Research Forum, By the Numbers: How to Analyze Race Data from Vehicle Stops, Las Vegas, NV. Online at <http://www.policeforum.org/>

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

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

November 13-18, 2004 – International Association of Chiefs of Police, Annual Conference, Los Angeles, CA. More Information available at <http://iacp.expoexchange.com/>

University of Nebraska, Omaha, is our national resource on the use of mediation in oversight. He said at NACOLE's 2003 conference that mediation works in many complaint cases; the only question is why it is not being used more widely in this field.

Mediation should be being tried in many circumstances. Mediation is a form of alternative dispute resolution and it has shown much success – and user satisfaction—over the last 15-plus years.

It was late coming to the civilian oversight and law enforcement arena. I think we are in the process of seeing more and more jurisdictions establish a mediation process, but mediation is a *formal* process and can't be done by short-cut. It must be done with real, trained mediators, and it has to be managed properly, with confidentiality requirements maintained.

Portland, San Diego, and Washington, D.C. have a lot to share about how they have established this and how it's being maintained. San Diego developed a manual. It took them some time and it is a "wheel" that other jurisdictions do not have to invent. It is summarized in Dr. Walker's book, *Mediating Citizen Complaints Against Police Officers: A Guide for Police and Community Leaders*, which is available on the web.

PARC: *Can you describe the training standards set by NACOLE for a new civilian oversight member?*

SQ: On NACOLE's Web site, we suggest minimal basic training for persons involved in oversight. Before conducting or participating in a review of an investigation, board members and auditors should be trained in the following:

- the local issues that led to the establishment of the oversight process;
- the risk management connection between taxpayer liability and police errors or misconduct;

- the constitutional and civil rights of citizens;
- what the community expect from oversight process(we suggest two panels one reflects the community stake holders—the youth, gender, immigrants, faith communities, college, media, civil rights folks and others specific to the community and a second panel of government officials and their expectations; ie: Mayor, City Manager, City Council, city attorney, grand jury spokesperson, police management, city risk administrator, presiding judge, chief administrative officer, federal officials, such as US attorney, civil rights department to take part;
- what the models of oversight are, and where the local model fits;
- the public records and public meetings laws of the jurisdiction;
- an overview of the management and supervision of police policies, practices and operations, how police hire, train and investigate misconduct; how internal affairs conducts an investigation; how IA people are trained; what progressive discipline process is used in the jurisdiction, and what officers rights are; and
- their own oversight policies, rules and regulations and basic concepts.

We recommend that they get as much training from outside the police department as from inside the police department. In some jurisdictions you will see oversight agencies have been established and

then been given all the training they get from the department they're overseeing, which doesn't make sense on its face.

Overseers should participate in purposeful ride-

alongs, using them to gather information about operations. As such, they should always make a list of the information they intend to collect on the ride-along. They may want to discuss how different shifts function; the officer's equipment; the coordination of units, the hot spots; or views about civilian oversight. They may want to know how

"If we as citizens fail to carefully watch what our law enforcement civil servants do, we have given them tacit approval to do anything they decide they should do...."

many cars are out during the shift or how many supervisors are in the field. They may want the officers to explain more about the radio channels and frequencies, all those kinds of things. They're not there to be socializing with, nor challenging of, the officer.

PARC: Can you mention any cities with training programs or schemes you particularly admire?

SQ: NACOLE recently worked with the City of Key West, Florida, to provide basic training for the new board established in that city. If anyone is interested in more information about this, they can contact the Key West Citizen Review Board or NACOLE.

I would like to add that every Internal Affairs department should have a procedures manual that instructs people how to investigate, what to do, what not to do. Now the reality is that some agencies may not have manuals, or what they have may not be as helpful as it could be. If the law enforcement agency does not have such a manual or has a poor manual, the oversight agency should insist a better one be developed.

The manual from San Jose's Professional Standards and Conduct unit is an excellent model for other jurisdictions.

PARC: Do you think there will come a time when citizen oversight of the police will not be necessary?

SQ: No—for all the reasons that I've said. Police are only human, and we all do better, and government does better, when under scrutiny. In any fair governing process, we consent to being governed. We who are being governed must monitor those who we have vested with authority over us. They derive their powers from us.

I look at it as a triangular process: if you imagine a triangle, police officers are on one third of the triangle, monitoring the behavior of the citizenry and taking action if that behavior is inappropriate. Police leadership is on a second third of the triangle, monitoring behavior of police officers and taking action if that behavior is not appropriate. The citizenry is the third side of the triangle, monitoring the actions of police administration and leadership.

So it's a triangular process, a revolving triangle, where everybody has responsibility to be bearing witness or witnessing the actions of the others and raising issues if they do not appear to be appropriate. The challenge is to do it respectfully, and the challenge is the same for oversight, for police management, and police line officers. We all are challenged to model for the others the kind of behavior that we expect.

PARC: Thank you very much.

SQ: Thank you, too.

More information about NACOLE can be found at www.nacole.org.