

POLICE PRACTICES REVIEW

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CIVILIAN OVERSIGHT

Overhaul of CA Corrections Recommended

The Corrections Independent Review Panel, appointed by Governor Arnold Schwarzenegger to review state corrections, issued its findings at the end of June. Former California Governor George Deukmejian led the panel's four-month investigation of the system. California's correctional system is the country's largest, featuring an annual budget of nearly \$6 billion (or 5.6 percent of the state budget), 54,000 employees, 300,000 adult inmates and parolees, and 8,400 juvenile parolees and wards.

According to the panel, the state's correctional system suffers from problems including "reported abuse of inmates by correctional officers; an employee disciplinary system that fails to punish wrongdoers; and the failure of correctional institutions to provide wards and inmates with mandated health care and other services." The panel focused on ten areas: organization; ethics and culture; employee investigations and discipline; use of force; personnel and training; risk management and health care; population management; impact of institution closures; the state's labor contract with the correctional officers' union; and technology issues. The panel found, "Accountability is absent, as is transparency for the public into the [correctional] system's inner workings. Clear, uniform policies governing the system's most vital functions—fiscal matters, personnel and training, internal affairs, information technology, and health care—are equally lacking."

The final report made 239 recommendations ranging from breaking employees' "code of silence" about misconduct through recruitment and discipline changes, to establishing "health care transportation teams" for inmates and wards requiring outside medical attention. The report expressed concern over

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inmate preparedness for re-entry into society, noting that the state's recidivism rate exceeded that of any other state; it recommended an emphasis on education, vocational classes, and life skills from the start of an inmate's sentence. The report also recommended that federally-mandated use of force and investigative procedures in use at Pelican Bay State Prison be implemented throughout the correctional system. The panel said California should reorganize its Youth and Adult Correctional Agency into the Department of Correctional Services, under the authority of a Civilian Corrections Commission appointed by the governor. The panel's plan would have the Office of the Inspector General, currently charged with correctional oversight, act as the auditing and investigative arm of the Civilian Corrections Commission, appointed by and reporting directly to the Commission. The report can be accessed online at <http://www.report.cpr.ca.gov/corr/index.htm>.

Complaints against the NYPD Up in 2003

Last year, more civilians filed complaints against New York City police officers with the New York City Civilian Complaint Review Board (CCRB) than in any of the last ten years, save 1996. According to the CCRB's recently released 2003 Status Report, complaints against transportation officers increased more than those against any other division, while complaints against some bureaus' officers, such as the Organized Crime Control Bureau, received 34 percent fewer complaints than in 2002. The report said the upward shift from 4,612 total complaints in 2002 to 5,568 in 2003 represents "the largest single-year increase in the history of the independent CCRB, both in terms of percentage (21%) and number (962)." Though the Board knew no single explanation for the increase, it asserted that complaints filed by telephone, now accepted 24 hours a day, comprised the bulk of the increase, while those filed in person and by letter did not change significantly.

Allegations of abuse of authority were most common, followed by allegations of force, discourtesy, and offensive language. Each category's percentage of total allegations has remained relatively stable over the past five years.

Based on its investigations in 2003, the board recommended the New York City Police Department (NYPD) create a database to track information

regarding search warrants from their issuance through execution; demand that officers show all search warrants, including “no-knock” warrants, to occupants upon request; and clarify policies regarding an officer’s duty to provide a name and shield number when asked. In the report, the CCRB commended the Department for acting on the recommendations.

As in previous years, young black males alleging police misconduct filed a disproportionately high number of complaints. According to the report, blacks represented 24.5 percent of New York City’s population in 2000 but made up 52.4 percent of the alleged victims in complaints filed with the CCRB. White, black, and Latino complainants were consistently more likely to file complaints against officers of their own race than were complainants of a different racial group. In 2003, as in the previous four years, the ethnicity of officers had no statistically significant effect on the complaints they received; groups of officers received complaints in proportion with their representation within the NYPD.

The report also discussed complaints it received after the February 15, 2003, anti-war protest outside the United Nations, and the difficulties the CCRB encountered in trying to investigate the complaints because officer identifications were lacking. The CCRB recommended that the NYPD provide it with its unedited videotaped footage of this protest and future ones to assist in investigations. It recommended that the Department require mounted officers to affix identification—visible from street level—on their horses and the NYPD to develop measures to trace officers during crowd control mobilization so that “the CCRB and the NYPD can better identify officers should investigations of civilian complaints be required.” The report can be accessed online at <http://www.nyc.gov/html/ccrb/pdf/ccrbann2003.pdf>.

CONSENT DECREES/ MEMORANDA OF AGREEMENT

Cincinnati Monitor Releases Latest Report

The Independent Monitor for Cincinnati released its sixth quarterly report on the status of compliance with and implementation of the 2002 Memorandum of Agreement (MOA) between the U.S. Justice

Department, City of Cincinnati, and Cincinnati Police Department, and the Collaborative Agreement (CA) between Plaintiffs, Fraternal Order of Police, and the City of Cincinnati. The MOA requires changes in Cincinnati Police Department (CPD) Use of Force policies, citizen complaints, risk management, and training. The CA requires implementation of Community Problem Oriented Policing (CPOP), mutual department-community accountability, bias-free policing, and creation of the Citizen Complaint Authority. The report covers the period from January 1, 2004, to April 30, 2004.

The Monitor reported CPD progress improving its risk-management system, Mental Health Response Team, and training. The CPD is now in compliance with MOA requirements for handling incidents involving suspected mentally ill persons. During the quarter, the CPD also revised its Use of Force policy by adding provisions on Taser use and placing the Taser on the force continuum at the same option level as chemical irritants.

The Monitor noted several areas in which the parties are not in compliance with the CA, including problem-solving training for officers and CPD policy and performance review for consistency with CPOP objectives. The report also highlighted continued non-compliance regarding documentation and reporting provisions for non-injurious use of “hard hands” and takedowns. In May, an agreement between the parties was reached outlining specific procedures for investigating incidents involving “hard hands” and injurious takedowns. For six months, CPD is required to send a supervisor to investigate such incidents and to conduct non-taped interviews with subjects, officers, witnesses, and if applicable medical treating personnel. The report will include a supervisor’s narrative of the events outlining each type of resistance used by the subject and each type of force used by the officer. The final report will include an evaluation and determination of whether the initial stop and the use of force were within CPD policy. If after six months the Monitor determines the use-of-force investigations do not comply with the MOA, it will again be mandatory to include recorded statements with these investigations.

According to the Monitor, the parties took steps toward implementing CPOP, having established joint CPOP teams in eleven communities. The Monitor

reported that a new Executive Director and a fifth investigator have been hired for the Citizen Complaint Authority. The Monitor report can be accessed online at <http://www.gabsnet.com/cincinnati/cincinnatiIndependentMonitorsSixthQuarterlyReport.pdf>.

Detroit Monitor Issues Third Quarterly Report

The Independent Monitor for Detroit issued its third quarterly report on the status of implementation of two Consent Judgments (CJs) reached between the City of Detroit and the U.S. Justice Department in July 2003. The Monitor reviewed compliance with both the Use of Force and Arrest and Witness Detention Consent Judgment (UOF CJ) and the second, Conditions of Confinement Consent Judgment (COC CJ). The Monitor examined a total of 80 CJ paragraphs and subparagraphs and reported that the City and the Detroit Police Department, (DPD), had complied with 2 and failed to achieve compliance with 76; the Monitor withheld determination regarding 2 paragraphs. The two paragraphs with which DPD is in compliance relate to regular meetings between the DPD and local prosecutors and the provision of unique identifiers for citizen complaints.

The Monitor reported that DPD's most "prevalent" challenge is policy development. Additionally, the Monitor expressed deep concern that DPD has not made significant progress bringing its holding cells into compliance with the COC CJ. "Significantly, none of the paragraphs that were evaluated under the COC CJ were found to be in compliance during the Third Quarter," the Monitor reported.

The Monitor commended the DPD for disseminating policies for arrests, chemical spray devices, firearms, and foot pursuits. Additionally, DPD has provided the initial training on the Consent Judgments to 3,439 sworn and civilian employees.

According to the Monitor, the DPD reports it has developed two Shooting Teams, one to investigate fatal firearms discharges and in-custody deaths and the other to investigate non-fatal discharges, though a protocol for these investigations has not yet been developed. DPD is also in non-compliance with the requirement to have an operational command level review team, chaired by the Deputy Chief of the Professional Accountability Bureau. The Monitor

report can be accessed online at http://www.krollworldwide.com/library/detroit/DPD_Q3_Report_07-15-2004.pdf.

Monitor Named for Prince George's County PD

Former Tampa (FL) Police Department Chief Eduardo Gonzalez and the Alexandria Group have been selected as the Independent Monitor of the Memorandum of Agreement between the U.S. Department of Justice, Prince George's County (MD), and the Prince George's County Police Department. The Monitor will evaluate the Department's compliance with the agreement, which focuses on police use of force. In addition, the Monitor will provide the Department with technical assistance and issue regular progress reports.

COMMUNITY POLICING

Online Access to San Jose PD Service Calls

The San Jose (CA) Police Department recently revamped its website to allow the public to find out how many, and what types of, calls for police service have been made in different parts of the city. The Department website uses data from San Jose's Computer Aided Dispatch (CAD) system, which coordinates communication within the Department and assigns resources regarding calls-for-service. The "My Neighborhood" feature on the website allows people to view calls for police service using the newly developed Public CADmine system. Public CADmine is "a web-based CAD reporting application that takes advantage of San Jose Police CAD data and a customized mapping interface that allows for user-guided reporting." This means that users choose which information they examine. Calls-for-service data are updated weekly and can be viewed by type or geography of call—viewing the entire city, a certain area, or a specific address. The website reportedly received 1,000 hits during its first six hours online.

The Department cautioned that "CAD calls-for-service do not always equate to a criminal incident resulting in a report or arrest" but reflect a broader spectrum of police-community contact. In addition to the calls-for-service feature, different police division web pages outline upcoming neighborhood events, list local Community Policing Centers, state division priorities,

ACADEMIC RESEARCH

National Study finds Support for Police Reform Varies by Race

In “Reforming The Police: Racial Differences in Public Support For Change”, in the May issue of *Criminology*, Ronald Weitzer and Steven A. Tuch of George Washington University test whether there is a racial difference in support for police reform across the U.S. Citing a lack of research on support for police reform in contrast to the prevalence of literature on negative aspects of policing such as misconduct, the authors report the results of a national survey broadly examining police-community relations.

The authors' data came from a national survey of 1,792 whites, African Americans, and Hispanics living in metropolitan areas with a population of at least 100,000. They base their analyses on a model which argues that “race relations are largely driven by group competition and conflict over material rewards, power, and status.” Applied to support for police reform, the authors continue, “If the dominant group believes that it is entitled to valued resources, it should also have an affinity with the institutions that serve its interests. One such institution is the police.” Reforms may jeopardize the status quo, threatening the interests of whites, the dominant majority. Blacks and Hispanics, however, are more likely to view the police as an institution that acts contradictory to their interests and contributes to their subordination.

In their study, the authors test four hypotheses:

- Blacks and Hispanics are more likely than whites to support reforms in policing;
- Personal or vicarious experience with police misconduct increases support for reform among all groups, but the effect of experience is stronger among blacks and Hispanics than among whites;
- Exposure to media reports of police misconduct increases support for reform among all groups, but the effect of exposure is stronger among blacks and Hispanics than among whites; and,
- The perception that police misconduct occurs frequently in one’s city or neighborhood increases support for reform among all groups, but the effect perceived misconduct is stronger among blacks and Hispanics than among whites.

The authors found that consistent with their thesis, blacks and Hispanics were more likely than whites to support police reform. Seventy-five percent of blacks and Hispanics, compared to less than half of whites surveyed, think departments should hire more minority officers and assign them to minority neighborhoods. Approximately half of blacks and Hispanics and less than 30 percent of whites support more police programs in schools and requiring officers in Hispanic neighborhoods to learn Spanish. Their second hypothesis, though, was not supported by the results. Personal or vicarious experience with police misconduct had little to no *direct* effect shaping attitudes toward reform. However, Weitzer and Tuch found that exposure to mass media coverage of misconduct was one of the strongest predictors of attitudes about reform across all racial groups, though the effect was generally stronger for blacks and Hispanics who reported greater exposure to coverage of incidents of misconduct. Finally, people who feel that police misconduct is a problem in their own neighborhoods are more likely to support reform.

The authors found not only that blacks and Hispanics are more likely to believe that officers of their own race behave differently than white officers but that this difference extends to support for racial diversification. Whites are less likely to feel that adding diversity to a department will reduce disparity in the way officers treat people. The authors conclude that blacks’ and Hispanics’ “proclivity to endorse police reform is largely a function of their greater inclination to believe that police misconduct occurs frequently and of their greater exposure to media reports of police abuse.” The authors contend that providing a deeper understanding of differences in support for police reform can help police departments, city officials, and the public work together in creating more efficient policies and practices that improve police-community relations. Weitzer, Ronald and Tuch, Steven A. “Reforming the Police: Racial Differences in Public Support for Change.” *Criminology*, May 2004; 42, 2, 391-416.

and allow users to register for neighborhood and citywide e-mail alerts. The San Jose Police Department website can be accessed at <http://www.sjpd.org>. *The San Jose Mercury News*, July 8, 2004.

RACIAL PROFILING

Montgomery County Releases Traffic Stop Data

The Montgomery County (MD) Department of Police recently released its Traffic Stop Data Collection Analysis Seventh Report in compliance with the January 2000 Memorandum of Agreement between the Department, Montgomery County, Fraternal Order of Police and U.S. Justice Department. The most recent data for the period between October 1, 2003, and March 31, 2004, indicate that non-white drivers are being pulled over at a higher rate than their relative population in the county. During the reporting period, African Americans and Hispanics were drivers in 39 percent of all traffic stops. There is a larger disparity between the rates that local African Americans and Hispanics as compared to whites are being searched during traffic stops. Fifty-five percent of all vehicle searches of local residents were of vehicles with African American or Hispanic drivers; whites comprised 42 percent of the searches. In the report, the Department of Police cautioned against comparing traffic stop to population data and suggested that it is more accurate to compare traffic stop numbers to the driving population. Montgomery County has hired a consulting firm to compile data regarding the racial breakdown of the county's driving population. The report can be accessed online at <http://www.montgomerycountymd.gov/poltmp.asp?url=/Content/POL/media/TrafficSD.asp>. *Washington Post*, July 1, 2004.

POLICE ADMINISTRATION

Disparity Found in Disciplining Minority Officers

Minority officers in the Lansing (MI) Police Department have external (citizen) and internal (departmental) complaints filed against them more often than their non-minority colleagues, Michigan State University Professor Theodore Curry found in

a recent study. Curry, director of the university's School of Labor and Industrial Relations, was retained by the Lansing Police Department (LPD) in January 2004 to conduct an independent study of the police department's disciplinary process and trends. LPD Chief Mark Alley posed two research questions:

- Is discipline imposed disproportionately for officers and employees of a different gender or ethnicity?
- Where discipline is imposed, are the penalties received similar when offenses of similar severity are committed?

The study examined LPD complaint and discipline data from January 1998 to December 2003 and also perceptions collected from 18 two-hour focus groups held with LPD sworn and civilian employees who chose to participate, including supervisory and non-supervisory officers, as well as union leaders. Curry's final report said participants expressed "widespread perceptions of inconsistency and unfairness in the administration of discipline." Some believed female and minority officers were disciplined more often and seriously; others felt the opposite was true.

LPD discipline data showed "no significant relationship" between gender and the likelihood of a sworn employee receiving an internal or external complaint; and no significant relationship between gender and the likelihood that an internal complaint, once filed, will be sustained. There was a significant relationship between gender and the likelihood that an external complaint would be sustained, with such complaints against males more likely to be sustained.

External and internal complaints were "significantly" more likely to be filed against minority employees—sworn and non-sworn alike—than non-minorities. Minorities make up 20.8 percent of all LPD personnel and received 31.1 percent of external and 42.5 percent of internal complaints; they comprise 22.8 percent of sworn officers and received 52.4 percent of internal complaints. Though there was a correlation between ethnicity and chances of receiving a complaint, being a minority did not significantly increase or decrease the likelihood of having a complaint sustained.

A "frequently expressed" opinion in the focus groups was that "in its efforts to have a workforce more reflective of the diversity of the City of Lansing, LPD

selected a poor cadre of new officers a few years ago.” Professor Curry correctly hypothesized that perhaps minority officers with five or fewer years of service in the LPD would have received more complaints than expected by chance. Yet he also found that minority employees, sworn and non-sworn, with six or more years of service received a disproportionately high number of complaints. No disparities in the severity of imposed discipline were reported across gender or ethnicity. Among its recommendations, the study called on the LPD to systematically monitor its discipline data to identify any adverse effects; create an “offense/penalty matrix” to spell out expected consequences for particular violations; increase privacy in the internal affairs process; and improve supervisor accountability. The full report can be accessed online at <http://www.lansingpolice.com/site/profile/Disciplinefinal.pdf>.

STANDARDS & TRAINING

Focus on Sexual Assault Victims in Boise

The Boise Police Department (BPD) should investigate sexual assaults through a victim-centered approach that “puts the victim’s needs, wants, and rights in the forefront,” according to a new report jointly released by the BPD and Boise Community Ombudsman’s office. The Sexual Assault Investigation Process (SAIP) report is the product of a team of experts, including BPD representatives, assembled by the Ombudsman stemming from concerns over sexual assault investigations in recent years. In two particular investigations, Ombudsman Pierce Murphy found that officers did not believe the teenage victims and failed to properly interview them. While BPD detectives and officers are trained in conducting interviews and interrogations, Murphy and the SAIP Team said those “whose job assignments include investigating sexual assaults need a variety of tools in order to thoroughly, sensitively, and empathetically interview sexual assault survivors.” The team suggested 16 policy changes after comparing the department’s current procedures with “nation-wide best practices.” The changes were part of the report’s overall recommendations, which included:

- creating a team to develop a written document describing the victim-centered approach;

- increasing BPD Violent Crimes Unit staff and developing written protocols for use in sexual assault cases;
- expanding experiential training for all first responders; and,
- improving victims’ understanding of their rights.

Ombudsman Murphy commended the department for having “already begun implementing some of the SAIP Team’s recommendations” and urged the BPD to establish a victim’s “Bill of Rights” to inform victims of available resources and options. He also recommended that the department adopt the BET model (Belief, Empathy, and Time) of interviewing sexual assault victims. The BET model postulates that three factors assist an interviewed victim: *belief* in the victim’s account of the incident; investigator-*empathy* for the victim; and sufficient *time* spent with the victim. Since most sexual assaults leave little physical evidence and are often perpetrated by someone the victim knows, said the report, the BET model could improve sexual assault cases since “the major focus of the investigation entails completely and accurately corroborating the allegation.”

The team noted that the BPD Violent Crimes Unit has not grown in ten years and that understaffing, a lack of skill-building, and little experiential training could compromise cases and BET implementation. When an understaffed unit investigates sexual assault incidents, the report warned, “burnout leads to disbelief, vicarious trauma may limit empathy, and the pressure of multiple case loads decreases the time spent with the victim.” The full report can be accessed online at http://www.boiseombudsman.org/policy_report_for_2004.htm. *Idaho Statesman*, July 1, 2004.

LEGAL AFFAIRS

Supreme Court Addresses Miranda Warnings

In two decisions issued at the end of June, the U.S. Supreme Court ruled on the admissibility of suspects’ statements when *Miranda* warnings have been read late or not read at all by police. In *Missouri v. Seibert*, respondent Patrice Seibert, questioned by police about the death of a mentally ill teenager, confessed her involvement to Detective Richard Hanrahan, who first

warned her of her rights after her confession and before a second round of questioning, during which she again confessed. According to the U.S. Supreme Court summary, Hanrahan testified in the lower courts that he “made a ‘conscious decision’ to withhold *Miranda* warnings, thus resorting to an interrogation technique he had been taught: question first, then give the warnings, and then repeat the question ‘until I get the answer that she’s already provided once.” Charged with first-degree murder in the death of the teenager, Seibert moved to suppress her statements before and after the *Miranda* warning. The Missouri Supreme Court agreed with Seibert and found the statements inadmissible.

The U.S. Supreme Court upheld the state’s decision in a 5-to-4 ruling that said police officers may not intentionally avoid warning suspects, before interrogations, of their right to remain silent. Hanrahan testified that such a tactic to draw confessions was promoted by not only his department but also a national police training organization. Justice David Souter, delivering the Court’s majority opinion, stated the “question-first” tactic’s purpose “is to render *Miranda* warnings ineffective by waiting for a particularly opportune time to give them, after the suspect has already confessed.” The suspect would not confess if he understood his rights from the start, but once he confesses, police assume they can get him to repeat his statements after reading his rights, observed Souter. In the dissenting opinion, Justice Sandra O’Conner argued that the Fifth Amendment’s “freedom from compulsion... requires us to assess whether a suspect’s decision to speak truly was voluntary.” Detective Hanrahan’s intent, she wrote, “could not by itself affect the voluntariness of [Seibert’s] confession.”

In the second case, *U.S. v. Patane*, the U.S. Supreme Court ruled 5 to 4 that failure to warn a suspect of his *Miranda* rights does not require the exclusion of physical evidence found because of the suspect’s voluntary statements. When police in Colorado arrested respondent Samuel Patane for violating a restraining order, they were aware that Patane, a convicted felon, illegally possessed a handgun. Detective Josh Benner began reading Patane the *Miranda* warning when the respondent interrupted Benner, saying he already knew his rights. Benner then inquired about the pistol and retrieved it based on Patane’s statements. He was tried on illegal

possession of firearms charges, but District and Circuit courts granted his motion to exclude the gun from the case under the Fifth Amendment because Patane was not given his *Miranda* warnings. The U.S. Supreme Court, however, overturned the lower courts’ decisions, ruling that the Fifth Amendment’s Self-Incrimination Clause “cannot be violated by the introduction of nontestimonial evidence obtained as a result of voluntary statements.”

Justice Clarence Thomas’s majority opinion asserted “the core protection afforded by the Self-Incrimination Clause is a prohibition on compelling a criminal defendant to testify against himself at trial.” Inadmissibility is a potential course of action only when unwarned statements are entered into evidence at trial, he wrote. Justice Souter, dissenting, argued that “in the absence of a very good reason, the logic of *Miranda* should be followed: a *Miranda* violation raises a presumption of coercion... and the Fifth Amendment privilege against compelled self-incrimination extends to the exclusion of derivative evidence.” *Missouri v. Seibert* can be accessed online at <http://www.supremecourtus.gov/opinions/03pdf/02-1371.pdf>. *U.S. v. Patane* can be accessed online at <http://www.supremecourtus.gov/opinions/03pdf/02-1183.pdf>. *Washington Post*, June 29, 2004.

NEWS BRIEFS

Texas Police Agency Installs Digital Technology

The Tyler (TX) Police Department, east of Dallas, recently became the seventh police department in the country to adopt digital video technology for patrol cars. IBM and a Houston-based firm equipped the department’s 60 cars with the \$7,000 to \$10,000 recording systems, which continuously capture image and sound onto a hard drive in each car. The digital devices produce recorded accounts of incidents without creating traditional videotapes that must be maintained by a clerical staff. Officers can take their hard drives into department headquarters after their shifts and put the digital information into a central database. Digital evidence not marked for saving is automatically deleted from the database after 90 days. A captain in the Yakima (WA) Police Department, which outfitted 35 cars with the systems last year, praised the technology, saying it had protected police

from frivolous lawsuits and complaints against officers. A computer news website reported that each digital video device automatically saves the four minutes captured prior to an officer turning on his sirens and continues recording until the officer turns the system off. Officers can also digitally attach driver's license information and location coordinates to recorded incidents. The Tyler Police Department expects the technology to save approximately \$50,000 per year in labor, management, and supply costs. *Associated Press*, July 7, 2004; <http://www.linuxelectronics.com>

Strategies for Police under Stressful Conditions

In "Why Things Go Wrong in Police Work," published in July's *Police Chief Magazine*, Police Psychologist Lawrence N. Blum and IACP President and Garden Grove (CA) Police Chief Joseph M. Polisar argue that officers' judgment and decision-making abilities under stressful conditions "are highly perishable skills that are degraded rapidly in the absence of ongoing training and practice." Stressful, changing, or unanticipated situations can negatively impact officer reaction and performance, placing police at a disadvantage as they recover from momentary shock called "perceptual lag." During such situations, Blum and Polisar write, "many officers experience a sense of urgency to catch up in order to take control, and may use degrees of force, for example, that are found to be improper or excessive." Ongoing training should teach officers not simply to expect the unexpected but also "how to adapt to the unexpected," the authors say. Police trainers and supervisors need to focus on "adaptive expertise, which allows for the immediate recognition that a change in tactics is required by changes in the conditions encountered, and the alteration of tactics in real time." In their paper, Blum and Polisar advocate SEMT (Stress-Exposure Management Training) as a way to maintain police performance. The SEMT program says officers must gain familiarity with their own reactions under stressful conditions; be taught how to counteract the negative effects of stress on their minds and bodies; and build self-confidence to help "control conditions in which they initially were helpless." The paper can be accessed online at <http://www.policechiefmagazine.org/>.

INTERVIEW

In January 2001, the Mayor of Seattle appointed Sam Pailca, a civilian, as the first director of the Seattle Police Department's Office of Professional Accountability (OPA). The OPA, which is within the Department, receives and investigates citizen complaints alleging police misconduct. The office is responsible for enhancing public awareness of the complaint process and for improving SPD accountability. Ms. Pailca, who was recently appointed to a second three-year term, oversees complaint investigations, reports regularly to the city about OPA activity, and makes recommendations to the Chief of Police regarding officer discipline. PARC recently spoke with her about her role as a civilian oversight professional within the Seattle Police Department (SPD).



PARC: Please briefly describe your relevant professional background prior to becoming the OPA Director.

SP: My background is as a labor and employment attorney. While serving as a senior deputy prosecuting attorney with the King County Prosecutor's Office, I supervised a section of about ten lawyers who provided advice to and defended all three branches of county government in labor and employment matters. My expertise in the law related to uniformed personnel agencies came from serving as lead counsel to the King County Sheriff and the King County Department of Adult Detention. Though an active litigator, my focus in running that section was always on advising elected and appointed public officials on how to achieve accountability and reduce risk and liability.

PARC: What is the role of the OPA within the Seattle Police Department?

SP: OPA has a three-part role: first, to investigate and resolve complaints of officer misconduct; second, to review and make recommendations on Department policies and practices; and third, to communicate with the citizens of Seattle about the OPA and other programs in the Department.

PARC: *Could you describe how your office fits into the SPD oversight arrangement?*

SP: My role in the OPA within the Department was designed to emphasize authority, not independence. The complaint investigations are still internal to the Department, and as an employee of the Department, I report directly to the Chief of Police. However, as the civilian director of that internal investigation function, I am in a position to make decisions about complaint investigation policies and procedures. Most importantly, I am responsible for complaint classification, investigation, and resolution. In the case of complaints that our office sustains, I provide advice to the Chief and he determines appropriate discipline. The ordinance creating my position did provide for a measure of insulation and independence. I am appointed by the mayor, but I have to be confirmed by the city council. I serve fixed terms set by ordinance, which means I can't be removed except by majority vote of the city council—that's fairly strong protection from prevailing political winds. Finally, the OPA ordinance requires me to issue public reports to the mayor and the city council. Those reports include all OPA policy recommendations and complete information on complaint activity, including those cases in which the Chief rejects my recommendations.

PARC: *What would you say are the positive and negative aspects of your position as both a civilian overseer as well as an employee of the SPD?*

SP: The access and authority afforded by a position within the Department creates greater freedom and opportunity to have a direct and immediate impact upon Department operations. The price for that direct access, though, may be diminished public confidence due to the affiliation with the Department. One additional constraint caused by the location within SPD is the challenge, in tight budget times, of advocating for accountability-related funds in direct

competition with operational programs for a piece of the Department's budget.

Overall, as the first person to serve in this position, I feel a tremendous responsibility and obligation to constantly and critically assess how the oversight model is working. I don't see my role as that of an apologist for the current structure; if my experience leads me to conclude that changes are necessary, I will recommend them, and do so publicly.

It's kind of ironic that many of the features of my position that make it effective are the same features that may cause it to lose credibility outside the Department. It's difficult for the public to see and understand how the dynamics play out day to day. That may be enough in the end to tip the scales to say, "Look, if this is all about achieving the confidence of the public, then maybe this isn't the best structure."

But on the other hand, I can see that I make decisions every day that have a direct impact on public trust and accountability. It would be hard to sacrifice the ability to effect change only to gain a greater appearance of independence.

To date, I am satisfied that the direct access and authority afforded by my position is an effective method of ensuring accountability.

PARC: *How do you convey your investigative findings and make disciplinary recommendations to the SPD Chief?*

SP: First of all, the OPA determines whether allegations should be sustained, not sustained, exonerated, and so on. As a result, the OPA is the last stop for the majority of cases, because most either do not go on to full investigation or, if fully investigated, do not result in sustained findings. Also, the OPA is responsible for bringing forward all sustained findings to the Chief of Police. So if the recommendations get to the Chief, they got there at the OPA's recommendation. That's pretty broad influence for a civilian-led office.

"The access and authority afforded by a position within the Department creates greater freedom and opportunity to have a direct and immediate impact upon Department operations. The price for that direct access, though, may be diminished public confidence due to the affiliation with the Department."

When a sustained recommendation is made, the Chief calls a meeting at which OPA and the named officer's chain of command both have an opportunity to present their assessment of the case and their views on the appropriate resolution and appropriate discipline, if any. On officer discipline, my role is advisory. The Chief maintains final authority on discipline. My position is specifically charged by ordinance with advising the Chief on discipline in order to ensure consistency, but I don't typically make specific recommendations. I may suggest an appropriate range of discipline, but my primary interest is just in advocating that serious misconduct be treated accordingly.

PARC: *How do OPA investigative findings and related recommendations affect Department management, operations, and training?*

SP: That's the most valuable part of the OPA process: I review not just the completed OPA investigations, but I see each and every complaint—about 800 a year—that makes its way into OPA. That's a great vantage point from which to see areas in which operations, supervision, or training could be improved. I frequently generate formal recommendations that arise from the review of those complaints. Sometimes it's a dramatic, one-time issue that just pops out at you, and other times you're looking at your fourth case that involves a particular issue. Then you start thinking, "This is like the other problem that we had. Let me go back and take a look at those." You start to piece together what may look like inadequate training, supervision, or policies in that area and make a recommendation saying, "This is one of several cases I've reviewed that raise questions." If it's something I see about an investigation policy or procedure within the OPA, I work with the Internal Investigations Captain and staff to just change it. If it's related to operations or training or professional standards, I make the recommendation to the Chief, and he can approve or reject it. Chief Kerlikowski has accepted by far the great majority of OPA policy recommendations. He will either forward them to the appropriate section, say Training, or Audits,

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Accreditation & Policy, or directly to Patrol Operations to implement. Often, the recommendations may be longer-range, more involved policy or training corrections that take time and the assistance of OPA working with other sections of the Department to develop and implement. My annual reports include all policy recommendations made in that time period. Recent ones include recommendations for changes in the Department's off-duty work and citizen ride-along policies. I also recently recommended that the Department install recording video cameras in the common areas of its precincts.

PARC: *How have you worked to establish credibility and trust with the police and community?*

SP: I work at that all the time; that's what I'm supposed to do every day I show up at work. Ultimately, the only measure that counts will be the quality and fairness of the work that the OPA does. I've

made many unpopular decisions—probably every decision I make is unpopular with someone, but I've never shied away from articulating the reasons behind those decisions. I've worked really hard to improve communication to complainants and to officers about the cases and the reasons for the decisions we're making. I produce a monthly public report that describes the allegation and conclusions in every single case we close that month. Transparency really counts, but I try to emphasize a transparency about the OPA's work that still maintains a degree of anonymity for the officers. I rarely see the value in disclosing officer names. That may be a unique perspective among civilian oversight professionals, but I have a great deal of respect for the rights of all public employees. What's really important is that the public be able to critically evaluate the work that the Department is doing. SPD has been entrusted with the privilege of policing its own, and the City has invested in multiple layers of oversight to ensure it continues to deserve that privilege. The work of both the Department and the oversight entities, including my office, are naturally subject to incredible scrutiny, and I think we've made great strides in opening the doors to that.

For direct outreach, OPA has gone both out to the community and in to the precincts. At community forums, I made it a point to bring sworn employees who actually do the internal investigations—the captain, lieutenant, or a couple of the sergeants. It makes for a far more dynamic exchange because citizens love to ask questions and talk with police officers. Just as it's good to mix it up with internal investigations “doing” community, it has also proved successful to have OPA do roll calls. After OPA presentations to all roll calls at every precinct, officers let us know how much they appreciated direct, accurate information. So much of the process has been shrouded in mystery; officers rarely have a chance to just ask direct questions: “What is your position on this?” “Is it true that you're doing this?” “We heard you guys investigated a complaint for someone throwing a cigarette butt out of a window.” It's astonishing what the rumor mill can do, and we do what we can to set the record straight. That's why the officers have been among those most pleased with the OPA monthly reports, which began as an effort to be more responsive to the public. Because personnel issues are treated privately, it's an opportunity for the officers to see the outcome of the complaints and judge for themselves whether the OPA is a fair process, one they don't need to fear.

PARC: *How has your position been accepted by the department?*

SP: I don't think the head of internal investigations—sworn or civilian—will win too many popularity awards. There is undoubtedly an additional challenge, though, posed by the constant presence of someone who by profession, natural inclination, and duty is charged with seeing both sides of a dispute. It can be annoying to have Jiminy Cricket sitting on your shoulder. But all of my time at SPD has been spent working for Chief Kerlikowske, who came on as a new Chief of the Department just six months before me. This is a chief who genuinely believes in the inherent value of different perspectives and critical

examination. Chief Kerlikowske is not someone who only wants to hear good news, and he actively encourages that kind of critical input from his command staff. I do serve as a member of the command staff, so I'm active and involved in a much broader range of issues that confront the Department beyond citizen complaint investigations. As the only civilian on the command staff, I bring a different perspective on the broad range of issues a modern department confronts. I give the City of Seattle and the Seattle Police Department a lot of credit for seeing the benefit of that.

PARC: *Have you noticed trends in the types of citizen complaints your office receives in your three and a half years as OPA Director? Have you identified trends in the outcomes of OPA investigations?*

“SPD has been entrusted with the privilege of policing its own, and the City has invested in multiple layers of oversight to ensure it continues to deserve that privilege. The work of both the Department and the oversight entities, including my office, are naturally subject to incredible scrutiny, and I think we've made great strides in opening doors to that.”

SP: The most consistent theme running through complaints is poor communication between the officer and the citizen. I frequently remind myself that OPA

complaints comprise just a fraction of the total encounters between Seattle officers and citizens, and I avoid leaping to broad conclusions about the dynamics of those encounters. But I can see that the things that tend to motivate people to actually pick up a phone, write a letter, send an email, or walk into an office to complain revolve around their perception that they are law-abiding citizens who were treated like criminals. People don't like other people telling them what to do, and they don't like other people putting their hands on them—and those are two things police officers do all of the time. But for citizens who do not have regular contact with police, it's not just all in a day's work—the incidents loom large in their lives and can be the source of considerable angst. I think that's one thing my perspective as a civilian helps me to see. Emphasis by officers on persistent, clear, and respectful communication is the best tool for enhancing the Department's reputation and the ease with which it can prevent crime and enforce the law. If that is too vague of a motivator, I really wish officers could see as clearly as I do how much stress and headache could be avoided from extra efforts at

the scene. Officers who take the time to fully explain their perspective would get fewer complaints.

As for trends in outcomes, there has also been a slight but fairly steady rise in the percentage of sustained complaints. More importantly, we have by design increased the number of supervisory referral complaints. Those are complaints we expect to be handled by low-level complaint resolution efforts—meeting and talking with the officer and complainant; trying to reach a shared understanding of how to go forward and how to prevent similar occurrences. We have deliberately stepped up the number of those efforts by funneling more complaints into that category; these are complaints that previously would have either been slated for no investigation because they didn't state claims of misconduct or required formal investigation. We've tried to identify complaints that would benefit from that kind of effort because supervisor involvement has such a powerful impact on individual officer behavior. A complaint investigation done by downtown that results in a piece of paper five months later telling the officer what OPA thought can't be nearly as effective as a direct and timely discussion with a supervisor the officer works with daily. With a supervisor, there's greater willingness on the part of an officer to talk about alternatives available, or to admit, "Yeah, I probably could have handled that differently or better." You avoid an instantly defensive response from the officer: "You're accusing me of misconduct. This is a serious complaint and, therefore, my only rational response is to insist I did nothing wrong." Plus, the supervisor knows more about the situation and is motivated to correct any underlying problems, if only to avoid dealing with more cranky citizens. We have seen a huge improvement in the quality of these supervisory interventions, with both the officer and the citizen getting faster and more direct feedback.

PARC: *How does your office work with the OPA Review Board (OPARB)? How do OPARB reports and recommendations inform the work of your office?*

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SP: I work with the Board very openly and collaboratively. Since the Board reviews only closed cases, they don't operate in "real time" like I do. At times I found it frustrating and felt like they didn't understand some of the practical constraints of my job. Then it struck me that that's exactly how police officers feel about civilian overseers—that we don't understand their work, we don't understand their challenges. It was a healthy reminder for me that the value added by the Board is exactly because of its different role and perspective. So I work with the OPA Review Board very well; we talk frequently.

I am grateful for the thoughtful recommendations made by the Board in its most recent report. One of their recommendations persuaded OPA to change its practice immediately: The Review Board pointed out that the complaint-finding categories OPA uses were confusing to the public and strongly recommended that we change them. The finding categories are entrenched in Department policies and practice, and the differences between them are significant from a personnel perspective. But I agreed with the Board's assessment and started thinking, "Those labels were intended for internal use, not for the public. We're not required to use them in closing letters, so why not omit them entirely and simply give the public a complete explanation of the evidence, analysis, and the conclusions?" So we changed our closing letters to complainants to be more descriptive and provide fuller explanations, without the jargon.

PARC: *What are you most proud of accomplishing during your tenure, thus far, as OPA Director?*

SP: I'm proud of the comprehensive reforms we enacted to provide better "customer service." Dramatic changes in structure and philosophy emphasized for the first time thorough and frequent communication with complainants and officers. I'm also proud of the work OPA has done in working toward a better response to complaints about biased policing. Those kinds of complaints pose really tough

challenges for complaint investigation. OPA has played an important role in both improving the investigation response and in being an advocate for the Department and the City to improve their response to the perception of biased policing.

Finally, I am proud of building a strong, visible office that tells citizens that their experiences count, and sharing them leads to change that makes the Department stronger and the city safer.

CONFERENCES

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

August 24-25, 2004 – Police Executive Research Forum, How to Analyze Race Data from Vehicle Stops, Kansas City, MO. Online at <http://www.policeforum.org/> under "Racially Biased Policing"

September 9-11, 2004 – International Conference on Policing and Diversity, New York, NY. Online at <http://johnjay.ijay.cuny.edu/info/calendar/conferences>

September 19-24, 2004 – International Association of Law Enforcement Planners, Annual Training Conference, Chicago, IL. Online at <http://www.ialep.org/>

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

October 17-20, 2004 – National Association for Civilian Oversight of Law Enforcement, 10th Annual Conference, Chicago, IL. Online at <http://www.nacole.org>

October 18-29, 2004 – Americans For Effective Law Enforcement, Police Civil Liability and the Defense of Citizen Misconduct Complaints, Las Vegas, NV. Online at <http://www.aele.org/wkscivil.html>

November 13-17, 2004 – International Association of Chiefs of Police, Annual Conference, Los Angeles, CA. More Information available at <http://iacp.expoexchange.com/>

November 17-20, 2004 – American Society of Criminology, 55th Annual Meeting, Nashville, TN. Online at <http://www.asc41.com/>