

# POLICE PRACTICES REVIEW

A Publication of the Police Assessment Resource Center

August 2004  
Vol. 3, No. 8

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## CIVILIAN OVERSIGHT

### L.A. County Sheriff's Department Report Issued

In August, Merrick Bobb, President of PARC and Special Counsel for the Los Angeles County Sheriff's Department (LASD), released his eighteenth semiannual report on the LASD. The semiannual reports are prepared to keep the Sheriff, the County Board of Supervisors, and the public aware of LASD issues that could lead to liability, and also "to improve the Department's ability to identify and manage the risk of negligence and reckless or willful misconduct." Special Counsel's latest report focused on four areas: the use of police canines; the handling of jail incidents; the training intended to minimize officer-involved shootings; and the data used in the LASD tracking system for identifying "problem" deputies.

Dog bites have increased, said Bobb, "both in absolute numbers and as a percentage of apprehensions." Though the Canine Services Detail (CSD) maintained a bite ratio—the percentage of suspect finds by canines resulting in a bite—of approximately ten percent since the early 1990s, the ratio rose to 17.2 percent in 2003 and 23.4 percent between January 1 and June 30 of this year, the highest since 1994. Bobb noted the increase does not stem from any policy changes and could be "the result of greater discretion afforded to [canine] handlers by their supervisors in the field," as noted in Special Counsel's fifteenth semiannual report in July 2002. He also raised the question of institutional bias: African Americans and Latinos comprised 82 percent of suspects bitten during searches between January 1 and June 30, 2004. Initial CSD calls do not usually identify a suspect's race or ethnicity, and "it would appear that the initial CSD decision to rollout is not influenced by race or ethnicity," the report said. "However, because canine handlers must be given the suspect's description... it is much more difficult to determine whether race or

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ethnicity plays any role in the decision to release the dog," the report said. Bobb said reviewed canine deployments appeared justified but recommended the LASD make more use of less harmful alternatives, such as Clear-Out Gas and flashbangs, and undertake a study to examine bite ratios and disparities concerning minority suspects.

As in the last semiannual report, there was continuing concern with a "substantial increase" in jail violence since 2001, which the LASD attributed to serious offenders increasingly concentrated in the general inmate population and to reduced resources, staff, and anti-violence initiatives. The report noted the staff training classes were condensed from eight-hour to two-hour sessions but commended a new system that documents trends and training needs discussed at Custody Training Unit (CTU) meetings in a database. "CTU deserves credit," said Bobb, "for the initiative it has shown in attempting to meet the training needs of custody staff in the face of severe resource constraints."

The LASD continues to lack adequate and consistent firearms refresher training, the report found. While instructors and role-playing refresher training were praised, "it is currently available on a severely limited basis and is not targeted with precision to deputies most likely to be involved in shootings." Deputies who had refresher training within the past six to eight months "nearly always performed much better than their classmates." Noting that tactical firearms skills quickly deteriorate and retraining must occur often, the Special Counsel recommended doubling the firearms refresher training staff and making the training available "more frequently to more deputies."

Regarding data used to identify actual or potential problem officers, Bobb said that though the LASD's Personnel Performance Index (PPI) is still a national model for computerized database tracking systems, its information about officer complaints and commendations is not up-to-date. Data entry has been streamlined, but information is still entered "too slowly for the PPI to function as an 'early warning' system." The report recommended the LASD hire more data entry operators and more clearly formulate what counts as a citizen complaint. The full report can be accessed online at <http://www.parc.info/>.

## Police Unions Sue over Public Hearings

In late July, Oakland became the latest California city where police unions have sued to stop public civilian review boards' investigative hearings, claiming that the hearings violate officers' right to keep personnel records confidential. Police in Berkeley have pursued similar litigation, as they have in nearby Richmond, where the police union has attempted to close the Richmond Police Commission's public case hearings.

The lawsuits come after two California 4<sup>th</sup> District Court of Appeals decisions. In 2002, the Court upheld a lower court in *San Diego Police Officers Association v. City of San Diego Civil Service Commission*, which ruled that because officer personnel records are confidential, review boards and departments where officers are employed "may not freely disclose these records at public disciplinary appeal hearings if the affected officer asserts an objection." In *Charles Davis v. City of San Diego*, upheld by the same court in March 2003, the City sought—and failed—to overturn a lower court's order that the City refrain from publicly releasing certain Citizens' Review Board on Police Practices reports.

In the second case, the reports discussed investigative findings and departmental determinations after a fatal officer-involved shooting. The lower court agreed with the plaintiffs that the reports were personnel records, the public release of which would be an unlawful disclosure. The appellate court affirmed: San Diego was "statutorily precluded from voluntarily disclosing those reports to the public." The City contended the Board's reports did not refer to officers' names but rather to dates and internal affairs numbers.

The County of San Diego Citizens' Law Enforcement Review Board said in its 2003 Annual Report that while it was not a party in either case, the "symbiosis of the two court decisions" and pressure from the San Diego Deputy Sheriffs' Association convinced it to hold closed case hearings and to stop publicly issuing its investigative reports as a precautionary measure. *San Diego Police Officers Association v. City of San Diego Civil Service Commission*, 104 Cal. App. 4th 275, December 11, 2002; *Charles Davis v. City of San Diego*, 106 Cal. App. 4th 893, March 3, 2003; *Contra Costa Times*, July 23, 2004; *San Francisco Chronicle*, July 26, 2004; *Sacramento Bee*, August 6, 2004; <http://www.sdcounty.ca/gov/clerb/index.html>.

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## CONSENT DECREES/ MEMORANDA OF AGREEMENT

### DC Monitor Releases Ninth Quarterly Report

The Office of the Independent Monitor (OIM) for the Metropolitan Police Department (MPD) released its ninth quarterly report on MPD compliance with the 2001 Memorandum of Agreement among the MPD, the District of Columbia, and the U.S. Department of Justice. The report highlighted components of the Memorandum of Agreement (MOA), including: use-of-force policy and use-of-force incident reports; in-service training on the use of oleoresin capsicum spray; internal use of force and misconduct investigations; and the field training officer program. The report covers April 1, 2004, through June 30, 2004.

The MOA requires the MPD to develop a Use of Force Reporting Policy and a Use of Force Incident Report (UFIR). The agreement also mandates that officers fill out a UFIR immediately after force is used. The Monitor found that UFIR completion percentages had dropped substantially, from 74 percent in April 2004 to 19 percent in May and 27 percent in June. May had the second lowest completion rate since the MPD began providing UFIR statistics in October 2002.

The OIM observed in-service firearms training and expressed concern that classroom instruction "placed no special emphasis on the use of OC spray, did not cover all the areas in the lesson plan devoted to OC spray, and did not cover decontamination procedures."

The OIM reported that MPD has made significant improvement in the timeliness and quality of internal use-of-force and misconduct investigations. The Monitor found that 100 percent of the 80 completed investigations it reviewed contained a description of the use of force or misconduct suspected; 100 percent summarized relevant evidence; and approximately 97 percent proposed supporting analyses. Seventy-four percent of the investigations were completed within 90 days as required by the MOA, improving from almost 61 percent during the previous quarter.

The OIM said improvement is needed in MPD's field training officer program, including drafting and obtaining approval of the Enhanced Field Training Officer Program Protocol. The Monitor also found

MPD in non-compliance with paragraphs requiring established criteria for selecting field training officers.

The Monitor noted that, as of the close of the ninth quarter, the MPD and the City had begun the 2-year-period during which substantial compliance with the MOA must be achieved and maintained in order to terminate the MOA five years after the effective date. The report can be accessed online at <http://www.policemonitor.org>.

### **Steubenville (OH) Still in Substantial Compliance**

Charles D. Reynolds, the court-appointed auditor for the Steubenville Police Department (SPD), recently released his twenty-sixth quarterly report on the City of Steubenville's compliance with the consent decree (CD) it entered into with the U.S. Justice Department on September 3, 1997. The City must remain in substantial compliance with CD provisions for two years in order to have the decree lifted. In March 2003, the City was "first found in substantial, but not complete compliance" with the overall decree; it must remain in substantial compliance with CD provisions until March 2005 in order to have the decree lifted.

The latest report, covering the period between April 1 and June 30, 2004, noted that the City is in compliance with all but one CD provision – one requiring that reports include justifications for stops, searches, and seizures. Officers completing reports are providing "incorrect, unclear, or insufficient justification for searches, which most often are in fact justified," but supervisors are approving the reports "without taking corrective action," the report said. The Auditor also expressed concern with SPD officers' practice of using minor vehicle or local ordinance violations as justification for making traffic stops. The Auditor did commend Chief of Police William A. McCafferty for his daily meetings with staff to review reports on stops, searches, and seizures as well as use-of-force, pursuit, and arrest reports from the previous 24 hours in order to take appropriate actions.

The report gave high marks to SPD entry-level, annual in-service, and promotional training. "Entry level training records are regularly reviewed... and are well maintained and current," the Auditor wrote, and promotional training is "organized and well administered." SPD Internal Affairs was also complimented for its open citizen complaint process,

which includes a 24-hour, confidential, citizen complaint hotline, and for continuing "commitment to Decree requirements and generally accepted professional policing practices."

Auditor Reynolds said the high number of officers with multiple complaints of misconduct and repeated supervisory reviews "suggests continued supervisory deficiencies and missed opportunities to take proactive, preventive, or corrective measures" with such officers. The Auditor also expressed concern that the City had failed to support Chief McCafferty's disciplinary determinations, and warned that he could not manage the SPD absent that support. *Auditor's Quarterly Report: Compliance Audit for the Steubenville, Ohio Police Department, April 1 – June 30, 2004.*

### **LAPD Monitor Issues 12<sup>th</sup> Report**

Michael Cherkasky, the Independent Monitor for the Los Angeles Police Department (LAPD), released his twelfth quarterly report on compliance with the 2001 Consent Decree (CD) among the City, LAPD, and the U.S. Justice Department. The CD requires reforms in areas such as officer supervision, use-of-force and incident documentation, use of confidential informants, gang unit management, officer training, and department self-auditing and monitoring. The report covers April 1 through June 30, 2004, and examines 75 decree provisions, of which the Monitor found the City and LAPD in compliance with 49.

The Monitor commended the LAPD for complying with many gang unit requirements. "This is the first quarter since the inception of the Consent Decree that the LAPD has achieved compliance with requirements regarding the role of gang unit supervisors and area managers," observed Cherkasky. Supervisors provided a daily presence in the field and engaged in operations, and area managers oversaw supervisors and tactical operations in compliance with CD provisions, though one of the report's highlighted concerns was LAPD's failure to orally interview, or adequately document the oral interviews of, prospective gang unit officers.

Also noted were improvements in internal integrity audits that the CD requires LAPD to periodically conduct to evaluate CD compliance and identify incidents of inappropriate officer behavior or insufficient supervision. LAPD's Audit Division

completed five audits during the quarter, and reached a “significant milestone by achieving full compliance with the qualitative requirements for all five of the audits evaluated by the Monitor.”

In accordance with the decree, LAPD is developing an early warning, computer information system—the Training Evaluation & Management System II (TEAMS II)—to promote best policing practices and to identify at-risk officer behavior. Delays in the system’s development have been a recurring concern of the Monitor, who stated that the current development schedule “does not provide the requisite two years of compliance” before monitoring is set to end and “may very well necessitate an extension of the Monitorship.” Cherkasky was nonetheless pleased with LAPD’s progress during the quarter; he commented that TEAMS II development “is moving forward in as expeditious a manner as possible.”

The report also gave attention to the Stanley Miller incident, in which a televised police foot pursuit ended with the use of force, including the use of a flashlight to strike Miller. For the Monitor, the question was not whether such an incident would ever occur but how the LAPD would handle the aftermath. The LAPD’s reaction to the incident, at least in the early stages, has been “commendable,” the report stated. “Protocols envisioned by the Consent Decree were followed, including notification and involvement of both the Office of the Inspector General and the District Attorney’s Office.” The full report can be accessed online at [http://www.krollworldwide.com/library/lapd/LAPD\\_Q12\\_Report.pdf](http://www.krollworldwide.com/library/lapd/LAPD_Q12_Report.pdf).

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## ACADEMIC RESEARCH

### **Policing the Mentally Ill**

*In the September 2004 issue of Police Quarterly, three articles examine different aspects of the relationship between police and the mentally ill. The first, “Dispositional Decisions with the Mentally Ill: Police Perceptions and Characteristics,” by Virginia G. Cooper, Alix M. McLearn, and Patricia A. Zapf, uses hypothetical scenarios to explore the decision-making process of police officers when they approach individuals they perceive as mentally ill. Second, in “The Use of Force Between the Police and Persons with Impaired Judgment,” Robert J. Kaminski, Cleto DiGiovanni, and*

*Raymond Downs examine the effect of perceived impaired judgment, e.g., drugs, alcohol, mental illness, on the likelihood that force will be used during arrests. Third, in “An Exploratory Study of Pennsylvania Police Officers’ Perceptions of Dangerousness and Their Ability to Manage Persons with Mental Illness,” Jim Ruiz and Chad Miller administered a survey to a sample of Pennsylvania police departments exploring their perceptions regarding the dangerousness of the mentally ill, beliefs about responsibility toward handling calls for service concerning the mentally ill, injuries to police and the mentally ill during encounters, and related policies and procedures.*

### **“Dispositional Decisions with the Mentally Ill: Police Perceptions and Characteristics”**

*By Cooper, V.G., McLearn, A.M., and Zapf, P.A.*

Cooper, McLearn, and Zapf explored the relationship between a police officer’s decision to either arrest or involuntarily commit a mentally ill individual. Ninety-two police officers from a medium-sized department in the Midwest answered a questionnaire about their attitudes toward working with the mentally ill and responded to a scenario involving mentally ill individuals. The main hypothesis of the study was that “arrest dispositions would be chosen more often than involuntary hospitalization dispositions.” This turned out to not be the case. Arrest was the chosen action in 17.1 percent of all the scenarios while hospitalization was chosen in 46.3 percent of the cases. The authors also investigated the effect of both officer and suspect race. The study found that officers were much more likely to involuntarily commit white suspects. While commitment decisions differed by race, according to the study, arrest rates did not. Regarding attitudes relating to the mentally ill, the authors report that officers felt dealing with the mentally ill was a part of their job. Officers did, however, indicate the need for more training in working with the mentally ill.

### **“The Use of Force Between the Police and Persons with Impaired Judgment”**

*By Kaminski, R.J., DiGiovanni, C., and Downs, R.*

Kaminski, DiGiovanni, and Downs examined the effect of impairment on the likelihood that force is used during arrests and also tested the effects of

different types of impairment (including drug intoxication, alcohol intoxication, mental illness). Data came from 2,060 questionnaires completed by officers describing each person arrested and booked at a large southeastern municipal police department. While perceived judgmental impairment significantly increases the likelihood that force is used, that increase is primarily attributed to the perception that an individual is judgmentally impaired because of drug use. Consistent with prior research, the study found that “impairment by mental illness does not appear to increase the likelihood of use of force.”

### **“An Exploratory Study of Pennsylvania Police Officers’ Perceptions of Dangerousness and Their Ability to Manage Persons with Mental Illness”**

*By Ruiz, J. and Miller, C.*

Ruiz and Miller assessed the nature of the handling of calls for service involving persons with mental illness by police departments in Pennsylvania. Data came from surveys completed by one individual, often a chief or other high ranking sworn official, at each of the 164 police departments throughout the state included in the study. Seventy-eight percent of the departments reported that they “seldom” have to resort to physical force during calls for service involving the mentally ill, 1 percent reported that they “very frequently” had to use force, and 7.3 percent reported “never” having to use force against the mentally ill. Additionally, 95 percent of the departments reported that injuries to mentally ill seldom or never occur and 93 percent reported that injuries to officers seldom or never occur. The study found that more calls for service involving the mentally ill resulted in injury to both officers and suspects when two or more officers were dispatched to the scene and no ambulance or EMS were dispatched. These results support the contention that “fewer officers on the scene leads to more peaceful resolutions of such calls.”

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## RACIAL PROFILING

### **Opinions Diverge on Justifications for Profiling**

Although blacks and Hispanics are more likely than whites to believe racial profiling is widespread, their opinions diverge about its justification, according to the Gallup Organization’s latest *Minority Rights and*

*Relations* poll. In the poll, Gallup defined racial profiling as “stopping members of certain racial or ethnic groups because they are believed to commit certain types of crimes more often than others.” In more than 2,000 telephone interviews with black, Hispanic, and white adults, interviewers asked respondents not only how widespread they think racial profiling is but also whether it is justified in three situations—traffic stops, questioning in malls and stores about possible theft, and airport security checks.

Fifty-three percent of interviewees thought traffic stops are made because of a person’s race or ethnicity. As researchers expected, blacks and Hispanics were more likely than whites to hold such a belief; 67 percent of blacks and 63 percent of Hispanics felt that profiling is widespread in stops, compared to 50 percent of whites. Blacks were most likely and whites were least likely to believe profiling is pervasive in malls and stores, with 49 percent of all interviewees asserting its wide use. Fifty-four percent of Hispanics, 48 percent of blacks, and 40 percent of whites (42 percent overall) felt it is widespread in airport security checks—though because of the margin of error, Gallup said the difference between blacks and whites is not significant.

Smaller percentages of all three groups believed racial profiling is justified than said it is widespread. Twenty-five percent thought profiling is justified when questioning shoppers, 31 percent believed it is appropriate in traffic stops, and 45 percent said it is justified at airport security checkpoints. Nearly equal percentages of Hispanics (30 and 40) and whites (31 and 46) thought profiling is justified, respectively, in motorist stops and airport checks. In both of those categories, blacks were less likely to believe it justified. Gallup said the sampling error is +/-5 percentage points. Information about the poll can be accessed online at <http://www.gallup.com/>. *Gallup Poll Tuesday Briefing*, July 20, 2004.

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## STANDARDS & TRAINING

### **Dallas Chief Bans Restraint Tactic**

On July 30, 2004, Chief David Kunkle of the Dallas Police Department (DPD) announced his decision to ban lateral vascular neck restraints, or neck holds. He

also announced his intention to immediately acquire 50 Tasers to be distributed to patrol sergeants and an additional 350 for the department in the next year.

Before the ban in Dallas, neck holds were on the same level as chemical spray, takedowns, and punches or kicks on DPD's Use-of-Force continuum. Local civil rights groups welcomed the ban while police associations felt that officers had been left with fewer force options. Chief Kunkle was also recently criticized by police associations for a new DPD policy that places officers on desk duty immediately if someone dies in their custody. The DPD came under pressure to change its restraint tactics after rising controversy over the December death of Allen Simpson, who was subdued by a neck hold and died approximately an hour later. *The Dallas Morning News* May 28 and July 31, 2004.

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## FORCE MANAGEMENT

### Newspaper Examines Officer-Involved Shootings

Out of 189 shootings by 18 Harris County (TX) law enforcement agency personnel since 1999, officers have shot 65 unarmed people, killing 17 of them, according to a recent *Houston Chronicle* study. The study, which featured officer interviews and a review of the agencies' personnel files and disciplinary records, found that half of the people shot were armed with a gun or a knife, while seven percent carried some other object, such as a pipe, a piece of wood, or a screwdriver.

The study identified four patterns in the 65 shootings of unarmed people: the involved officer was "moonlighting" (working secondary security jobs off-duty); the officer was involved in a drug buy-bust; the individual shot was mentally ill; and the individual shot was inside a vehicle. Some of the patterns overlapped with each other. Twelve people were shot by "moonlighting" officers. These shootings, the study found, occurred after property crimes, such as bicycle theft or shoplifting, or after traffic incidents. Drug buy-busts, involving undercover narcotics officers, led to the shootings of at least eight unarmed people. At least ten people who were shot, the study found, were mentally ill and either empty-handed or holding objects such as wood or screwdrivers. Finally, 36 people were shot inside cars or trucks. In some of

the incidents, said the study, police put themselves in harm's way in violation of training and then fired into the vehicles in self-defense.

The *Chronicle* reported that few of the officers involved in shootings of unarmed persons have been disciplined in any way: to date, officers in four of the 65 cases have faced discipline. It also recommended that law enforcement agencies whose shootings were analyzed strengthen their use-of-force policies; consider alternative weaponry, such as Tasers; improve force training with real-life scenarios; increase training for handling mentally-ill suspects; and ban police from shooting into moving vehicles. Some of the data used in the *Chronicle's* study can be accessed online at <http://www.chron.com/shootings>. *Houston Chronicle*, July 25 and July 26, 2004.

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## NEWS BRIEFS

### Privacy Concerns Limit MATRIX Participation

Thirteen states were originally slated for inclusion in the Multistate Anti-Terrorism Information Exchange (MATRIX), a \$12 million pilot project under the Florida Department of Law Enforcement's purview. The project would send state records to Seisint, Inc., a private company, which would provide law enforcement in participating states with online access to vehicle, arrest, sexual offense, and crime records along with Seisint's information from private-sector and government databases. MATRIX would be a multistate search engine, collecting information from different jurisdictions on potential suspects.

Amid privacy concerns, questions of sending state information to Seisint, and threatened lawsuits, eight of the 13 states have dropped out, leaving only Florida, Ohio, Michigan, Pennsylvania, and Connecticut as participants. In Michigan, for example, the American Civil Liberties Union filed a lawsuit against the state seeking to stop the Michigan State Police from participating. MATRIX creates records of people who are not accused of crimes, argued the ACLU, in a press release, and would collect credit histories, marriage and divorce records, and names and addresses of family members, neighbors, and business associates.

In light of the privacy concerns, Florida Department of Law Enforcement officials stated that MATRIX—

first envisioned as a potential terrorist tracking system—will be used to solve crimes with information law enforcement has always, albeit more slowly, been able to obtain without a warrant. Additionally, the five remaining states involved with the information exchange will now maintain their own records, and MATRIX will search each state's records as needed. *Associated Press*, July 16, August 3, and August 16, 2004; *National Journal's Technology Daily*, July 19, 2004; <http://www.aclu.org>.

### Oversight Proposal Issued by City of Denver

In January 2004, Mayor John Hickenlooper of Denver (CO) formed a task force on police reform to “examine proposals that would change the Police Department's Use of Force Policy and civilian oversight,” according to a Mayor's Office press release. Last month, the Mayor adopted the task force's proposed use-of-force recommendations to ban shooting at or from moving vehicles and to increase officer training in crisis intervention with mentally-ill persons. The task force, however, could not agree on the best civilian review model, as the Mayor had requested.

Voters will likely be asked to decide if they support the oversight plan Mayor Hickenlooper proposed on August 11, 2004. The plan would amend the City Charter to allow for an Office of the Independent Monitor as well as a Citizen Oversight Board that would replace the Public Safety Review Commission. The Board would assess the Monitor's work and make policy and training recommendations. The proposal requires the Monitor “to actively monitor and participate in any criminal investigation” of such DPD or county sheriff incidents as officer-involved shootings, in-custody deaths, and duty-related deaths or “serious bodily” injuries. The Monitor is also given the authority to monitor citizen-complaint investigations of alleged improper use of force, discrimination, retaliation, or discourtesy. The Office will make disciplinary recommendations to the City Manager of Safety. Finally, the proposal includes a citizen pool to select civilians to serve with officers on DPD's Disciplinary Review Board, which decides upon discipline in cooperation with the City Manager of Safety. The City Council and Mayor hope to have a measure on the November ballot for the public to vote on the proposal. The Mayor's press releases and the full proposal can be accessed online at <http://www.denvergov.com/Mayor/>. *Denver Post*, June 25,

2004; *Denver Post*, June 26, 2004; *Denver Post*, August 24, 2004; *Rocky Mountain News*, September 3, 2004.

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## INTERVIEW

Since April 2000, **Julita Lemgruber** has been Director of the Center for Studies on Public Security and Citizenship (CESeC) at University Candido Mendes in Rio de Janeiro, Brazil. The Center's primary goal is to help modernize the Brazilian criminal justice system through research, public policy, and consulting. Under Ms. Lemgruber's leadership, CESeC has undertaken studies on topics such as racial profiling in Rio de Janeiro, the impact of women's participation in Brazil's Military Police, and the evaluation and improvement of civilian oversight of Brazilian police. Ms. Lemgruber's organization is a founding member of Altus Global Alliance, an international coalition of nongovernmental organizations and academic centers working to improve public safety and justice around the world. She is the former General Director of the Prison System in the State of Rio de Janeiro and was the first Police Ombudsman in that state. Additionally, she serves on the boards of several international organizations committed to prison reform and has published books and articles.



**PARC:** Please describe your professional background in the area of policing.

**JL:** I have been involved off and on with research in the area of policing and prisons since the mid 1980s. My first project on policing was an attempt to understand how the civil police worked in Rio, focusing on the points of view and values of the men who made up the force. From March 1999 to March 2000, I served as Police Ombudswoman for the State of Rio de Janeiro as part of a team attempting to implement a law enforcement policy based on the principle that it is possible and necessary to combat

crime while respecting the rights of all citizens. Right now I am the director of a university research center dedicated to studying the various aspects of the criminal justice system and proposing public policies that can effectively deal with violence and crime.

**PARC:** *What are your main concerns regarding policing in Brazil?*

**JL:** The use of torture during police investigations, the excessive use of force, and widespread corruption are the most serious problems in Brazilian police forces. In the state of Rio de Janeiro alone (14 million inhabitants and a police force of approximately 50,000 policemen) in the year 2003, the police killed 1,195 persons. Previous research has shown that most of the deaths caused by police action in Rio may be defined as executions: 46 percent of the bodies contained four or more gunshot wounds; 61 percent had at least one gunshot wound in the head; 65 percent had been shot at least once in the back; one third had other injuries in addition to gunshot wounds; and 40 percent of the victims had been shot point-blank, at close range. Among the serious consequences of such violence and corruption in the Brazilian police forces, one may point out the weak legitimacy of the country's law enforcement agencies, which the population views with distrust and discredit.

Furthermore, one could make an endless list of the deficiencies and problems of Brazil's police forces. There is limited investment in technology and human resources, resulting in a chronically low investigative and crime-solving capability, even for the most serious crimes. The crime data and information that police collect and produce are of a very poor quality. When they do exist, they are usually fragmented and are used individually by police officers who may get the data and information but not share them with others. Officers may use the information to bribe someone, to be successful in an investigation and get promoted, or for other purposes. Only in recent years have very

embryonic efforts been made to use such data to plan and evaluate police work itself. Finally, to complete this picture, we could not fail to mention the direct involvement of sectors of the police in such criminal activities as drug trafficking, illegal sale of weapons, robbery, kidnapping, and numerous other crimes.

**PARC:** *Why was your Center (CESeC) created, and what is its mission?*

**JL:** CESeC was founded in April 2000, drawing together a group of specialists with experience in academic work, activity in social movements, and the direct responsibility for designing and implementing policies in the area of public security. The Center's main commitment is to help modernize and democratize the Brazilian criminal justice system, fostering a participatory culture for public security in the country.

*"The use of torture during police investigations, the excessive use of force, and widespread corruption are the most serious problems in Brazilian police forces. In the state of Rio de Janeiro alone (14 million inhabitants and a police force of approximately 50,000 policemen) in the year 2003, the police killed 1,195 persons."*

**PARC:** *What are some of CESeC's current research projects on policing?*

**JL:** CESeC has just finished two important research projects on policing. One is called "Racism and the Police," which is a quantitative and qualitative survey on police searches, racial profiling, and perceptions of discrimination in the city of Rio de Janeiro. The other is entitled "Women in the Military Police," which is a comparative study on the police in three Brazilian states, evaluating the impact of women's participation in the Military Police.

There is another one which is not a research project but has been very successful and gratifying. We are working with a group called Afroreggae offering workshops in Military Police Battalions for the policemen and their children. These are very diverse workshops, from music to theatre, from circus to graffiti. Afroreggae is a group of extremely talented young men from a very poor neighborhood that tries to attract to its activities kids who would otherwise be involved in the drug trafficking business. Naturally,

these are kids who had and have many problems with the police but are fantastic artists. The idea of the project is to bridge the gap between poor youngsters from the slum areas and the police—two groups that generally have acute relationship problems. Instead of offering workshops on human rights for the police, this group provides cultural and art workshops that may, in the long run, prove to be much more effective in changing how the police see others, especially young kids from poor areas.

**PARC:** *Can you discuss any findings, and the implications of those findings, from your research concerning racial profiling in Rio de Janeiro?*

**JL:** The results show that it is not in the experience of being stopped while driving that racial discrimination by the police stands out. It seems that the extreme poverty that most Brazilian blacks live under in a way spares them from this kind of discrimination. As a matter of fact, census data show that very few blacks have cars—less than five percent of the black households indicated the family had a car. On the other hand, research data show that being stopped in the streets, inside buses, and being searched by the police, is often a dramatic experience that basically affects the black population, mostly young males.

**PARC:** *What is the structure of policing in Brazil? Does the structure differ among Brazil's states?*

**JL:** Brazil has a federal police force, which is very small (around seven thousand men and women for the whole country), state police forces (adding up to approximately 500,000 and basically the ones responsible for public security) and municipal guards, with very limited powers and who are mostly still unarmed in the bigger cities. State police forces are divided in two, in all Brazilian states. This division of policing between two different police forces, the Civil and Military Police, with the former in charge of

investigating crimes and the latter in charge of overt and preventive policing, poses many problems. This jurisdictional split hinders a more global perspective in planning law enforcement activities in such a way as to include the entire cycle ranging from prevention to investigation to arresting suspects. The two institutions duplicate efforts, activities, and resources (such as databases and communications systems). They frequently engage in turf wars, struggling with each other over space and competing to take credit for results. Their organizational cultures are very distinct and their relations are generally marked by distrust, if not open hostility.

The Military Police is organized internally according to the Brazilian Army model, with two “hierarchical circles” — officers and soldiers—in which the ranks (for officers) or so-called grades (for soldiers) are arranged

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in a total of 14 hierarchical levels. This structure, literally copied from military hierarchy, poses many problems when it comes to providing daily law enforcement services. The highly bureaucratic and centralized decision-making

processes lead to losses in efficacy not only for daily police work but also for formal internal control mechanisms.

Like the Military Police, the Civil Police is structured in two “hierarchical circles,” in this case consisting of *delegados* (precinct commanders) and the so-called “*tiragem*” (or rank-and-file cops), with different points of entry into the police career. The overall Civil Police infrastructure also normally includes the agencies responsible for identification, criminology, and forensic medical examination, in addition to precincts specializing in certain types of crimes or serving specific groups.

In general, both the Military Police and Civil Police forces in Brazil have a specific internal control agency called the *Corregedoria*, or Internal Affairs Office, responsible for investigating crimes and administrative

violations involving police officers and, depending on the case, recommending penalties and/or referring the case to the Public Prosecutor's Office. The Internal Affairs Offices are subordinated to the chain of command of their respective police forces.

**PARC:** *What is the structure of official police oversight, and how does it fit into the structure of policing in Brazil?*

**JL:** The 1988 Brazilian Constitution greatly expanded the jurisdiction of the Public Prosecutor's Office and included among its functions the exercise of civilian oversight of the police, which includes monitoring all stages of police work, examination of all documents and proceedings related to inquiries and complaints involving torture, crimes, misconduct, and human rights violations. However, in practice these broad *de jure* powers have never been exercised *de facto*, except in isolated cases and the performance of the Public Prosecutor's Office in police oversight and in combating human rights violations has fallen far short of the role reserved for it by the 1988 Constitution.

In the mid 1990s, the first Police Ombudsman's Offices were created, and now 13 out of the 27 states have Police Ombudsmen. The Police Ombudsman's Offices in Brazil are designed to receive citizens' complaints concerning arbitrary and/or illegal acts committed by the police and to refer complaints to the Police Internal Affairs Offices for investigation, subsequently monitoring the work performed by the latter. In theory, Police Ombudsmen are expected to enjoy autonomy and independence since they are not hierarchically subordinated to the police forces and have a mandate of one to four years. In practice though, there is a major gap between the letter of the law and the daily work of the Ombudsman's Offices basically because Police Ombudsmen have to rely on the cooperation of the Internal Affairs Offices of both police forces.

*"The Ombudsman's Offices generally accuse the Internal Affairs Offices of stonewalling and glossing over investigations in order to safeguard the name of police institutions. The Internal Affairs Offices, in turn, accuse the Ombudsman's Offices of referring complaints with no probable cause, which they frequently claim are attempts at revenge against police officers."*

**PARC:** *Could you discuss the general interaction between a Police Ombudsman's Office and a Civil or Military Police Internal Affairs Office in one of Brazil's states?*

**JL:** As a rule, the relationship between the Ombudsman's Offices and the Civil and Military Police is marked by tension and conflict. The Ombudsman's Offices generally accuse the Internal Affairs Offices of stonewalling and

glossing over investigations in order to safeguard the name of police institutions. The Internal Affairs Offices, in turn, accuse the Ombudsman's Offices of referring complaints with no probable cause, which they frequently claim are attempts at revenge against police officers.

**PARC:** *Has police oversight in Brazil changed in the time since you were the Police Ombudswoman for the State of Rio de Janeiro?*

**JL:** Not much. Based on the evaluation our Center undertook of five Police Ombudsman's offices in this country covering a two-year period, there is still a long way to go before civilian oversight of the police can actually become an instrument for citizens' defense and participation by civil society in police oversight. The first obstacle that must be overcome is the traditional resistance of Brazilian police forces to any kind of civilian oversight and control.

**PARC:** *What do you think should be done to improve police oversight in Brazil?*

**JL:** The institutionalization of the Police Ombudsman's Office is a process that is still underway and which faces a number of difficulties, greater in some states of Brazil than in others, but in all cases falling far short of expectations and goals, considering the current magnitude of police violence and corruption in the country. Generally speaking, the state governments that created these agencies have failed to guarantee

minimum operational conditions, like their own headquarters and staff, budget autonomy, and sufficient independence to adequately serve their police oversight role.

In addition to improving operational conditions in the Police Ombudsman's Offices, which are still extremely precarious, there is also an urgent need to restructure, de-bureaucratize, and streamline their daily schedules and procedures.

The field visits during the evaluation project emphasized that the current structure of Police Ombudsman's Offices in Brazil has failed to allow real progress in the following three essential areas: (a) communications with the civilian population, aimed at expanding knowledge of civilian oversight agencies and encouraging well-substantiated complaints with the accuser's identity included; (b) communications with the police, also aimed at clarifying the objectives of civilian oversight and diminishing distrust and resistance; and (c) more careful treatment of the complaints received in order to increase the effectiveness and efficacy of investigations.

There is also great need to expand the scope of civilian oversight of the police, which is still essentially focused on the "bad apples." While continuing to identify and punish individual police crimes and misconduct—since anticipated impunity is definitely still a factor that refuels violence and corruption in police forces—it is also essential for Police Ombudsman's Offices to concentrate on broader monitoring of police institutions and formulating solutions to their structural problems.

Finally, the capacity to conduct their own investigations—parallel or as alternatives to those conducted by Internal Affairs—would be a fundamental requirement for overcoming the "closing of ranks" that still prevails in internal police

monitoring agencies. By comparing information and results, and preventing negligence and inertia in these agencies from continuing to feed impunity, autonomous investigations conducted by Police Ombudsman's Offices would certainly increase the efficacy of *both* forms of police oversight.

**PARC:** *What have you learned about civilian oversight of law enforcement in other countries?*

**JL:** I have visited a few countries to learn about civilian oversight of the police. Generally, the work done in the United States, in England and Wales, in Portugal, and in Northern Ireland, for instance, show that civilian oversight in those jurisdictions has achieved a high degree of autonomy, scope, and diversification, which

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has still not occurred in Brazil. Nothing compares to what is done in Northern Ireland today. The Police Ombudsman in Northern Ireland investigates all the complaints received and has a budget of £7 million pounds a year—which means

approximately \$14 million for a country with 1.7 million inhabitants and a police force of 9,000 men and women. The Police Ombudsman's Office has 80 investigators, all with police powers—including the power to arrest a policeman. No civilian oversight scheme anywhere in the world is as powerful. There is a lot to be learned there considering the fact that last year only one person died after being shot by a policeman.

**PARC:** *Have you identified any promising developments in Brazilian police oversight that give you hope for positive change?*

There is some light on the horizon. Brazil has signed an agreement with the European Union to cooperate on a project that has several different aspects. One of them is related to upgrading civilian oversight of the police. Our Center has been invited to put together a proposal to work with the existing 13 Police Ombudsman's Offices to train their staffs on issues as diverse as learning how to deal with disturbed

complainants, making oversight strategy much more proactive, learning how to organize databases, and understanding how to effectively monitor what Brazilian police forces' internal oversight bodies do. The project will be funded by the European Union, will rely upon European civilian oversight experts, and will be administered by the National Secretary for Human Rights in the Brazilian federal government. The project is still on paper. Let's see what happens.

## CONFERENCES

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

**September 23-24, 2004 – Stanford University Policing Racial Bias Project, Initial Conference, Palo Alto, CA.** Online at <http://policingproject.stanford.edu/>

**October 5-6, 2004 – International Association of Chiefs of Police, No-Cost Weapons of Mass Destruction Executive Level Training, Westbrook, ME.** Training also **October 18-19, 2004, Hamilton, NJ.** Online at <http://www.theiacp.org/>

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

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

**October 18-20, 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/wkspdates.html>

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

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

**December 6-8, 2004 – Americans For Effective Law Enforcement, Public Safety Discipline and Internal Investigations, Las Vegas, NV.** Online at <http://www.aele.org/wkspdates.html>