

POLICE PRACTICES REVIEW

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CIVILIAN OVERSIGHT

L.A. County Sheriff's Department Report Issued

PARC's President, Merrick J. Bobb, has released his nineteenth semiannual report on the Los Angeles County Sheriff's Department (LASD), in his role as Special Counsel to the Los Angeles County Board of Supervisors. The semiannual reports, prepared since 1993, seek to identify LASD issues that could lead to liability and then to determine if the Department is doing its best to correct the misconduct and faulty practices which give rise to those issues. In the nineteenth report, Special Counsel Bobb focused on foot pursuits and the LASD's new foot pursuit policy; risk management and reducing litigation and liability costs; and LASD efforts to prevent illegal strip searches of pre-arraignment detainees.

In November 2004, the LASD implemented a new foot pursuit policy to limit solo foot pursuits of suspects and set requirements for deputies involved in any chase on foot. Between 1997 and 2002, Mr. Bobb noted, 22 percent of 239 LASD shootings occurred during or at the end of foot pursuits; that percentage increased to 27 percent in the 44 shooting cases Bobb reviewed in 2003 and 2004. He credited the LASD with going "farther than nearly all other law enforcement agencies in the country in formulating written policies restricting solo foot pursuits" but said the new policy lacked clarity and firm guidelines, which may confuse deputies about what is and is not acceptable. The policy foregoes clear proscriptions on communicating successful broadcasts of information at the beginning of pursuits and utilizing the tactic of partner splitting, leaving much decision making to "common sense" when initiating or continuing a chase, the report stated. The Special Counsel also said that the LASD was trivializing the policy and the risks involved in foot pursuits by not requiring mandatory training on the

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policy and by leaving training decisions up to each individual station.

Mr. Bobb's report commended the Department for allocating more staff and resources to risk management over the last few years. The LASD Risk Management Bureau's Civil Litigation Unit has worked to "quickly pay claims and settle lawsuits where an individual has been wrongfully harmed," while mounting aggressive defenses in cases where the LASD believes it is not at fault or plaintiffs' demands are unreasonable. New lawsuits were down 27 percent in fiscal year 2003-2004 over the two previous years, despite an increase in filed claims, and the Department's total liability for claims and lawsuits decreased 43 percent in the same time period. "To better manage the cost of litigation is good," said the Special Counsel, but "to reduce the risk of similar incidents in the future is better." While he praised the litigation management, Mr. Bobb said he hoped the Department would be able to translate litigation and liability lessons into training through the Bureau's new Corrective Action Unit. He did express concern that of a number of cases involving deputy misconduct that settled for \$100,000 or more, few resulted in discipline for the involved deputies or policy changes for the Department. (*See President's Perspective for more on this topic.*)

Lastly, the semiannual report discussed LASD efforts to implement reforms arising from two settlements stemming from alleged illegal strip searches in the Los Angeles County Jail. Before the settlements, Department policy allowed strip searches of pre-arraigned inmates held on misdemeanors or infraction offenses not involving weapons, narcotics, or violence—contrary to California laws. In the report, Special Counsel Bobb noted that the LASD developed and has complied with a corrective action plan to prevent such illegal searches. The plan includes actions to better track pre-arraigned inmates, distribute custody-related policies to appropriate LASD employees, and ensure that County Counsel review custody-related policies and revisions before publication. The semiannual report can be accessed on PARC's web site at www.parc.info.

San Diego County Report Released

The Citizens' Law Enforcement Review Board (CLERB) of San Diego County has released its 2004 annual report, providing a year-in-review look at the

Board's work and citizen complaint trends. CLERB was established in 1990 to receive and investigate misconduct complaints against the San Diego County Sheriff's and Probation Departments. Executive Officer John Parker noted that in 2004 CLERB received 116 new complaints and closed 163 cases, including each case open at the start of the year. By the end of 2004, he said, CLERB "had attained [the] significant achievement of having only 55 open cases for investigation, none of which were older than one year."

The 116 complaints received were the lowest total in ten years, followed by the 119 received in 1999; 2002 saw the recent record high number of complaints at 229. Of the allegations comprising last year's complaints, 4.24 percent were allegations of discrimination, and the same percentage was for illegal search and seizure. False arrest made up 3.94 percent and excessive force 3 percent of all allegations. More than 71 percent were classified under the category "Other Misconduct," which included allegations such as discourtesy, harassment, and retaliation. In 2004, Sheriff Law Enforcement Services (patrol and investigation) received 43 percent and the Sheriff Detention Services 53 percent of the total complaints, as opposed to 28 and 66 percent, respectively, during the previous year. The drop in Detention Services' share of complaints is due, in part, to the 56 percent decrease in complaints at Central Jail.

The issue of officer confidentiality as it applies to CLERB's publications and meetings has yet to be resolved with the Deputy Sheriffs' Association. Mr. Parker stated that two appellate court decisions, which forced the Board to hold case hearings behind closed doors and to stop issuing public investigative reports, remained in force at the end of 2004 (see August 2004's *Police Practices Review* for more information). "We remain committed to the notion that citizen oversight of law enforcement is most appropriate when conducted in the light of open hearings and where the public has access to a report detailing the independent investigation of misconduct allegations," said Parker. The full report can be accessed online at www.sdcounty.ca.gov/clerb/index.html.

CONSENT DECREES/ MEMORANDA OF AGREEMENT

Detroit Monitor's Report Notes Improved Policies

In its fifth quarterly report on the City of Detroit's and Detroit Police Department's (DPD) compliance with two Consent Judgments, the court-appointed Monitor noted that "the DPD is non-compliant with a majority of the provisions in the Consent Judgments." The Use of Force and Arrest and Witness Detention Consent Judgment (UOF CJ) and the Conditions of Confinement Consent Judgment (COC CJ) require the City and Department to make changes in such areas as use-of-force and firearms policies, force and arrest documentation, complaint intake, risk management, and holding cell conditions. The report covers the quarter ending November 30, 2004.

The Monitor reviewed 63 UOF CJ and 32 COC CJ provisions, finding the City and DPD in compliance with a total of four and not in compliance with 87; a determination was withheld on four of the provisions. The Monitor commended the DPD for developing, revising, and submitting a "significant number" of policies during the reporting quarter. Those submitted or resubmitted include citizen complaints, detainee medical and mental health care, chemical spray, use-of-force continuum, and search and seizure policies.

Citing several disparate DPD documents that together create a protocol for investigating critical firearms discharges, the Monitor found the DPD out of compliance with the investigations section of the UOF CJ. The Monitor urged the development of a single document and recommended that related directives cross-reference each other. The report found that the DPD's Citizen Complaints Policy failed to state that officers may not discourage anyone from filing a complaint or refuse to take one. The Monitor said the policy had been subsequently revised but still failed to meet UOF CJ standards by not including sufficient information about community outreach and educating the public about citizen complaints.

The DPD informed the Monitor that the City's voters recently approved a proposal to allow for the construction of a new detention facility that will comply with all of the COC CJ's requirements. Nevertheless, the DPD has not yet complied with the requirement that all suicide hazards in holding cells

ACADEMIC RESEARCH

“Linking confidence in the police with the performance of the police: Community policing can make a difference,” an article featured in the January-February issue of the *Journal of Criminal Justice*, is a study that connects research on community policing to research on confidence in the police. The authors, Ling Ren, Liqun Cao, Nicholas Lovrich, and Michael Gaffney, through synthesizing concepts from several areas of policing research, suggest new and more comprehensive ways to examine police performance and the effectiveness of community policing.

According to the authors, “The purpose of the study was to provide police practitioners with information on the sources of confidence in the police so that they might potentially profit from using it to measure their officers’ effectiveness in community policing.” The study examined data from two surveys conducted in a mid-size northwestern city in 1997. The first was a survey administered to a random sample of household residents. The second survey was administered to volunteers in Community Oriented Policing Services (COPS) programs. There were a total of 838 surveys used in the current study.

The authors argue that more comprehensive measures of police performance are needed as the general nature of policing has shifted from the traditional crime-control model to a broader community model of policing. To test their ideas, the authors constructed a measure of police performance that combined responses on seven items measuring confidence in the police. The items were “how much he/she believed that police officers: (1) were usually fair; (2) were usually courteous; (3) were usually honest; (4) were usually not intimidating; (5) worked with citizens together in solving problems; (6) treated all citizens equally in general; and (7) showed concern when asked questions.” Response categories for each item were on a scale ranging from “strongly disagree” to “strongly agree.”

There were three important findings in the study. First, the effect of residents volunteering in policing programs was the strongest predictor of confidence in the police. Second, the next strongest predictor of confidence in police was a measure of informal collective security. Informal collective security is a combination of the level of unity and trust among neighbors and the level of informal guardianship over members of a community. Both volunteering and informal collective security increased confidence in the police. The third major finding was that victimization and traffic tickets slightly reduced confidence in the police.

The authors conclude that volunteer programs should be a routine practice in police departments and that they should not be abandoned when positive results are not immediately seen. Additionally, they suggest that police and communities would benefit directly from officers helping to improve informal collective security and reduce community disorder. *Journal of Criminal Justice*, January-February 2005; Vol. 33, Issue 1.

be removed, the Monitor said. While the Department closed its outdated Fourth Precinct holding cells, other precincts’ cells have overhead bars, exposed pipes, and other hazards.

Another major concern of the Monitor was the quality and timeliness of the DPD’s self-audits required by both Consent Judgments. During the quarter, the DPD submitted its first three audits—on custodial detention practices, holding facility emergency

preparedness, and food service. The Monitor commended this achievement but noted deficiencies such as several contradictory findings and conclusions based on too few incidents or statistics. There are also “another 14 audit topics for which an audit is overdue,” said the report. The full report can be accessed online at www.krollworldwide.com/library/detroit/DPD_Q5_Report_1-18-2005.pdf.

Eleventh Quarterly Monitor Report on DC Issued

The Office of the Independent Monitor (OIM) recently released its eleventh quarterly report assessing District of Columbia and Metropolitan Police Department (MPD) compliance with their Memorandum of Agreement (MOA), the City and MPD entered into with the U.S. Department of Justice (DOJ) in 2001. The agreement requires reforms in various areas, such as use-of-force, firearms, and canine policies; use-of-force documentation, investigation, and review; intake of misconduct complaints; and personnel performance management. The report covers the period between October 1 and December 31, 2004. During the quarter, the OIM evaluated compliance in areas including: use of Oleoresin Capsicum (OC) spray; use-of-force incident reporting and review; and Internal Affairs investigations.

The MPD has received final DOJ approval for both its OC Spray General Order and OC Spray Lesson Plan, the Monitor said, “and MPD training instructors now appear to be placing appropriate emphasis on the use of OC spray and decontamination procedures during in-service use of force training.” Though the OIM could not retrieve sufficient information to evaluate some of the 48 reviewed incidents, warnings that OC spray would be used appeared to have been issued in 87.5 percent of the cases, while none of them seemed to involve spray used on a child or elderly person, thus fully complying with that MOA prohibition.

The OIM commended the MPD for its “dramatic improvement of the very poor UFIR [Use of Force Incident Report] completion rates... observed only six months ago.” The Monitor had been concerned with the officer completion rate, which as recently as September 2004 was less than 72 percent. UFIR completion rates during the eleventh quarter, by contrast, were 100 percent in October and November, and 93.3 percent in December. The rates do not capture unreported uses of force. The OIM said that in the coming quarter it would examine whether officers were underreporting incidents. It also noted that the MPD is not in compliance with UFIR quality standards; almost half of all UFIRs in 2004 were missing a supervisor’s findings and signature, and almost 40 percent did not have the date and time when a supervisor was notified about a use-of-force incident.

The Department’s Use of Force Review Board (UFRB), which reviews use-of-force investigations to determine

if the force was justified and what training or policy changes are necessary, showed continued deficiencies. The UFRB suffered from inadequate time allocated for deliberations and set aside in UFRB members’ schedules for the Board’s monthly meetings and had a disorganized method for identifying use-of-force patterns and problems. MPD Office of Internal Affairs (OIA) investigations were also found not in compliance. “Only 26.1 [percent] of OIA’s investigations were completed within 90 days... and only 32.7 percent of the OIA investigations we reviewed over the past two quarters were complete,” the OIM said, though it noted that completeness did improve markedly compared to the previous quarter.

Beginning with the tenth quarterly report, the Monitor has provided detailed assessments of MPD and City compliance. “Throughout 2004,” said the Monitor, “the OIM facilitated and participated in discussions among DOJ, MPD, and the City regarding the development of specific standards for measuring ‘substantial compliance’ with each of the substantive provisions of the MOA.” The parties agreed that, where possible, compliance with provisions would be judged by objective standards—usually requiring 95 percent compliance—but that substantial compliance determinations would also include subjective assessment made by the OIM or DOJ (as required) and supported with appropriate analysis and explanation. The full report can be accessed online at www.policemonitor.org.

RACIAL PROFILING

Justice Department Inquiry in Michigan Ends

The United States Department of Justice (DOJ) recently closed a “pattern or practice” investigation of the Eastpointe (MI) Police Department, stating that it would not take further action against the city of approximately 34,000 residents. The DOJ’s Civil Rights Division reportedly began looking at Eastpointe’s traffic stops in 1998 to determine whether officers had engaged in racial profiling by singling out young African-American males riding bicycles in the predominantly white suburb of Detroit.

According to news reports, Eastpointe Police Chief Michael A. Lauretti said his department had improved sensitivity and diversity training to ensure that officers

PRESIDENT'S PERSPECTIVE

By Merrick Bobb, President

During a recent study of the Los Angeles County Sheriff's Department (LASD), an 8,000-sworn officer law enforcement agency, PARC found that of 29 lawsuits involving police misconduct that settled for \$100,000 or more over the past five years, only eight resulted in any type of discipline to the involved deputies or a policy change on the part of the LASD. These findings were not atypical: Frequently, there is a contradiction between internal police investigations that exonerate the officer and litigation arising out of the same incident that cost the city or county in question substantial money in settlements or judgments.

Certainly, there are on occasion sound tactical reasons for settling cases even when liability or the officers' wrongdoing has not been clearly established: A case may be cheaper to settle than to try; key defense witnesses may no longer be available for deposition or trial; or the case involves an officer who makes an untrustworthy or unbelievable witness or has too checkered a past to withstand cross-examination. Nonetheless, it is more common to find cases where the police department will let an officer off the hook when a judge or jury would not. Illustrating this point is a recent case from the Sheriff's Department that PARC recently studied.

In a case that settled for \$375,000, an LASD deputy initiated a traffic stop of a van in response to an order from the Aero unit which had spotted the van leaving the scene of a burglary. While the deputy held the driver of the van at gunpoint, another car pulled behind his patrol car. A woman, the plaintiff, got out of the car that had just arrived and walked up behind the deputy, belligerently complaining that it was her cousin in the van and that the cousin had done nothing wrong. When the plaintiff, a 110-pound woman, refused to comply with orders to get back, the deputy and his newly-arrived backup escorted her to the patrol car. In their attempt to handcuff her, the plaintiff's head slammed into the hood of the car, causing two chipped teeth and a fractured jaw. The plaintiff alleged the deputies slammed her onto the hood of the car. The deputies contended the plaintiff had been resisting, requiring them to use some force to hold her, then she abruptly stopped resisting and their force caused her to slam into the car. While the deputies' story was sufficiently dubious and self-serving to create "disputed liability" according to the LASD's Risk Management Bureau, it somehow satisfied the Internal Affairs investigators and executives reviewing the case. They found the force used was within Departmental policy and no discipline was imposed on either deputy, despite a similar incident involving the same two deputies having had occurred before. In large part because of that similar prior incident, defense counsel was convinced that a jury would not find the deputies' version of the events to be credible and settled the case for \$375,000.

Why does a law enforcement agency reach so different a result than do defense counsel, judges, and juries? In part, it is because defense counsel may have the benefit of pretrial discovery that brings to light warts and blemishes harmful to the defense that otherwise would have remained hidden. Perhaps it is not until the depositions of the officers in question that the incredulity of their story becomes patent. Maybe an unimpeachable third-party witness comes forward who validates the plaintiff's version of the facts.

Conversely, it may be because the internal departmental investigation of an incident was halfhearted, incomplete, shoddy, or simply biased in favor of an officer. It may be that a department, possibly acting on advice of defense counsel, buries its head in the sand rather than confronting facts that would increase the likelihood of liability. It might be that a department fails to investigate an incident at all because officers were not obliged to report all uses of force and plaintiff never filed a citizen's complaint or claim before initiating a lawsuit. Most cynically of all, it might be that a department brushes such incidents off unless or until it is sued.

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So much depends upon the thoroughness, completeness, fairness, and integrity of internal police investigations, be it of a citizen's complaint, an officer-involved shooting, an internal use of force investigation, or of the facts giving rise to a lawsuit. Each puts the credibility and trustworthiness of the police agency in question squarely on the line. Each becomes an occasion to question whether a particular police department continues to merit the privilege (it is not a right) to investigate and impose discipline upon its own members. When cases are lost at trial or settle for substantial sums and it is later learned that a police agency let the officer in question off the hook, it only serves to fuel the fire of those who would strip that department of the power to self regulate and transfer it to an outside agency, be it a civilian review board or a police commission.

No one (well, Genghis Khan might have been an exception) likes facts coming to light that make one look lawless, brutal, out-of-control, and unfeeling. No one likes to be publicly embarrassed. And a desire to protect one's own is a universal instinct. But a professional organization—be it a bar association or a medical peer review board or a police force review board—must overcome the reluctance to air dirty laundry in service of the higher goals of integrity and credibility.

How then to deal with a discovery that of 29 lawsuits against the LASD that settled for \$100,000 or more over five years, only eight resulted in the imposition of any discipline or significant policy change? The factors are too varied and complex to conclude, without more, that the Sheriff's Department fails to take care of business. Similarly, factual complexity precludes a conclusion that cases which should have been taken to trial were settled.

For those who audit and monitor law enforcement agencies from the outside, and for those inside departments charged with responsibility to minimize liability and risk, the disparities described above must put them on notice that deeper analysis must occur. A necessary first step is that a department in question must collect, correlate, and compare data on litigation outcomes with the results of internal investigations. Some early warning and tracking systems do just that. In the long run, there must be greater congruence between litigation outcomes, disciplinary proceedings, policy development, and post-litigation corrective action.

are fair and do not engage in profiling. Information about the Eastpointe Police Department can be accessed online at www.ci.eastpointe.mi.us/police/Index.html. www.aclu.org/; *Associated Press*, February 3, 2005; *Detroit Free Press*, February 4, 2005.

FORCE MANAGEMENT

LAPD Changes Shooting Policy

The Los Angeles Police Commission issued a new policy in February prohibiting Los Angeles Police Department (LAPD) officers from shooting at moving vehicles unless a person inside is immediately threatening an officer or another person with deadly force by means other than the vehicle. The old policy discouraged officers from firing at moving vehicles but allowed them to do so if they determined that a vehicle coming at an officer constituted a weapon.

LAPD Chief William J. Bratton first called for a policy change following a chase and fatal shooting of a suspect in February 2004 when officers fired at the suspect to stop his car as it moved backwards towards them, according to the LAPD. The policy revision was accelerated after the recent shooting of 13-year old Devin Brown. A vehicle pursuit of Brown ended, said the *Los Angeles Times*, when the suspect's car stopped and then backed into the side of the patrol car. According to reports, an officer fired into the vehicle, killing the teenager. The *Los Angeles Times* reported that since 1985, LAPD officers have shot at drivers more than 100 times and killed more than 25 people. The newspaper also stated that Chief Bratton said officers will be trained to do everything they can to get out of the way of a vehicle moving towards them. www.lapdonline.org; *Los Angeles Times*, February 9, 11, and 17, 2005.

LEGAL AFFAIRS

DC Settles Lawsuit Filed by Protesters

In late January, the Council of the District of Columbia agreed to pay \$425,000 to seven individuals to settle a lawsuit claiming that the Metropolitan Police Department (MPD) wrongfully arrested protesters and bystanders at a park in 2002, according to the *Washington Post*. An investigatory report released last March by the Council's Committee on the Judiciary explained that the MPD "arrested well over 600 persons in connection with anti-war and anti-globalization demonstrations throughout downtown Washington D.C.," close to 400 of them in Pershing Park, on September 27, 2002. The Committee said an MPD internal investigation found that police did not issue warnings to the protesters to leave. "During the approximately thirty minutes prior to MPD's closing off the remaining two sides of the park, demonstrators and others within the park were not given any orders to disperse or warnings that they would be arrested," said the Committee's report. "This has been substantiated by both the Committee's and MPD's own investigation."

The settlement, in addition to the monetary award for the seven who alleged their constitutional rights had been violated, prevents police from arresting people en masse simply because they are protesting without a permit, wrote the *Post*. As a result of the settlement, the MPD will be required to issue dispersal orders prior to breaking up demonstrations, and to ensure that its officers wear clearly visible identification numbers on their uniforms. A class-action lawsuit filed on behalf of all the people arrested in Pershing Park is still pending. www.dccouncil.washington.dc.us/; *Associated Press*, January 24, 2005; *Washington Post*, January 25 and 26, 2005; *New York Times*, January 26, 2005.

NEWS BRIEFS

PARC Reviews Police Oversight Models

In an attempt to revamp its police oversight arrangement, the Eugene (OR) Police Commission hired PARC to review oversight models in other U.S. cities. PARC published and submitted the results of its research in February. Its report, *Review of National*

Police Oversight Models, describes 30 oversight models, selected for their comparability to Eugene or to provide a full picture of the different forms of oversight currently in existence around the country.

The report groups the 30 oversight mechanisms into three categories: review and appellate models; investigative and quality assurance models; and evaluative and performance-based models. Review and appellate models typically review citizens' complaint investigations already closed by a law enforcement agency and cannot conduct independent investigations or hearings. As a rule, these models do not "search for patterns and practices of police misconduct." Investigative and quality assurance models—some of which have subpoena powers—"attempt to displace" internal police investigations, to varying degrees. Some have full investigatory and disciplinary powers for certain types of complaints; some share investigative responsibilities with a police department's Internal Affairs office; and still others allow a department to investigate its own, though under the direction of a civilian. Finally, evaluative and performance-based models, which often feature auditors, tend to focus more "on systematic change than on resolution of specific cases."

PARC representatives testified before Eugene officials and cautioned that all three categories have strengths as well as weaknesses. Power alone does not make for a successful mechanism, the report noted, but rather "the right combination of powers, leadership, and staffing that strikes the best balance for the numerous parties in the community." The full report can be accessed on PARC's web site at www.parc.info.

FBI and Chicago PD Investigate Drug Conspiracy

Nine individuals, including four veteran Chicago police officers, were arrested at the end of January and charged with conspiracy to possess and distribute cocaine, the *Chicago Tribune* reported. The other five people were drug dealers themselves who worked with the four Englewood District officers. Federal prosecutors contend that the officers and dealers tried on several occasions to steal cocaine, weapons, and money from other drug dealers during staged traffic stops and break-ins of homes.

The officers had been under FBI and Chicago Police Department surveillance since July 2004 after they

allegedly attempted to rob drug dealers who were already being watched by other undercover Chicago police officers, according to the *Tribune*. The FBI announced that the joint investigation with the Chicago PD—known as Operation Restore Faith—has been expanded, and a police source said other officers are under investigation, news reports stated. www.officer.com; *Associated Press*, January 28, 2005; *Chicago Tribune*, January 28, 2005.

INTERVIEW

Al Hutchinson was appointed in January 2004 as the Oversight Commissioner for the policing reforms occurring in Northern Ireland after serving for three years as Chief of Staff for Tom Constantine, the first Oversight Commissioner. Mr. Hutchinson's term has just been extended until May of 2007. He retired in 2001 as an Assistant Commissioner in the Royal Canadian Mounted Police (RCMP) following a 34-year law enforcement career throughout Canada. Mr. Hutchinson completed his undergraduate degree at Carleton University in Ottawa and an MBA at Queen's University, Belfast, focusing on governance and oversight. PARC recently spoke with the Oversight Commissioner about his work in Northern Ireland.



PARC: *Could you provide a brief overview of the history and/or events that led to the 1998 Belfast Agreement?*

AH: It is important, for contemporary understanding, to realize that the conflict in Ireland has a long history. Violence has been a recurring theme stretching back some 400 years, often focusing on a Catholic/Protestant religious divide and a united Ireland focus, with either a pro or anti-British theme to the conflict. In 1922, the island of Ireland was partitioned, with the establishment of the Irish Free State incorporating 26 of the 32 counties; the remaining six counties became Northern Ireland. The Royal Ulster Constabulary (RUC) was formed in 1922 and provided the police force for Northern Ireland until 2001, when it was replaced with the Police Service of Northern Ireland (PSNI). The period between 1922 and the late 60s was an unsettled peace, often with communal conflict,

finally erupting in 1968 and 1969 into a 30-year period of Provisional IRA-led “war” that was euphemistically labelled “The Troubles.” Tragically, approximately 3,500 people lost their lives during this time, including the killing of some 302 police officers; thousands more members of the police and public were injured.

To illustrate the devastating impact on that society, consider that the proportionate number applied to New York State over the same time period would have resulted in approximately 39,000 deaths. Fortunately, a second IRA ceasefire in 1997 set the stage for the Belfast or “Good Friday” Agreement, which was facilitated by US Senator George Mitchell. The Agreement was signed on April 10, 1998, and a referendum on the Agreement was held in the Republic of Ireland and Northern Ireland on May 22, 1998, with a significant public majority endorsement. Hope was in the air, but as one author notes, hope against history.

PARC: *What did the Agreement envision for policing in Northern Ireland? What reforms did it stipulate to address the policing concerns?*

AH: The 1998 Belfast Agreement recognized that the contentious issues of policing and justice needed to be addressed. The reason for this was the loss of trust in the police and justice system by a significant portion of the community, particularly Catholic republican supporters. In large part, this was a direct consequence of the 30 year period of “The Troubles” when the predominantly Protestant RUC became the visible end of state security and had primary responsibility for security and policing, with security dominant.

The RUC was not providing a “normalized policing service”, indeed could not in the environment, and they were perceived to be aligned with one side of the conflict. Allegations of collusion with loyalist paramilitaries, resulting in deaths, have been made. In particular, a RUC unit called Special Branch was singled out for attention and became the subject of some particular Patten recommendations. Currently, the issue of a public enquiry into six of those cases is ongoing following a public report by Canadian Justice Peter Cory. Therefore, with this history in respect to policing, the Agreement sought “a new beginning to policing in Northern Ireland with a police service capable of attracting and sustaining support from the

community as a whole.” Accordingly, the participants to the Agreement outlined the establishment of an independent international Commission to make recommendations for future policing arrangements in Northern Ireland and the transition to policing in a normal, peaceful society. They set out, in the Agreement itself, a framework “Terms of Reference” for the Independent Commission. Key aspects to be examined by the Commission were community-police partnerships, participation and support; accountability and transparency; open, accessible and independent police complaint investigations; and ensuring that policing arrangements including composition, recruitment, training, culture, ethos, and symbols were such that they encouraged the widespread support of all communities.

PARC: *Why did the Agreement establish the Independent Commission on Police for Northern Ireland? What were the Commission’s findings and recommendations?*

AH: The Independent Commission was established to bring forward recommendations for the future policing arrangements in Northern Ireland including means of encouraging widespread community support for the arrangements. It was to be broadly representative with expert and international representation and was specifically tasked to consult widely. Former Hong Kong Governor Chris Patten was appointed Chairman of the Independent Commission, which included talented local and internationally renowned policing experts. The Patten Report was released in September of 1999 and contained 175 recommendations. While these are too numerous to detail here, I do encourage anyone interested in policing and oversight matters to read the report, which I view as an excellent framework for accountable policing in the 21st Century. The full Patten Report can be accessed through our website www.oversightcommissioner.org.

As an indication of the scope of the report, there are 14 key topics discussed which lead to the 175 recommendations—they cover human rights; accountability; policing with the community; policing in a peaceful society; public order policing; management and personnel; information technology; structure of the police service; size of the police service; composition and recruitment of the police service; training, education and development; culture, ethos and symbols; co-operation with other police services;

and the role of an independent oversight commissioner.

PARC: *How was the Office of the Oversight Commissioner (OOC) created? How does it fit into the policing reform process in Northern Ireland?*

AH: As a result of the Patten recommendations, the position of Oversight Commissioner was formally created by an Act of the British Parliament—the Police (Northern Ireland) Act 2000. Tom Constantine, a distinguished US law enforcement leader, was appointed as the first Oversight Commissioner in May of 2000. The Independent Commission saw the Commissioner’s role as the mechanism to oversee and validate the changes required, assuring the community that all aspects of the Patten Report were being implemented. Importantly, they also saw the review process as an important impetus to the process of transformation. In my view the role has both facilitated and expedited the transformation.

PARC: *Please describe your professional background and how you were chosen as the Oversight Commissioner.*

AH: Fate is a strange thing. I was an Assistant Commissioner in the Royal Canadian Mounted Police (RCMP) and Commanding Officer of the Ontario Division of the RCMP when I encountered Tom Constantine at an IACP (International Association of Chiefs of Police) conference in San Diego, CA, during the fall of 2000. Tom was looking for a Chief of Staff who could live in Northern Ireland, look after his office, and represent him in Northern Ireland.

At the time I had 34 years of policing experience throughout Canada, and served in all ranks during a variety of challenging assignments and experiences. Change management was a particular experience and interest of mine. At the time I had no intention of retiring from the RCMP, but Tom painted such an interesting picture of the Northern Ireland challenge that it dramatically changed my life’s priorities. With the critical support of my wife we ended up in Belfast in December of 2000 and took up residence for the next three years while I fulfilled the role of Chief of Staff. When Tom announced his retirement in 2003, the British Government appointed me as his successor and I became the Oversight Commissioner in January of 2004.

PARC: *How were the members of your oversight team selected? How are the team and its responsibilities organized?*

AH: The team of American and Canadian evaluators was selected on the basis of relevant academic and law enforcement experience. Tom Constantine was looking for retired experts with appropriate international, practical, and executive experience. A key requirement was that all were recently retired from substantive posts and could devote the necessary time to the important responsibility that we had been given. Several have oversight (consent decrees/monitorships) experience and all remain involved in their respective fields of expertise. Dr. David Bayley, Charles Reynolds, Gil Kleinknecht, and Robert Warshaw are the American evaluators, while Robert Lunney and Roy Berlinquette are the Canadian evaluators. I was fortunate to have the Commissioner of the RCMP assign Mark Reber to our office initially as our Director of Research, and now my Chief of Staff in Northern Ireland.

The workload is assigned according to the Patten themes, such as human rights and accountability, each with a principal evaluator and a second team member. Our American/Canadian blend of experience works well for us, particularly with the tremendous talents each evaluator brings. My recommendation for anyone putting together a future international oversight team is to consider it to be both situationally and environmentally specific. For example, core requisites such as skills, character and relevant experience are obvious, but also consider the issue of team balance regarding such issues as gender, race, language, and regional understanding—obviously selecting the best people for the role.

PARC: *Why must the Oversight Commissioner be a foreigner from outside of the UK? What are the drawbacks or advantages of this requirement?*

AH: It was a Patten recommendation that the Oversight Commissioner be someone from outside

of the UK and Ireland. I think that this was, in part, a recognition of the positive contribution to the peace process by many from outside the region, like US Senator George Mitchell and others. This experience, coupled with the perception that it would be difficult to find someone from Ireland or the UK who would be acceptable to each perspective, combined to support the Patten recommendation.

One of the drawbacks was our lack of intimate knowledge of local conditions, and our steep learning curve. Nevertheless, the team has over 300 years of collective experience to draw upon and we were

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professionally received by the institutions and the many individuals and organizations committed to this change. The disadvantage of being outsiders actually worked in our favor in that we were not aligned with any side of the issues and could just deal with facts and results, allowing us time to build our credibility as a fair and impartial oversight body.

PARC: *The OOC reports to the Parliament regarding its activities and the PSNI progress in making reforms. Could you explain the reporting process and how you make your recommendations?*

AH: We are required to submit three public reports per year to the British Parliament, which I do through the Secretary of State for Northern Ireland. These are based upon three periods of evaluation by the team in Northern Ireland, measuring results “on the ground.” We do not make recommendations *per se* but report our findings and observations concerning progress or lack of progress. To date, public reporting and moral suasion provide sufficient power to ensure the changes take place.

PARC: *Could you walk through the process of preparing a compliance report, from identifying focus areas to observing measures to finalizing recommendations?*

AH: In September of 2001, we established a demanding set of 772 performance indicators relating to the 175 Patten recommendations. There are three

stages of evaluation for each recommendation—administrative compliance (policy/direction issued), evaluation (policy/direction valid), and verification (policy/direction is actually carried out “at the front end”). It is important to note that we look at policing in its entirety, and not just at the police. The Policing Board, the Ombudsman and Government all have specific requirements flowing from the Patten recommendations.

We begin each evaluation period with an examination of pre-determined data submitted by the agencies in response to our performance indicators. We then collect a variety of other information during our Northern Ireland evaluation visit and triangulate the information from a variety of sources and observations. The evaluators put together their component parts, which are then blended into a final comprehensive report and subjected to our own peer review before publication. One other feature I added last year is a series of thematic reports that focus on the outcomes of the three key building blocks of the Patten recommendations—training, policing with the community, and human rights/accountability.

PARC: *What areas of reform have been progressing most slowly for the PSNI? In which areas have you seen the most improvement?*

AH: I like to always start with the positive. As I continue to say in my public reports, change has been remarkable considering the relatively short time that we have been measuring change—since September of 2001. Significant improvements relate to the creation of the new Police Service of Northern Ireland in the fall of 2001, including the establishment of a new Policing Board; the actual recruitment of Catholic/non-Catholic officers on a 50:50 basis, with the percentage of Catholic police officers rising; and the full and effective functioning of an Ombudsman’s Office to investigate all public complaints against the police; extensive training and focus on human rights. The PSNI policing with the community effort also has been excellent, although it has reached a current

plateau. There are areas where the change is not progressing as quickly as I would like. The political environment is not yet at a stage that will allow an expedited transformation. While that is not directly my domain, I do observe the impact and consequences for a future slower pace in the policing reforms. Training for new recruits has progressed but the investment in training for serving police officers is lagging and requires focus. Appropriate and representative (Catholic/non-Catholic) civilianization that would return police officers to the street has not progressed to the extent it could, for a variety of reasons. The de-fortification of police stations, while a sensitive security situation, has not progressed at a pace that would indicate a return to a normal, peaceful society.

“[Police] improvement was certainly brought about by the will of the people... institutions of governance, accountability, and oversight were put in place to assure trust... [and] there was a commitment to change and the leadership to deliver from many quarters.”

PARC: *What was the public’s level of trust and respect for the police when the reform process first began? Have you*

seen that change during your time as Oversight Commissioner? If so, to what do you attribute that change?

AH: In 1999, with the release of the Patten Report, the answer to the trust question clearly depended upon which community you identified with, Catholic Republicans or Nationalists, or Protestant Loyalists or Unionists—each with vested interests. Generalizing, I would say that trust was lowest in the Catholic Republican areas and highest in the Protestant areas. Trust of the police and the governing/accountability mechanisms, as measured through police, Policing Board and Ombudsman surveys, has clearly shown improvement in most (but not all) areas. The improvement was certainly brought about by the will of the people—the Belfast Agreement and its endorsement signalled the desire to change; the Patten recommendations, although not accepted by all, provided a framework for change; the economy and security improved and provided a daily example of what can be; institutions of governance, accountability, and oversight were put in place to assure trust; and finally, there was a commitment to change and the leadership to deliver from many quarters. However, it remains a long and perilous journey.

PARC: *Could you expound upon the PSNI's efforts to advance community-oriented policing and improve relations with the public?*

AH: I have been very impressed with their efforts to date. Patten used the phrase "Policing with the Community" (PWC) and had a number of specific recommendations for the institution of the concept. Our expert in this area, Bob Lunney, remains impressed with the commitment and effort. We do, however, have a longer-term concern and that is with the specialty concept that the PSNI adopted to deliver their program (i.e. Community Policing as a separate unit responsible for community policing delivery, versus a responsibility for the entire organization). It is my view that PWC is not a specialty role, but one the entire organization needs to embrace with everyone engaged in the community's interest. This issue was identified in our December 2004 thematic report on Policing with the Community.

"It is my view that PWC ['Policing with the Community'] is not a specialty role, but one the entire organization needs to embrace with everyone engaged in the community's interest."

PARC: *Could you explain the recruitment of PSNI officers on a 50:50 Catholic/non-Catholic basis and the reasoning for this? What do you see as an ideal overall composition for the Police Service?*

AH: This again was a Patten recommendation designed to address a religious imbalance within the police. In 1999, the RUC was approximately 92 percent Protestant whereas the population they policed was over 40 percent Catholic, leading to a perceived policing bias by a large part of the minority community. This is an issue similar to the concept of representative policing that we face in the US and Canada, albeit on a religious foundation in Northern Ireland. Patten recommended that an attractive financial severance package be provided to RUC police officers wanting to retire early, combined with aggressive recruiting and hiring of police officers on a 50:50 Catholic/non-Catholic basis. Necessary legislation was enacted to implement the recommendation, and it has to be renewed every three years. As could be expected, this faced legal challenge on the basis of reverse discrimination, but so far the legislation has survived all legal challenges.

Patten envisioned a ten year plan of 50:50 hiring and severance, at which point the new PSNI would have reached a critical mass of approximately 1/3 Catholic police officers. The current Catholic population census data for Northern Ireland shows the Catholic-identified population at approximately 45 percent. The recruitment plan has been a quantifiable success. Over 38,000 applications for the PSNI have been received since 2001 with approximately 36 percent from Catholic applicants, while some 37 percent are from women. Young men and women are clearly "voting with their feet." Since 2001, over 1,300 new police officers have been now hired under the 50:50 rules and some 35 percent of new recruits are women. There are currently 17 percent of the regular police officers identified as Catholic—this excludes however the largely protestant Full Time Reserve who are being

disbanded over the next several years further to another of Patten's recommendations.

PARC: *In your most recent progress report on the PSNI, you noted that all of the institutions recommended for ensuring police accountability are in place and functioning, as they should be. What institutions are these that you have not yet discussed? What role is each playing in guaranteeing accountability?*

AH: There are three institutions that I consider key to the governance and accountability of the police. The most important, I believe, is the Policing Board, which was established in 2001 and provides both governance and the capability to hold the Chief Constable and his organization to account. The Board is comprised of both elected and appointed officials. While not a new concept to North America, in a Northern Ireland context it shifted some responsibility for policing to elected officials who are now part of the solution, as well as appointing independent members who are representative of their communities. The Board has proven itself to be an effective group and it has brought more openness, transparency and accountability to policing. The second significant institution of accountability is the Ombudsman. Her office is set up to deal with all complaints against police and conducts criminal investigations of police actions when needed. The

Ombudsman is completely independent with a capable team of investigators. My view is that her office has actually increased the level of trust and confidence in police activities. Other important groups of informal accountability are the 26 District Policing Partnerships (DPPs) who are managed by the Policing Board and are structured in a similar fashion to the Policing Board, with elected district council members and appointed representative community members. The local police district commander works with his or her DPP to establish local priorities and formally responds to community needs and priorities.

PARC: *What do you think will happen when the OOC's 5-year monitorship ends in May? What still needs to be done in Northern Ireland with regards to police reform and accountability?*

“Credit for the conditions fostering change rightly belongs to the people of Northern Ireland who simply want and deserve a peaceful society with an accountable representative police service ensuring their safety and security.”

AH: The breaking news in this respect is that on February 28, the Secretary of State for Northern Ireland announced my term extension until May of 2007. This will allow us to enter a second and final phase that can focus on those few recommendations not well advanced. Perhaps more importantly, the additional time will allow focus on the outcomes, as opposed to process, for the major core themes such as human rights and accountability; policing with the community; and training. Ultimately, it will be the responsibility of the Policing Board to ensure that the intent of Patten is sustained.

PARC: *What are you most proud of having accomplished or learned during your time as the Oversight Commissioner?*

AH: I am most pleased that the first Oversight Commissioner Tom Constantine, the team, and I have in our own small way aided the peace process in Northern Ireland. We have added an independent, fair, and impartial voice to assure both supporters and critics of policing as to what has been accomplished and not accomplished. Credit for the conditions fostering change rightly belongs to the people of Northern Ireland who simply want and deserve a peaceful society with an accountable and

representative police service ensuring their safety and security. I have learned that appropriate civilian oversight is not to be feared by police agencies and should be seen simply as an adjunct to policing with the community—it is what a community wants. The community wants to trust their police service. I have now seen what happens when a police agency loses its most valuable commodity—the trust of the people it serves.

However, I am also concerned that there is not enough dialogue on the issues surrounding civilian oversight, including for example the consequences of too much

or inappropriate oversight. The issue of civilian oversight should be a strategic concern to police leaders who need to apply the same principles of partnership that they apply to

community policing. They are not paying enough attention. Associations such as NACOLE in the United States and its counterpart CACOLE in Canada can and do assist the debate in this regard. Indeed, PARC itself is an excellent medium to focus the issues. My experience in Northern Ireland has also illustrated the international component of oversight and I think there has to be an international dialogue surrounding the issues of oversight.

CONFERENCES & MEETINGS

March 14-16, 2005 – Americans For Effective Law Enforcement, Critical Incident Response: Management and Legal Liability, Las Vegas, NV. Online at <http://www.aele.org/>

March 14-19, 2005 – Academy of Criminal Justice Sciences, Annual Conference, Chicago, IL. Online at <http://www.acjs.org/>

March 16-19, 2005 – Commission on Accreditation for Law Enforcement Agencies, Spring Conference, Birmingham, AL. Online at <http://www.calea.org/>

March 22, 2005 – International Association of Chiefs of Police, Volunteers in Police Service Program: Training, New Orleans, LA. Online at <http://www.policevolunteers.org/>

March 29-April 2, 2005 – International Law Enforcement Educators and Trainers Association, International Training Conference and Expo, Arlington Heights, IL. Online at <http://www.ileeta.org/>

April 4-6, 2005 – Americans For Effective Law Enforcement, Public Safety Discipline and Internal Investigations, San Francisco, CA. Online at <http://www.aele.org/>

April 21-23, 2005 – Police Executive Research Forum, Annual Meeting, New York, NY. Online at <http://www.policeforum.org>