

POLICE PRACTICES REVIEW

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CIVILIAN OVERSIGHT

Riverside Commission Now Part of City Charter

Riverside's (CA) Community Police Review Commission (CPRC) has released its 2004 annual report—the fourth such report since the independent commission was established in April 2000. Riverside voters made the CPRC part of the city's charter in November 2004, the report said, essentially preventing the city council "from eliminating the Commission, significantly changing its duties and responsibilities, or eliminating its funding." The CPRC reviews and investigates misconduct allegations against Riverside Police Department sworn personnel and makes recommendations regarding officers' policy violations. The CPRC does not make the final determination, nor does it recommend or impose discipline.

The number of general misconduct, excessive use-of-force, and discrimination/sexual harassment allegations was the lowest in the CPRC's four years of operation. Of the 90 cases filed in 2004, there were a total of 128 allegations, 106 of which were categorized as general misconduct, 11 as excessive use of force, four as discrimination/sexual harassment, four as illegal search and seizure, and three as criminal conduct. Thirteen of the 128 allegations were sustained by the CPRC.

Among the report's several policy recommendations, the commission urged the police department to strengthen complaint investigations by interviewing all witnesses as required by policy, abstaining from asking leading questions, and ensuring that field sergeants who were present when alleged misconduct occurred would not investigate the same misconduct cases. The commission also reported that "it continues to be concerned about officer safety tactics in officer-involved shootings that expose officers to unnecessary

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

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risks.” The full CPRC report can be accessed online at www.riversideca.gov/cprc/.

Stern Commission Report Released

The commission investigating the death of Emerson College student Victoria Snelgrove released its findings and recommendations at the end of May. Boston Police Department (BPD) Commissioner Kathleen M. O’Toole appointed the commission, chaired by former U.S. Attorney Donald K. Stern, to investigate independently the death of Ms. Snelgrove, killed by a projectile fired by police responding to a celebratory crowd on October 20-21, 2004 after a Red Sox victory over the New York Yankees.

After reports of thrown objects, Deputy Superintendent Robert O’Toole (unrelated to the commissioner) ordered that FN303 compressed air launchers be deployed. Officer Rochefort Milien fired two FN303 projectile rounds at a male in the crowd who reportedly had been throwing bottles. The commission concluded that “one of the rounds fired by Officer Milien struck Victoria Snelgrove in the eye, killing her” as she leaned against a railing on the sidewalk, according to civilian accounts. Though Milien was certified to use the weapon, the report noted that he was not trained in the policy and procedures for when to use the FN303, and had little guidance on its deployment that night.

According to the commission’s report, the BPD operations plan for the evening did not lay out rules of engagement, mention less-lethal weapons or their potential deployment, or incorporate lessons from past crowd control situations. The commission also concluded that Snelgrove’s death and two other serious injuries from facial impacts were caused by officers improperly firing and targeting the FN303 and not recognizing the potential for such injuries to result.

Among the commission’s other findings: personnel deploying the FN303 had not been trained on the weapon’s proper use, and chain of command eroded in part because Deputy Superintendent O’Toole took on multiple roles as operations chief, zone commander, and line officer. The commission also found that FN303 projectiles can puncture and penetrate the skin, contrary to the manufacturer’s claims, though the death and two serious injuries were from impacts outside the manufacturer’s

recommended body areas to target. According to the commission, the manufacturer did not train officers on when to use the FN303s, leaving that to the BPD, but did provide instruction regarding the weapon's care and recommended target areas. The manufacturer certified BPD personnel as trainers once they received this incomplete instruction, and BPD leaders assigned those certified personnel to train others on the force.

The commission recommended that the department tailor use-of-force policies for each weapon and restrict less-lethal weaponry to officers fully trained in proper usage. It said the BPD should test its FN303 launchers for accuracy and precision, and the projectiles for their potential to penetrate skin. The commission also suggested that the BPD use the term "less lethal" instead of "non lethal" for all of its weapons that are not intentionally meant to be lethal. The commission further recommended that the federal government "establish minimal standards for the safety of less-lethal weapons and a formal testing and evaluation program that would provide national certification to weapons that met those standards." See this month's *President's Perspective* for more on the commission's report. The full report can be accessed online at www.ci.boston.ma.us/police/stern.asp.

CONSENT DECREES/ MEMORANDA OF AGREEMENT

Report Marks End of DC Monitor's Third Year

The Office of the Independent Monitor (OIM) recently released its twelfth quarterly report assessing District of Columbia and Metropolitan Police Department (MPD) compliance with the Memorandum of Agreement (MOA) reached with the U.S. Department of Justice in 2001. The MOA requires reforms in use-of-force, firearms, OC spray, and canine policies; use-of-force documentation, investigation, and review; misconduct complaint intake; personnel management; and community outreach. During the latest quarter, Independent Monitor Michael R. Bromwich and the OIM focused on canine bite incidents; use-of-force incident reporting and review; internal affairs investigations; and the MPD's personnel management system. The quarterly report covers the period

between January 1 and March 31, 2005, and marks the end of the OIM's third year of monitoring the City and MPD.

During the quarter, the Justice Department approved the MPD's revised Canine Teams General Order, which clarifies appropriate uses of canine units. The OIM said that it had not reviewed or found any incidents from 2003 or 2004 in which canines bit suspects when such a use of force was not justified. Conversely, noted the report, "virtually all of the bite incidents [OIM] reviewed indicate that the canine, whether on-lead or off-lead, and the handler performed in a manner consistent with their training (15)..." The OIM recommended that the MPD finalize and distribute its Canine Operations Manual as soon as possible.

Use-of-force documentation, investigation, and review continue to be problematic areas for MPD compliance, the report said. The OIM suggested that the MPD simplify its Use of Force Incident Report (UFIR) to make the form easier for officers to complete thoroughly in a timely manner. Though the MPD had "exceptionally high" UFIR completion rates from October 1, 2004, through the end of January 2005, the OIM said the improved rates "are undercut by the fact that virtually all of the UFIRs returned by officers during this period contained relevant data fields that were incomplete or totally empty." More than half of the UFIRs the Monitor reviewed from the period did not have a supervisor's signature and thus had not been properly approved. More than 95 percent of MPD Office of Internal Affairs use-of-force and misconduct investigations and reports met MOA quality standards. However, only 55.1 percent of the investigations reviewed in the quarter were completed within the MOA's 90-day window or contained special circumstances justifying the delayed timeframe. "Timeliness," noted the OIM, "has been the single most significant barrier to MPD's achievement of substantial compliance with respect to its internal investigations."

The Personnel Performance Management System (PPMS), the MPD's early warning and personnel supervision database, suffered delays throughout 2004 due to pending funding allocations for PPMS from the city. During the quarter, the MPD, city, and Justice Department established a new timeline for PPMS development that discharged both the MPD as well as the city from breach status with respect to the personnel management system paragraphs. The OIM

ACADEMIC RESEARCH

In April 2005, "Contacts between Police and the Public: Findings from the 2002 National Survey," was issued by the U.S. Justice Department's Bureau of Justice Statistics. The study describes the 2002 Police-Public Contact Survey (PPCS), a national survey that measures the characteristics of contacts between police and the public that culminated in police use of force. The survey was conducted as a supplement to the National Crime Victimization Survey, a large-scale national survey that measures victimizations reported and not reported to the police. In 2002, PPCS interviewed 76,910 individuals, 34 percent in person and 66 percent over the telephone. It is important to note that numbers reported here and in the actual report are estimates as a result of complex statistical weighting procedures used in the survey.

In 2002:

- 45.3 million people age 16 or older had contact with the police.
- 1.3 million people were arrested.
- 90.1 percent of persons who had contact with the police felt the officer(s) acted properly.
- The most common reason for contact with the police was a traffic stop.
- The likelihood of being stopped by police did not differ significantly between White, African-American, and Hispanic drivers.
- 84 percent of drivers stopped felt that they had been stopped for a legitimate reason and 88 percent felt that police acted properly during the stop.
- Among the 45.3 million people who had contacts with the police, police used or threatened use of force against approximately 1.5 percent, or 664,458 persons.
- African Americans and Hispanics were more likely than Whites to have reported that force was threatened or used against them.
- 14 percent of people who had force used or threatened against them received injuries.
- One in four people who had force used or threatened against them indicated that they argued with, cursed at, insulted, or verbally threatened the officer(s).

The prior PPCS, issued in 2001 and describing police-public contacts in 1999, showed just under one percent of police-public encounters led to police use or threatened use of force. In the 1999 survey, 92 percent of those who had force used or threatened against them felt that the police had acted improperly; in the 2002 survey, that percentage dropped to 87 percent. [In both 1999 and 2002, less than 20 percent of those who felt the police acted improperly took formal action, such as filing a complaint or lawsuit.]

The 2005 report may be accessed online at <http://www.ojp.usdoj.gov/bjs/pub/pdf/cpp02.pdf>.

said it would continue to monitor the MPD's progress developing the system in accordance with the new timeline. The full OIM report can be accessed online at www.policemonitor.org.

Cincinnati Monitor Issues New Report

The Independent Monitor issued the ninth quarterly report on the City of Cincinnati's and Cincinnati Police Department's (CPD) compliance with their 2002 Memorandum of Agreement (MOA) and Collaborative Agreement (CA). The MOA, reached

with the U.S. Justice Department, requires reforms in police use of force, handling of citizen complaints, risk management, and training. The CA is between the city, Fraternal Order of Police, and private plaintiffs, and mandates implementation of Community Problem Oriented Policing (CPOP), mutual CPD and community accountability, bias-free policing, and creation of the Citizen Complaint Authority to review citizen complaints and investigate certain uses of force. The report covers the period from November 1 to December 31, 2004, as well as some monitoring activities through March 31, 2005.

The Monitor reported that it had prepared standards for defining MOA compliance, to be finalized during the tenth quarter, and the report included a draft compliance matrix. According to the report, setting compliance standards and definitions should “provide the city, the Justice Department and the public with specific expectations for CPD performance and improvement.” Monitor Saul Green and Deputy Monitor Richard Jerome proposed that MOA provisions that can be evaluated quantitatively should be assessed using a “greater than 94 percent” compliance standard, though this standard will not be “ironclad.” The report notes that some provisions call for a qualitative judgment, “such as whether an investigation considered all relevant evidence.”

During the reviewed quarter, the Monitor found the CPD’s Mental Health Response Team, canine unit, use of force policy, and foot pursuit policy in MOA compliance. CPD training in leadership and command accountability, use of force, scenario-based simulations, and the Field Training Officer Program was also in compliance. The Monitor said that while the department’s computerized risk management system is now online, adjustments are still being made to the system.

In the previous quarter, the Monitor filed a report with the Collaborative Agreement’s Conciliator, U.S. Magistrate Judge Michael R. Merz, alleging that Cincinnati had engaged in a material breach with the CA. During the reviewed quarter, Merz held that the city was, in fact, in material breach; U.S. District Court Judge Susan J. Dlott agreed and entered the CA as an Order of the Court. (For more information about the material breach, see PARC’s January 2005 newsletter at www.parc.info.)

The Monitor did note some CA progress: the parties agreed upon a final CPOP definition; they adopted a CPOP coordination plan for all of Cincinnati and involving different city departments; and through Cincinnati’s Community Police Partnering Center, the parties conducted citizen training on open-air drug markets. The full report can be accessed online at www.cincinnati-oh.gov/police/downloads/police_pdf10315.pdf.

COMMUNITY POLICING

Study Addresses Impact of Pittsburgh Decree

In April, Pittsburgh was officially released from the last remnants of its 1997 federal consent decree, the first to be negotiated using the U.S. Justice Department’s powers, stemming from 1994 legislation, to seek injunctions against jurisdictions for a “pattern or practice” of unconstitutional policing. The consent decree addressed the Pittsburgh Bureau of Police (PBP) and reports of excessive use of force, false arrests, improper searches and seizures, inadequate officer supervision and discipline, and poor community relations, particularly with African Americans. As the city and PBP implemented provisions of the consent decree and approached substantial compliance with it, the Justice Department’s Office of Community Oriented Policing Services (COPS) asked the Vera Institute of Justice to study how the decree was viewed by officers, residents, and community leaders in Pittsburgh. In a new report, *Can Federal Intervention Bring Lasting Improvement in Local Policing?*, Vera looks at the Pittsburgh experience “to determine whether reforms initiated under federal oversight remain robust or show signs of collapsing as soon as the federal monitor leaves.”

To answer that question, the Vera Institute examined the extent to which reforms had taken root in the PBP after the lifting of most of the decree; the progress of the city’s Office of Municipal Investigations (OMI) in handling citizen complaints against the police; and the community’s and police’s response to the consent decree’s implementation and lifting. The study reflects interviews, focus groups, and surveys of hundreds of citizens and officers conducted during and after the consent decree’s final year of implementation.

Overall, researchers found that the reforms improved accountability and remained in place during the period examined. However, they also found that large percentages of PBP rank-and-file and community members were skeptical about the decree’s success in reforming the police. African-American officers held more positive views than did white officers about the decree’s accountability measures, but a large majority of all officers said the reforms have made police less proactive and more reluctant to intervene in situations for fear of becoming subjects of citizen complaints or the early warning system.

PRESIDENT'S PERSPECTIVE

By Merrick Bobb, President

On May 25, 2005, the commission appointed by Boston Police Commissioner Kathleen O'Toole to investigate the death of Victoria Snelgrove issued its final report, an authoritative and comprehensive document meticulously reconstructing the evening of October 20, 2004, when Red Sox fans flowed into the streets near Fenway Park and Kenmore Square. The crowd, which was celebrating Boston's victory over the New York Yankees in the American League finals, was boisterous and peaceful, although a small minority of revelers lit fires, took off their clothes, and engaged in nettlesome but otherwise not terribly serious disorder. The Boston police were out in force. A young Emerson College student, Victoria Snelgrove, a peaceful bystander waiting to get her car from a nearby garage on Lansdowne Street, was hit in the eye and subsequently died from an FN303 projectile fired by Boston Police Officer Rochefort Milien who, the commission concluded, failed to take sufficient account that he was firing at a moving target into a crowd and could miss and hit a bystander. The FN303, a projectile impact weapon using compressed air with a muzzle velocity of 300 feet per second, is used to fire blunt projectiles, loaded in this case with paint and OC spray.

Moving up the chain of command, the commission examined failures of supervisors, muddled and ambiguous lines of authority, and the many mistakes of Deputy Superintendent Robert O'Toole, who strayed far from his role as commander of the Lansdowne Street sector, including taking an FN303 out of the hands of a line officer and firing at the crowd with the weapon, for which he had neither been trained nor certified. The commission concluded that O'Toole's conduct and failure to supervise led officers under his command to carelessly fire the FN303. In addition to Victoria Snelgrove, two other young adults were hit in the face by FN303 projectiles and suffered substantial injuries.

The commission looked back at the Boston PD's planning for the event, finding it seriously lacking, particularly because lessons learned about crowd control from previous similar events—the Democratic National Convention and the 2004 Super Bowl—were not taken into account; moreover, no consideration was given to when and how the FN303 should be deployed. The commission also examined the Boston PD's lack of due diligence when purchasing the weapon in the first place. The commission noted that the weapon's manufacturer underplayed the weapon's potential to cause death or serious injury, leading persons in the Boston PD to mistakenly believe the weapon to be non-lethal. The training provided by the manufacturer, as well as that given by the Boston PD, failed to teach the weapon's dangerous potential and its questionable appropriateness when fired into a crowd.

The report analyzes all key decisions that led to the fatal shooting. The commission's analysis is sound, its conclusions unassailable, and its recommendations well-taken. The report could have benefited from greater scrutiny of Deputy Superintendent O'Toole's direct supervisors that evening, at least one of whom apparently did not even know the FN303 was being deployed. The job of implementing the recommendations could have been made easier if the recommendations had been set forth in rank order of priority and importance. On the whole, however, the report is masterful and should be in every training academy library and on the desk of every law enforcement executive in the country.

Two recommendations are particularly interesting. The commission proposed federal minimum safety standards for less-lethal weaponry, along with federal testing and certification of weapons meeting the safety standards. This recommendation is excellent. Although the government's performance at times can be questioned, no one seriously disagrees with the proposition that powerful drugs should be tested and found safe before they are introduced to the general public. The same should occur with weapons that can maim and possibly kill.

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Without putting its seal of approval on any specific model, the commission also recommended permanent external oversight of internal Boston PD investigations through some kind of “police-civilian injury board.” This title is infelicitous and somewhat misleading. Nonetheless, when defined further by the commission, it appears to be an evaluative and performance-based model where oversight is provided by a monitor or small board with adequate staff. The monitor or board should have unfettered access to Boston PD personnel, records and reports, and computer data. This model is evaluative. The goal is to look at a police department in its entirety to make judgments over time regarding how well it makes policy, identifies and corrects tactical and strategic errors by line officers, holds supervisors accountable, deals with police misconduct, and fixes systemic failures. The model is also performance-based because it would examine how individual officers do their jobs, how supervisors and executives respond, and how the PD as a whole manages major challenges such as crowd control after a championship sports match.

A principal strength of evaluative and performance-based models is the ability to address systemic issues and to inculcate accountability within a police department for solving problems and eliminating abuses. Civilian review boards tend to focus on whether a particular citizen’s complaint should be sustained, but monitors have the ability to examine whether internal investigations as a whole are fair, thorough, and unbiased.

The commission made a wise choice. The Boston Police Department, under Commissioner O’Toole and former Commissioners Paul Evans and William Bratton, has made great strides to enhance the credibility of the department and engender community trust. Boston today is not a place with deep and abiding mistrust of the police or an unshakable belief that internal PD investigations are always biased in the officer’s favor. Accordingly, oversight models that strip the police department of the power to investigate and discipline its own officers are not called for in Boston. As heartbreaking and troubling as were the many Boston PD failures that led to the death of Victoria Snelgrove, the commission’s recommendations did as much as was necessary without going overboard. The report is an exemplar for the Boston PD on how to conduct a thoughtful, dispassionate, thorough, fair, unbiased, and unblinking investigation of a critical incident. As such, the excellence of this piece of work merits a place for itself alongside the canonical reports of the Christopher and Mollen Commissions and, like them, advances respectful, effective, and intelligent policing.

OMI, under Pittsburgh’s Public Safety Office, investigates civilian complaints of officer misconduct. It was a focal point of the consent decree, the study noted, because of allegations that civilian complaints were not fully investigated, due to a lack of quality control and staffing as well as a backlog of cases. The OMI was slow to reform but eventually improved the quality of its investigations, erased its backlog, and came into full compliance, said the Vera study. While community leaders acknowledged the OMI’s progress, they expressed concern about the lack of an OMI annual report and questioned the impartiality of an agency staffed with sworn officers. One civic group leader, the study said, “likened the situation to ‘the fox guarding the hen house.’”

Thirty-seven percent of all white respondents surveyed in 2003 believed policing had improved in Pittsburgh

under the decree, while only 23 percent of African Americans shared similar sentiments. More people in 2003, compared to those surveyed in 2002, said the police treated them well during stops, but “a majority of Pittsburgh residents also believed [in 2003] that the police in their city engaged in various forms of misconduct.” The study said that while accountability changes helped the bureau regain community trust, the PBP has not involved citizens in the reform efforts to ensure proper policing. Pittsburgh’s challenge “will be to develop a model that incorporates the advantages of community policing while monitoring officer behavior and holding officers accountable for wrongdoing,” the study concluded. The Vera study can be accessed online at www.vera.org/section2/section2_1.asp.

FORCE MANAGEMENT

Indiana Agencies' Pursuits Analyzed

As part of a series on law enforcement vehicular pursuits, the *Indianapolis Star* recently published its analysis (using police data) of 947 pursuits involving the Indianapolis Police Department (IPD), the Marion County Sheriff's Department (MCSD), and the Indiana State Police (ISP) in 2003 and 2004.

Of the 947 pursuits, 36 percent ended when the suspect pulled over and stopped the vehicle and 34 percent when the suspect left the vehicle or escaped. Twenty-three percent of the pursuits ended in accidents. The *Star* also reported that one out of every five chases it analyzed resulted in injury or death, and one-third involved property damage. Between 1993 and 2003, 86 individuals—25 of whom were bystanders—were killed in police pursuits in Indiana, the study noted.

The *Star* reviewed pursuit policies of 50 law enforcement agencies nationwide that ranged from those that ban chases to policies that allow pursuits for any offense. San Antonio, Boston, and Milwaukee, it was reported, are some of the jurisdictions that do not allow pursuits for traffic violations. Baltimore City Police Department does not allow chases for any offense, barring high-speed chases absent an unusually dangerous situation. By contrast, the *Star* said, the IPD, MCSD, and ISP policies allow pursuits for felonies, misdemeanors, and traffic violations. *Indianapolis Star*, May 22 and 23, 2005.

LEGAL AFFAIRS

Miami-Dade Settles over Strip Searches

Miami-Dade County recently agreed to pay \$6.25 million to plaintiffs in a class-action lawsuit who had claimed that thousands of women had been illegally strip searched in county correctional facilities over several years. According to the *Miami Herald*, the lawsuit stemmed from the arrests of three female protesters accused of failing to disperse during the 2003 Free Trade Area of the Americas conference in Miami. The three were strip searched even though Florida law states, "No person arrested for a traffic, regulatory, or misdemeanor offense, except in a case

which is violent in nature, which involves a weapon, or which involves a controlled substance, shall be strip searched unless [there] is probable cause to believe that the individual is concealing a weapon, a controlled substance, or stolen property..."

Lawyers for the three women said their arrests led to the discovery of routine strip searches in Miami-Dade County of women charged with misdemeanors. Other women later joined the lawsuit. According to reports, women charged with misdemeanors and strip searched between March 2000 and February 2005 are eligible for payouts ranging from \$1,000 to \$3,000. Another estimated 100,000 men and women arrested on more serious charges but strip searched without written authorization from supervising officers on duty, as required by Florida law, are entitled to each receive \$10, reported the *Daily Business Review*. The three protesters and two other women who represented the class action will divide \$300,000 if the judge grants final approval of the tentative settlement.

In August 2004, the county changed its policy to allow strip searches only of suspects charged with a violent offense, possession of a controlled substance, or carrying an unauthorized weapon, said the *Herald*. In February of this year, the Miami-Dade County Corrections Department ended its practice of strip searching prostitutes as well as those arrested for felonies without written authorization, in compliance with the court settlement. The Florida statute delineating permissible strip searches can be accessed online at www.flsenate.gov/statutes/. *Miami Herald*, April 19, 2005; *Daily Business Review*, April 20, 2005.

Court Eases Burden to Access Officers' Records

The California Supreme Court recently issued an opinion that eases the burden for criminal defendants seeking to discover evidence of previous misconduct by the police officers involved in a pending criminal case. In *Warrick v. Superior Court of Los Angeles County*, Justice Joyce Kennard, writing for a 5-2 majority, held that the defendant need only show that "the scenario of alleged officer misconduct could or might have occurred," in order to warrant an "in-chambers review of documents or information in the officer's personnel file" that could prove relevant to the defendant's claim of misconduct. *Warrick, supra*, S115738 (June 2, 2005). Reversing the Court of Appeal below, which had held that the defendant's factual scenario must

demonstrate “a degree of reasonable probability, a degree of apparent credibility greater than mere possibility,” the California Supreme Court only required that defendants specify what they seek and show a logical link between the information they want from the police officer’s personnel file and a defense or impeachment material they intend to use at trial. The majority concluded that the defendant had made a sufficient showing that the police officers in question falsely arrested the defendant and made false statements in police reports linking the defendant to discarded cocaine found at the scene.

In California, a judge decides what should be disclosed from a police officer’s file pursuant to what is known as a “Pitchess motion.” The personnel file itself is not made available to the defendant or his counsel. Rather, the file is made available to the judge who reviews it in chambers to determine what, if anything, should be produced. The interposition of a judge is intended to balance a police officer’s privacy interests in the contents of his personnel file with the defendant’s rights to prepare a defense. *Warrick v. Superior Court of Los Angeles County (City of Los Angeles Police Dept.)* Cal. Sup. Ct. #S115738 (June 2, 2005).

NEWS BRIEFS

New Crime-Tracking System in Broward (FL)

More than a year after the Broward Sheriff’s Office (BSO) of Broward County and the Broward State Attorney’s Office began investigating the BSO’s crime-tracking system and improper closures by deputies of criminal cases, the BSO has changed its system and three deputies have been criminally charged for falsifying crime reports. The BSO had used a system called Powertrac—modeled after the New York City Police Department’s CompStat—that utilizes computers to track crime by areas or neighborhoods. With numbers in hand, district commanders met weekly to discuss crime statistics and investigations. According to the *Miami Herald*, BSO deputies and supervisors claim that commanders were criticized in the weekly meetings for not posting low crime rates, allegedly leading some sworn personnel to falsify statistics to make the number of crimes committed appear to decrease and to make the number of crimes solved appear to increase.

As early as April 2004, a BSO press release stated that a “review of cases involving five burglary and theft suspects has shown that 60 cases were improperly closed by exceptional clearance in the last four years.” An exceptional clearance is a way for law enforcement to close cases without an arrest or criminal charges if the cases meet certain requirements. Sheriff Ken Jenne, said the press release, found that 58 crimes had been improperly closed by pinning them on one individual who was in jail at the time the crimes had occurred. The BSO’s new program still uses crime tracking computers to produce neighborhood-specific statistics, but review meetings will concentrate on joint problem-solving efforts instead of focusing on crime numbers, according to reports. BSO press releases can be accessed online at www.sheriff.org. *Miami Herald*, May 4 and May 24, 2004.

INTERVIEW

Dr. John MacDonald is a behavioral scientist at the RAND Corporation. Prior to joining RAND, Dr. MacDonald was a faculty member at the University of Florida and the University of South Carolina and worked as a program specialist in the Office of Research and Evaluation at the National Institute of Justice. His research has focused on



examining ethnic and racial disparities in policing and justice, juvenile delinquency, community policing strategies, police use of force policies, and evaluating criminal justice programs. He has served on a number of state and federal advisory panels related to policing and juvenile justice, including the Federal Bureau of Investigation’s panel on future issues in policing. Dr. MacDonald has been published in such journals as American Behavioral Scientist, Criminology, Criminology and Public Policy, and the Journal of Research in Crime and Delinquency. He received his MA and PhD in Criminology and Criminal Justice from the University of Maryland.

PARC: *Please describe your professional and educational background in the area of public safety and justice.*

JM: I went to graduate school at the University of Maryland in the mid '90s where I got my Master's Degree and PhD in Criminology. While I was pursuing my doctoral degree, I started working on some research projects as a contractor part-time for the National Institute of Justice (NIJ). As I got closer to finishing my degree, I started working as a full-time staff member in the NIJ's crime prevention component, which focused predominantly on corrections, substance abuse, and violent crime—and funding research in those areas. I gained quite a bit of experience in both the grant process as well as the federal government's public safety research priorities at the time.

Shortly after finishing my PhD, I took an academic position at the University of South Carolina. I worked there for almost five years and then took an academic job at the University of Florida in the Department of Criminology, Law and Society. I was there for just a year before joining RAND's public safety and justice program, largely because I had always been interested in RAND's work while I was at the NIJ. There was a very good opportunity at RAND to work on the topics on which I focused. I took advantage of this opportunity about one year ago.

PARC: *Could you provide a brief overview of RAND's work?*

JM: RAND is a non-profit corporation, and its mission is to provide objective analysis and policy recommendations on topics of public importance. A key element of RAND is its independence from clients and research sponsors; we give the best science possible to study various topics. This distinguishes us from for-profit companies motivated to satisfy clients' interests. Often we have clients and sponsors who are very happy with our work, but sometimes we provide science-based answers that aren't exactly

what they want to hear, especially with projects in the area of public safety and justice. But our mission is to speak the truth based on scientific method. This has been RAND's overriding goal for years—to provide objective analysis on topics that are often very politically charged.

RAND has been on the cutting-edge of major research evaluations in criminal justice since the early 1970s. This is what really brought me to RAND. Having such a legacy here made this an attractive environment. Plus, we're such a diverse organization that we don't just study public safety and justice issues. If you have a project that requires an engineer or an economist, there are people here at RAND to meet those needs. You really have a tremendous opportunity to collaborate with a diverse set of people. To me, that is an ideal intellectual work environment. Certainly, we have places within RAND where we rest our hat, but

"You really have a tremendous opportunity to collaborate with a diverse set of people [at RAND]. To me, that is an ideal intellectual work environment. Certainly, we have place within RAND where we rest our hat, but we can work on projects with anybody, anywhere."

we can work on projects with anybody, anywhere. You can do this at universities, but there's more of an incentive to work just within your own field and department.

PARC: *You work for RAND's Infrastructure, Safety, and Environment (ISE) Division. What does ISE do? What is your area of focus at ISE, and could you discuss some of your current projects?*

JM: ISE combines anything from basic infrastructure to criminal justice to environmental research. The overriding theme is that with issues related to homeland security and defending the internal security of the United States, all of these areas work together or at least impact each other at some level. RAND's idea was that these areas could be organized under one unit so that we could draw on expertise more easily from people with diverse backgrounds, from engineering to policy analysis to criminal justice.

My primary area is safety and justice. One current project I'd highlight is the police-community relations study we're doing in Cincinnati. It's partially a study of racial profiling practices but also a study of the greater issues regarding diversity, hiring in the police

department, and basic relations between the police and citizens of Cincinnati. Our evaluation is based upon the city's memorandum of agreement with the federal government, and the study goes beyond just looking at traffic stops and tries to address all the major issues of the memorandum, how Cincinnati is doing, and what areas could be improved. Knowing there are police-community relations problems doesn't necessarily give you solutions until you identify specific problems and what the police department and community can do together to rectify the problems. This project has the potential to really provide a roadmap for this kind of research that can actually benefit the public.

PARC: *What are some emerging issues you see in criminal justice research?*

"I think another emerging area is not so much the issue of racial profiling but the larger issue of police-community relations, particularly police relations with minority communities, and how research can help police departments find ways to mend poor relations."

JM: I think the question of how to deal with prisoners—re-entry issues, for example—will continue to emerge as an important issue since we locked up so many people in the '90s. They are getting out now in large numbers. We didn't spend much time thinking about what we can do when they start coming back. State economies are not in a place now where we can afford to keep building prisons. And I think that across the political spectrum, people are realizing that we can't construct our way out of this problem.

I think another emerging area is not so much the issue of racial profiling but the larger issue of police-community relations, particularly police relations with minority communities, and how research can help police departments find ways to mend poor relations. At this point, we have very limited research that's given departments good models for what they can do to improve such relations.

I also think that over time a big issue will be homeland security and what role local law enforcement will play in that. You can see this in a number of areas, such as intelligence gathering and enforcement of federal immigration laws. The federal government can't be responsible by itself for homeland security. We have over 20,000 police agencies in this country, and they

have to be part of the solution. It's still not clear, however, in what capacity.

PARC: *Do you see any local, state, or national trends in crime?*

JM: I think we're still pretty amazed with how low the national crime rate has been. As much as crime is still a problem in the United States, we've had such tremendous drops in crime over the last ten years. Public sector investment in criminal justice and community policing increased tremendously in the mid-'90s, and I don't believe the association with the decrease in crime is spurious. I think there's enough to say that the investment has done some good. For the most part, the trend has been

positive in terms of reductions in violent crime, but it's already starting to flatten out. There's only so low you can get. The question for me is going to be how we can sustain what we've done, especially with the removal of a lot of federal investment in local law enforcement. A lot of money has been shifted from local task forces fighting violent crime to homeland security. Maintaining the declining trend given reduced resources for state and local agencies will be a challenge. We're asking local law enforcement agencies to do more with less. The Los Angeles Police Department, for example, has substantially fewer police officers than Chicago, yet the population in Los Angeles is larger and more spread out.

PARC: *Do you think community policing and efforts to improve police-community relations are effective ways to reduce violence in urban communities? How?*

JM: I think such efforts can be effective when tied to real policies and programs that work. For example, if you have community policing officers working in high crime neighborhoods, building good intelligence with the local community, and getting to know the area and the repeat offenders, that type of model can be effective by having the community policing officers be the front-line problem solvers. But everybody now says they're using community policing, and often a

department claims it's engaging in community policing in theory, when in practice the department has only adopted it as a mantra. Which department today doesn't say that it does community policing? It's like every corporation claiming that it values diversity; they feel they have to say that now. So they send people to diversity training, usually just an afternoon where people try not to fall asleep. One of the challenges of community policing isn't just adopting the language but having policies and training in place. The standard training regime is only, say, eight hours of community policing training. But you can't give somebody eight hours of training, task them with such a job, and expect something to change. Places where community policing has been successful are places where department leadership actually tries to change strategy. And then, of course, incentives become different: officers get rewarded for community policing and not just making arrests or writing tickets.

PARC: *Have you identified model approaches used by police departments to get community cooperation in crime prevention and enforcement without alienating residents, especially those where added enforcement might be construed as bias-based policing?*

JM: A few departments, like in Indianapolis and Minneapolis, have experimented with some models that have been fairly effective. These departments have tried model programs that seem to have some effect on reducing violent crime without changing public sentiment. Boston was also able to do this with its youth violence project. To do this, you need buy-in from the local community, and you need community activists to play a role in shaping policing. They need to be brought in and told that gun violence is a problem in a particular community, that the police want to take a different approach, and that the department wants the activists to spread the message and tell residents the police are taking violence seriously. Police tactics might be intrusive, but on the other hand, if they are done in a friendly enough manner and people in the community realize the police are using the tactics to focus specifically on the

stated issues, then you don't get the problem of bias. Police bias, real or perceived, is a problem. But the perceived problem of bias can come up often just because people say, "We weren't asked if this is what we wanted." The community residents, as taxpayers funding the police department, should have a role—within reason—in helping to shape policy. People who don't have a professional policing background might suggest ideas that aren't feasible. But at least having their buy-in has been successful in cities like Boston, Minneapolis, and Indianapolis.

PARC: *As RAND's 2004 Oakland racial profiling study showed, traffic stop disparities may result from many factors. How do you, as a researcher, control for these factors as you analyze profiling data collected? And how can a study be designed to determine whether or not profiling is occurring in a given jurisdiction and, if so, to what extent?*

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JM: First, you have to develop—based on theory and

common sense—a statistical model that can incorporate as many variables as possible, whether it's the reason for a traffic stop, the severity of a crime, the location, the time of day or night, or the traffic patterns (busy streets versus residential areas). Before you get to the issue of what disparities suggest, you have to try to control out or take into account as many explanations as possible for disparities.

Even with the best statistical model possible, you're never going to answer definitively if racial profiling exists. But what you can answer is whether there exists an unexplained disparity we can't account for with any measure of which we can think. And when you get to that answer using the best statistical model possible for taking the various factors into account, and when you still have a disparity remaining that can't be explained, you must ask the question: If a department is not engaged in racial profiling, then what logical reason is there for this disparity? If no reason is found, then maybe it isn't racial profiling exactly, but you've identified at least a problem that needs to be addressed.

One of the challenges of this kind of research is that people want a yes-or-no answer, and you really can't provide that. Statistics can explain relationships, but it's rare when you can identify a cause without doing an experiment. We can't experiment with something like racial profiling; we can't randomly assign conditions in a community. The good thing about the work that RAND has done is that it's moved beyond a simple approach comparing percentage differences in speeding tickets or stopped drivers running traffic lights and then saying that the differences in who's stopped or ticketed show that racial profiling exists. You just can't make that case because policing is more complicated than simply determining whether people are speeding or running traffic lights. When an officer is forming a decision to stop someone, the Supreme Court has ruled (in *Terry v. Ohio*) that a police officer's experience in determining why someone looks suspicious—if it's reasonable—can play a role in the decision to stop and question that person. So there are a number of things that police look for, whether it's the type of vehicle or a nervous look on a driver. The challenge for researchers is to come up with models that take into account as many of these variables as possible.

PARC: Has RAND's research found that an individual's characteristics impact traffic stops, stop duration, searches, and outcomes? If so, which characteristics have the biggest impact?

JM: I would say that our study from Oakland hasn't identified specific characteristics. What we found was that racial disparities in traffic stops could be explained away by taking into account statistical controls, but that there still appeared to be differences in the duration of searches of blacks and whites—not the decision to stop but what happens after a stop is made. Oakland is addressing this now through training. Generally in social science, we're not going to be able to boil things down to something as basic as an individual characteristic. One of the challenges of doing research in California, for example, is that a number of municipalities will immediately conduct a

basic weapons search of people who are on probation or parole. That automatically lengthens a stop, and because in communities like Oakland and Los Angeles a disproportionate share of people on probation or parole are African American, some African Americans are going to get longer searches. We have to take that into account and then determine if there is still a difference in stop duration.

One aspect that can affect stop duration is location. Depending on the level of crime in an area, officers may be more inclined to have a back-up arrive when stopping a car in a particular area than in other parts of a community. This can lengthen the duration of a stop. A larger issue is that while we know area matters in policing, we need to recognize that our government needs to treat people as individuals who have rights.

"It's a challenge for police departments to figure out how to police certain areas with more problems without treating people differently because they're in a more problematic area. That ends up victimizing people who are not guilty of anything but happen to live in a poor, high crime neighborhood."

It's a challenge for police departments to figure out how to police certain areas with more problems without treating people differently because they're in a more problematic area. That ends up victimizing people who are not guilty of anything but happen to live in a poor, high crime neighborhood.

PARC: Could you discuss in more detail the police-community relations survey you designed at RAND to study racial profiling in Cincinnati? What have you found thus far?

JM: Our survey is in the field right now. What we are doing is a very comprehensive community survey of residents in all the neighborhoods in Cincinnati. We're asking them about their perceptions and experiences with the police as well as their perceptions of their own individual neighborhoods and neighbors. One of the questions we have is to what extent are people's perceptions of the police shaped by their neighborhood environment. We're also looking at a sample of 1,000 residents who've had a significant police interaction—whether they've been a victim a crime or have been arrested or stopped. We're asking them about their specific interaction with the police to look at differences in people's perceptions of their interactions. We're also surveying officers out in the

field about their perceptions and interactions with the community. We're really providing a balanced approach by looking at inputs from the community's as well as the officers' side. Finally, we're surveying people who've been involved in complaints against police officers and the officers who've been involved as subjects to see how we can improve the complaint process so that officers as well as citizens will feel that justice is being served.

There have been other studies that have looked at each one of these issues, but there hasn't been a survey of a city that has covered all of these aspects. Our public findings will not be out until December 2006.

PARC: *You recently studied homicides in Hayward (CA) for Project Safe Neighborhoods. How did you decide to use homicide as the main measure of violence? What did your study find?*

JM: We studied a number of sites, including the Century area in Los Angeles. Project Safe Neighborhoods covers each federal district in the country, and we studied high crime areas of major districts. We looked at homicide and gun violence patterns. We focused on homicide because it's the richest and most accurate source of data on violent crime. It's a crime that gets more police attention, so there is a greater ability to get good information on each case and then build a general pattern. Homicide is also a rare event compared to other forms of violent crime like simple assault or domestic violence. Because homicide is rare compared to other forms, epidemiologically it's something for which you can actually come up with responses. You can target certain areas or times of the day or week to drive the problem down.

Something we found in Hayward was that the perpetrators of homicides tend to act in groups, usually comprised of two or three young male suspects. This was consistent with other high-crime areas. We found that the number of homicides was higher in the evening and on weekends and holidays.

The idea is then to use this analysis to help drive a response. We suggested some strategies: for example, focusing greater police attention on specific times of the day, week, and year. That's something that a lot of departments don't do—allocating resources based on crime patterns rather than on agreements with officers and human resource policies. Our idea was for Hayward to allocate resources based on demand. We also proposed some long-term strategies to engage probation and local businesses to try to impact the economy for youth. Those types of recommendations require a sustained, long-term effort and are difficult to realize.

PARC: *Your Hayward report recommends several enforcement "levers" and "retailing" for reducing violence there. Could you explain what these terms mean?*

"It can help police departments to have five- or ten-year plans. They can go to city managers or councils and say, 'In order for us to meet these five-year target goals of hiring, training, diversity, and promotion, these are the kinds of resources that we're going to need so that we can have a diverse, educated, and cutting-edge department.'"

JM: These terms are academic jargon. Levers are about trying to maximize the system's response to crime. They are things you can do

to change—or leverage—behavior. For example, you can leverage the resources of a law enforcement department to crack down on gun crime. You can focus the prosecutor's office on making sure that those arrested for gun crimes do serious time. Levers can also come in the form of community organizations.

Retailing is really about spreading the message and letting the community know—in particular, people at risk for engaging in violent crimes—that things have changed, that the police response is now more serious, and that the consequences are also more serious. There are a number of ways that retailing has been done successfully, through outreach to grass roots, community-based organizations and by public awareness campaigns. Retailing can also be the setting of examples, such as prosecuting high profile individuals in a community and spreading the message that, for example, a particular individual was stopped on a probation violation and was carrying a semi-automatic weapon and is now looking at five years in prison. Another method of retailing can be

bringing people—for example, gang members—into a meeting and explaining that one gang member has already been put away and that all of them are looking at serious time in the future if caught for a similar crime.

PARC: Which research projects are you most excited about being involved in at RAND? Are there any other areas of police research that RAND plans to undertake?

JM: I am excited about any opportunity that I can get... and that will pay my salary! On a serious note, there are number of projects in development here. One area in which we plan to undertake research is manpower and training. I'm interested in how police departments plan for the future: what human resources and recruiting mechanisms can they put in place that will meet future demands. There are a lot of demographic demands on departments, such as a police force of aging officers. Departments need to have plans for staffing and promotion. Typically, city governments are run by year-to-year budget agreements. It can help police departments to have five- or ten-year plans. They can go to city managers or councils and say, "In order for us to meet these five-year target goals of hiring, training, diversity, and promotion, these are the kinds of resources that we're going to need so that we can have a diverse, educated, and cutting-edge department." Developing research at RAND that can really help departments plan for the future is an exciting topic that we're hopefully going to try to pursue further.

CONFERENCES & MEETINGS

July 10-13, 2005 – Correctional Education Association, 60th International Conference, Des Moines, IA. Online at www.ceanational.org

July 10-15, 2005 – National Association of School Resource Officers, 2005 National Conference, Dallas, TX. Online at www.nasro.org/home.asp

July 18-20, 2005 – National Institute of Justice, Annual Conference on Research and Evaluation, Washington, DC. Online at www.ojp.usdoj.gov/nij/

July 23-27, 2005 – National Organization of Black Law Enforcement Executives, 29th Annual Training Conference and Exhibition, Atlanta, GA. Online at www.noblenatl.org/

July 24-27, 2005 – American Probation and Parole Association, 30th Annual Training Institute, New York, NY. Online at www.appa-net.org/

July 27-30, 2005 – Commission on Accreditation for Law Enforcement Agencies, Summer Conference, Boston, MA. Online at www.calea.org

August 6-11, 2005 – American Correctional Association, 135th Congress of Correction, Baltimore, MD. Online at www.aca.org/

August 9-11, 2005 – Drug Abuse Resistance Education, 2005 National D.A.R.E. Training Conference, San Antonio, TX. Online at www.dare.com

September 24-28, 2005 – International Association of Chiefs of Police, 112th Annual Conference, Miami, FL. Online at www.theiacp.org/