

POLICE PRACTICES REVIEW

A Publication of the Police Assessment Resource Center

September 2005

Vol. 4, No. 8

-
- 1 **CIVILIAN OVERSIGHT**
Special Counsel Issues Latest Report on LASD
New Report Out on Portland Police Shootings

 - 3 **CONSENT DECREES/
MEMORANDA OF AGREEMENT**
DC Report Offers Criticism and Praise

 - 4 **RACIAL PROFILING**
Rhode Island Releases Traffic Stop Data

 - 4 **COMMUNITY POLICING**
Police-Immigrant Relations Subject of Report
Translating Device Could Help Communication

 - 5 **ACADEMIC RESEARCH**

 - 6 **STANDARDS & TRAINING**
IACP Addresses Suicide Bombing Responses

 - 7 **POLICE ADMINISTRATION**
Program to Provide Data on Decertified Officers

 - 7 **NEWS BRIEFS**
Seattle Initiates Mediation Program
Changes in Baton Rouge Amid Criticism

 - 8 **INTERVIEW**
California Attorney General Bill Lockyer

 - 15 **CONFERENCES & MEETINGS**

CIVILIAN OVERSIGHT

Special Counsel Issues Latest Report on LASD

PARC President Merrick Bobb, who serves as Special Counsel to the L.A. County Board of Supervisors, has issued the twentieth semiannual report on the Los Angeles County Sheriff's Department (LASD). The latest report produced by Special Counsel, staff, and PARC focuses on recruitment, hiring, and retention; internal investigations of criminal misconduct; and conflict resolution.

Special Counsel wrote that the LASD, faced with stiffer competition and internal morale problems, may be hiring applicants who are on the average less well credentialed than applicants in prior years as it tries to build up its ranks after a three-year hiring freeze. The report warned that recent gains in the overall number of recruits are not keeping up with losses due to retirements and transfers. It did compliment the LASD for having "not lost sight of its commitment to reach out to women and minorities" in its hiring practices. The LASD's percentage of sworn females increased slightly, but percentages of Latinos, Asians, and Filipinos have all roughly doubled since 1992.

Other law enforcement agencies perceived to be offering better pay and retirement benefits are making the LASD "increasingly less attractive" for recruits and for deputies targeted for lateral hiring. The average of five to seven years deputies must first spend in a custody assignment before becoming eligible for a patrol assignment further undermines retention efforts. "Any longer than two years in custody is not good for the deputies, the Department, the inmates, or the public," said the report, adding that deputies forced to remain in the jails are more likely to become "bitter, jaded, and complacent." The report recommended the Department consider creating two separate career tracks: one for deputies who want to

PARC

POLICE
ASSESSMENT
RESOURCE CENTER

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

Tel (213) 623-5757

Fax (213) 623-5959

Email: information@parc.info

POLICE ASSESSMENT RESOURCE CENTER

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

Board of Trustees

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

Senior Advisors

Ronald Davis
 Thomas Frazier
 Bernard Melekian

President

Merrick Bobb

Copyright © 2005, all rights reserved. Material in this newsletter may be reproduced and/or circulated without permission when proper acknowledgement is made.

No copyright is claimed in the text of the statutes, regulations and excerpts from court opinions quoted in this work. The opinions expressed herein are not those of PARC and their inclusion herein does not constitute an endorsement by PARC.

To subscribe to the *Police Practices Review* (or to access it electronically), visit our website at www.parc.info.



work patrol and another for those who want to work in the jails permanently. It also recommended moving highly-qualified candidates more quickly through the long hiring process to keep them from accepting positions with other agencies where hiring is faster.

Special Counsel also reviewed the Internal Criminal Investigations Bureau (ICIB), which investigates allegations of criminal misconduct committed by sworn and civilian LASD personnel. Special Counsel said ICIB investigations were of generally good quality, but was concerned that the number opened each year (from January 2002 through June 2005) had fallen steadily and precipitously. Special Counsel suggested a reason for the drop in cases was the LASD's "practice of minimizing criminal investigations in favor of administrative outcomes, by both screening cases out at intake and tacitly settling for resignations rather than criminal sanctions." That practice may be due to the apparent reluctance of the District Attorney's office (DA) to prosecute deputies, even in apparently solid ICIB cases, the report said. The DA filed charges in only 25 percent of the cases ICIB presented in 2002, 21 percent in 2003, and 12.5 percent in 2004. Special Counsel criticized ICIB for its apparent passivity and reactive posture, recommending it conduct targeted sting operations and affirmatively ferret out criminal misconduct among LASD personnel.

The semiannual report also looked at the LASD's floundering conflict resolution program to mediate citizen complaints of discourtesy, rudeness, or poor job performance. Since 2002, only 44 of the more than 7,000 personnel complaints were mediated. Several problems were identified with the program: supervisors are generally not aware of the guidelines for when and how to use mediation; the rules governing the eligibility of complaints for mediation are not clear; watch commanders conducting the mediation create disincentives for deputies to be honest and open; and the lack of a neutral third-party mediator creates an environment in which the complainant feels intimidated by LASD personnel. The report recommended the department set and publicize eligibility criteria for mediation and utilize outside, independent mediators. Mediation can "provide a more effective, efficient, and ultimately lower-cost alternative to formal investigations while remaining consistent with the goals of community policing," the report said. The full semiannual report can be accessed online at www.parc.info.

New Report Out on Portland Police Shootings

On September 2, the Portland City Auditor released *The Portland Police Bureau: Officer-Involved Shootings and In-Custody Deaths, First Follow-up Report*. The report, prepared and drafted by PARC, is the first in a series of five follow-up reports to PARC's August 2003 report commissioned by the Independent Police Review Division (IPR) of the Auditor's office.

The current report assesses how the PPB has responded to some of the original 89 recommendations to improve the PPB's deadly force policies, investigation and review procedures and practices, tactics, and information management. PARC found that the PPB followed the majority of the 28 recommendations selected by PARC and the IPR for review (so chosen because they involved changes to written policies and procedures basic to good practices and were expected to have already been implemented). The PPB had "significantly improved" its policy concerning the use of deadly force against fleeing felons. The bureau was also commended for adopting progressive policies on shooting at or from moving vehicles. The follow-up report noted, however, that the PPB failed to revise its use-of-force policy to authorize deadly force "only when no other alternatives are reasonably available."

The PPB also adopted the majority of PARC's recommendations on procedures for investigating officer-involved shootings and in-custody deaths. The PPB, however, declined to adopt one of two deadly-force investigative models PARC recommended that are consistent with good practices, instead choosing to still have its Homicide Division investigate deadly force incidents. The PPB did make modifications that "will enhance the quality of its administrative investigations by increasing the roles of the Internal Affairs and Training Divisions," said the report. One important recommendation not acted on from the 2003 report called on the Portland City Council "to create permanent civilian oversight of PPB administrative investigations and tactical analyses relating to deadly force incidents."

PARC also examined 14 officer-involved shootings it had not previously reviewed. Based on these reviews, PARC made ten new recommendations, most of which were extrapolated from those made in 2003. Among the current report's recommendations were two subjects not previously addressed: extracting noncompliant persons from vehicles and obtaining

medical aid without undue delay for persons wounded in deadly force incidents. Additionally, PARC said that the PPB should adopt a policy that prohibits officers from responding to routine patient management situations in mental health facilities and advise all mental health providers in Portland of that policy. The full report can be accessed online at www.parc.info/pubs/pdf/2005%20Portland%20Report-Final.pdf.

CONSENT DECREES/ MEMORANDA OF AGREEMENT

DC Report Offers Criticism and Praise

The Office of the Independent Monitor (OIM) released its thirteenth quarterly report assessing District of Columbia and Metropolitan Police Department compliance with their 2001 Memorandum of Agreement (MOA) with the U.S. Justice Department. 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. Independent Monitor Michael R. Bromwich wrote in the latest report that while the Metropolitan Police Department (MPD) and City are one year into the substantial compliance assessment stage (meaning that the range of requirements included in the MOA should now be achieved, with review focused on maintenance of compliance), the "MPD in particular remains out of compliance with the majority of provisions contained in the MOA." During the quarter, the OIM focused on areas such as in-service training attendance; firearms re-qualification; use-of-force reporting; MPD internal investigations; and discipline and corrective action.

Although the MPD's in-service training is consistent content-wise with the MOA, the Monitor found that only 75 percent of the 3,517 sworn MPD personnel attended the mandatory training in 2004. Even more troubling than the low attendance rate was when the OIM requested attendance figures from the MPD and the department acknowledged it does not keep such in-service training records of individual officers. The monitoring team thus had to compile its own statistics. "Only by having systems in place that will enable MPD to track the rate at which officers are attending in-service training and to identify those officers who

fail to attend training,” the report warned, “will MPD likely be able to improve its current in-service training attendance rate, which falls well below the rate that constitutes substantial compliance.” Semiannual firearms re-certification, by contrast, enjoyed an attendance rate above 99 percent of all eligible sworn personnel. The OIM praised the MPD for maintaining a precise tracking system that can identify all officers who do or do not attend that mandatory program.

While officers must complete a Use of Force Incident Report (UFIR) after any situation involving force, the OIM has “consistently observed that low UFIR completion rates were a lingering and persistent problem for the MPD.” An OIM review over the past two quarters of underlying incident reports showed that from October through December 2004, officers completed a UFIR in 16 percent of the cases requiring one. The report said most of the incidents without UFIRs involved minor uses of force but that the MOA mandates that they must nevertheless be documented. The OIM recommended that the department work to develop its own auditing systems to identify such problems with policy implementation.

The OIM commended the department for improved quality of investigations conducted by Internal Affairs as well as by the chain of command in the MPD’s districts. During the quarter, 69.8 percent of cases reviewed by the OIM were complete and 75.7 percent of those had sufficient investigations, up from 56.2 percent and 67.6 percent, respectively, the previous quarter. The report attributed the improvements, in part, to new MPD investigation templates but said that timeliness is still the greatest obstacle for achieving compliance. Finally, the OIM expressed concerns that the department “still has not established a centralized system for documenting and tracking all forms of disciplinary and corrective action.” The full report can be accessed online at www.policemonitor.org.

RACIAL PROFILING

Rhode Island Releases Traffic Stop Data

The Rhode Island Justice Commission (RIJC), a state agency charged among other duties with criminal justice data collection, has released its latest quarterly report on traffic stops conducted by the Rhode Island State Police and 38 local agencies between April 1,

and June 30, 2005. Northeastern University prepared the report for the RIJC. Although the numbers “continue to be preliminary,” cautioned researchers, “there are a number of findings in the statewide analysis that are worth note.”

White drivers were more likely to be stopped than non-whites for motor vehicle violations, while non-white were more likely to be stopped for investigatory reasons. Blacks and Hispanics were disproportionately more likely to be searched once stopped than were white, Native American, and Asian drivers. Only discretionary searches, and not those that were incident to arrest, were included in the analysis. The report showed that the proportion of stopped drivers found with contraband after a search was higher than in previous quarters. “It is interesting to note,” said the report, “that as the disparities between white and non-white searches have decreased, the searches conducted by law enforcement have been more productive.” The full report can be accessed online at www.racialprofilinganalysis.neu.edu/. More information about the RIJC can be found online at www.rijustice.state.ri.us/default.htm.

COMMUNITY POLICING

Police-Immigrant Relations Subject of Report

In a recent Vera Institute of Justice report on police-immigrant relations, the authors note that according to the 2000 U.S. Census, more than 31 million residents of the United States (over 11 percent of the population) were born in another country. The U.S., the authors say, has not experienced such a large immigration increase since early last century. “The new demography, combined with the threat of terrorism, has law enforcement agencies throughout the country examining and rethinking their relationships with hard-to-reach immigrant communities,” according to the Vera report. At the same time, barriers stand in the way of building trust, including: fear that contact with police might result in deportation; “imported distrust” of police and the legal system from immigrants’ countries of origin; language and communication obstacles; and cultural misunderstandings. Vera’s *Building Strong Police-Immigrant Community Relations: Lessons from a New York City Project* said that overcoming these barriers

ACADEMIC RESEARCH

An article in the August issue of *Criminology & Public Policy*, entitled, “Did *Ceasefire*, *Compstat*, and *Exile* Reduce Homicide?” explores whether three major policing innovations in the 1990s were as successful at reducing homicide as political and police officials publicly claimed them to be. The authors of the study, Richard Rosenfeld, Robert Fornango, and Eric Baumer, examined homicide rates in three cities—Boston, New York, and Richmond, Virginia. The examinations reviewed the periods before, during, and in the case of Boston, after the programs were in place and compared them with homicide rates in other cities across the United States during the same time periods. It is important to note that this study did not specifically evaluate the programs, but instead examined homicide trends in the three cities, or “intervention sites” and hypothesized about the actual crime-reduction effects of the programs amid the many claims of success surrounding the interventions.

Crime rates across the country began to decline dramatically in the early to mid-1990s. Since that time, criminologists have struggled to determine why exactly that happened. One explanation that is favored by politicians and police officials was the implementation of innovative policing initiatives. Three of the most widely known programs were *Operation Ceasefire* in Boston, *Compstat* in New York, and *Project Exile* in Richmond, Virginia.

Boston. *Operation Ceasefire*, in place from 1996 through 1999, was intended to reduce the firearm violence of youth gangs. Part of the larger Boston Gun Project, *Operation Ceasefire* consisted of focused efforts to control gun trafficking, warn gang members that there would be zero tolerance for crimes involving guns, and offer services to gang members who complied.

New York City. *Compstat* was implemented in 1994 by then Chief William Bratton. The program did not focus only on firearm violence but instead was aimed at reducing crime through increased, specific tracking of reported offenses and enhanced pressure on, and accountability of, police precinct commanders and other responsible police leaders to respond aggressively. Real consequences for commanders were attached to the failure to effectively manage a precinct.

Richmond. *Project Exile*, implemented in early 1997, increased sentences for federal “felon-in-possession of a firearm” cases and drug and domestic violence cases that involved a firearm. Increased penalties for firearm-related incidents were expected to deter individuals from carrying firearms or using them in the commission of a crime and to reduce crime by incapacitating violent felons. *Project Exile* was not targeted at specific groups or neighborhoods but was broadly advertised throughout Richmond in print and electronic media and other outlets.

According to the authors, “[t]he primary research question is whether the three intervention sites experienced greater declines in homicide than other cities during the intervention period after adjusting for between-city differences in other determinants.” To address this, the authors used data from the Supplemental Homicide Reports for 95 cities in the U.S. with a population of 175,000 or more from 1992 to 2001. Because the objectives of the three interventions were different, the authors used data that corresponded to each program: firearm homicide victims ages 15 to 24 in Boston; total homicides in New York; and total firearm homicides in Richmond. The results indicate that homicide rates in New York and Boston “did not diverge significantly from the sample average,” suggesting that *Compstat* and *Operation Ceasefire* did not affect homicide in these places. The authors did find, however, that homicides in Richmond fell at a faster rate than other large U.S. cities, consistent with an intervention effect for *Project Exile*. Finally, the authors conclude that while this study was not the “last word” on these programs, greater cooperation between researchers and practitioners is needed *before* crime-control programs are implemented so that evaluations can be more systematic and effective in the future. *Criminology & Public Policy*, August 2005, Vol. 4, No. 3.

is particularly important in New York City, where 36 percent of the population in 2000 was foreign-born.

Vera and the New York City Police Department (NYPD) came together in 2003 with funding from the U.S. Department of Justice's Office of Community Oriented Policing Services to try to find a way to improve trust. Three sets of forums were held, a separate series each for the Arab-American, African, and Latin-American communities—three groups identified as hard-to-reach and not well-established in political and civic institutions, and consequently “less likely to participate in the traditional venues for community outreach.” Representatives from each group as well as the NYPD met once every three months from summer 2003 through fall 2004. One benefit to come from the forums with the Arab-American community was the development of an ongoing dialogue between immigrant leaders and the police; the two groups have met independently since the end of the project and are attempting to expand their dialogue to include federal law enforcement.

Vera researchers noted that sustained contact between police and community members helped participants develop friendships and strengthen working relationships over the course of the series of forums. The report recommended that police departments send executives to community forums so the public feels its concerns have been communicated to senior officials. Additionally, the police should be willing to pay for community trust building efforts, as hard-to-reach immigrant groups “typically have limited financial resources, little if any formal leadership, and weak community-based organizations,” said Vera. Results from the forums include translated materials for immigrants about legal rights and responsibilities and also police procedures; targeted outreach efforts in precincts; and facts sheets the size of NYPD memo books about the Arab-American community in that city. The full report can be accessed online at www.vera.org/publication_pdf/300_564.pdf.

Translating Device Could Help Communication

Police officers in the U.S. increasingly interact with Spanish, Russian, Swahili, Hindi, Arabic, Tagalog, and Vietnamese speakers, according to a new article in the National Institute of Justice (NIJ) Journal. “It is simply not possible in an emergency,” said author Mark P. Cohen, “for police to wait for an interpreter

to assist by phone much less arrive on the scene.” Beginning in 2002, the NIJ began a collaboration with the Naval Air Systems Command to test four instant language translation devices to find a cost-effective way for officers to communicate with non-English speaking individuals. The Voice Response Translator (VRT) was eventually identified as the best device.

The VRT recognizes officers' English commands—or “trigger phrases”—and instantly repeats them in the desired language. Officers can change the desired language by voice command. The VRT fits into a shirt pocket and is specially programmed, the author explained, “for such common policing matters as traffic stops, domestic problems, lost children, and medical emergencies.”

Some officers complained that as a one-way translator the VRT cannot translate what civilians say in response. What the device can do, said the NIJ, is direct a person to nod “yes” or “no” or to write down an answer if possible to officers' questions. Other limitations included: VRT failure when officers' inflections or voice patterns are changed; difficulty picking up commands by officers with accents; and microphone weakness. The latest model now stores 125 languages and 125,000 trigger phrases and is being used by police so far “for everyday patrolling, including pullovers, driver's license and registration checks, and other relatively low-stress engagements.” The article reported that Nashville's police chief said the VRT “was a welcome innovation in his city, where police encounter some 20 languages on a daily basis.” The full NIJ article can be accessed online at http://nij.ncjrs.org/publications/pubs_db.asp.

STANDARDS & TRAINING

IACP Addresses Suicide Bombing Responses

The International Association of Chiefs of Police (IACP) has recommended that if lethal force is justified or authorized to stop a suspected suicide bomber in the United States, police officers should aim for the head rather than to aim at the center body mass, as they are generally trained now when deadly force is required. A shot at center body mass could only wound the bomber, leaving him or her still capable of detonating the device, or could itself trigger the device, explains the IACP. “An accurately placed

head shot,” the IACP stated, “will terminate the bomber before he or she can take action to detonate the explosive device and will not accidentally set off the device.” The IACP recommends that Tasers or other electrical stun guns should not be used, as their charges could trigger the explosive.

The guide focuses on the “transincident” response, which occurs when a suspect tries to detonate a bomb or decides to surrender. If police engage a suspected bomber, said the IACP, a safety distance of at least 660 feet in all directions should be kept. “Even if the bomber wants to surrender, or is wounded or dead, maintain standoff distance,” the guide recommended. A suspect may pretend to surrender to attract law enforcement personnel, and bombs can be triggered by “secondary command-detonated devices,” third parties, or “dead-man switches.”

The IACP also addressed the “postincident” response to a suicide bombing. One suggestion was for police to establish a perimeter outside the crime scene as standard operating procedure “to attempt to capture withdrawing suicide bomber support-team members” who provided logistical assistance. The full training guide can be accessed online at www.theiacp.org/pubinfo/IACP582SuicideBombersPart2.pdf.

POLICE ADMINISTRATION

Program to Provide Data on Decertified Officers

Forty-three states have a formal procedure for the revocation of professional certification for police officers, usually for a felony conviction or some high misdemeanors, said the International Association of Directors of Law Enforcement Standards and Training (IADLEST) in a report on its web site. “As such,” IADLEST noted, “adequate means generally exist to identify and prevent the in-state reemployment of officers dismissed for cause.” Yet there is no formal system for exchanging such information among states to prevent decertified officers from being hired in a different state. In response, IADLEST began developing the National Decertification Database (NDD) to facilitate interstate sharing of this information; the group recently received funding from the U.S. Department of Justice’s Bureau of Justice Assistance to further develop the database.

Only the state agencies responsible for officer certification—usually but not always called Peace Officer Standards and Training (POST) commissions—can presently access the NDD. The report describes the database as a “searchable, interstate index system only providing pointer records” on decertified officers, which are maintained by state POSTs or entities with the same authority. If a POST agency searches for an applicant who was in fact decertified in a state whose records are in the database, the pointer records show the department where that individual was employed and that he or she was dismissed for cause. The records then direct the querying POST agency to its counterpart agency in the other state, explained Ray Franklin, IADLEST’s project manager for the database.

Franklin said that while a police department could directly contact a particular POST if the department knew where an applicant was previously employed, the NDD provides the first method for a department—through its state’s POST—to find decertification information without specific knowledge about prior employment. The pointer records can be searched in a variety of ways, with as little information as a name, Social Security number, employing agency, or start and finish of service, according to IADLEST. Franklin said that IADLEST is considering making the database directly available to law enforcement agencies, though this would require more technical support. So far, the NDD contains records on more than 6,800 decertified officers in 19 states that have thus far entered data; about six other states’ POSTs use the database but don’t provide records, stated Franklin. The full report can be accessed online at www.iadlest.org/nddreport.pdf. *Criminal Justice Journalists*, September 26, 2005.

NEWS BRIEFS

Seattle Initiates Mediation Program

The Seattle Police Department (SPD) has implemented a mediation program to resolve selected citizen complaints of officer misconduct. The program is being managed by the SPD’s Office of Professional Accountability (OPA). SPD Chief Gil Kerlikowske said in a press release, “The new program allows employees and citizens the opportunity to discuss and resolve misunderstandings, miscommunication or the

lack of communication experienced during a particular incident.”

The OPA said complainants “are generally offered the option of mediation during the intake process.” The process is voluntary and confidential; complainants need not select mediation in lieu of the traditional complaint and discipline system, and officers are not obligated to participate. The OPA director must review and approve potential mediation cases, as must the Internal Investigations captain, and the subject officers’ supervisors. If both parties agree to meet, neutral mediators from the private Seattle-based Judicial Dispute Resolution group will run the session, clarifying issues and keeping the discussion “focused, productive and non-threatening.” The mediators are providing their services *pro bono* as the program is launched, said Chief Kerlikowski.

Citizens choose mediation in order to be fully heard and understood and to speak face-to-face with officers, noted the OPA. Officers might participate for the same reasons, as well as to improve police-community relations and to resolve the complaint outside the formal complaint process, which can leave a mark on an officer’s record. The press release, OPA mediation information, and mediation FAQs can be accessed online at www.cityofseattle.net/police/default.htm. *Seattle Post-Intelligencer*, August 24, 2005.

Changes in Baton Rouge Amid Criticism

Baton Rouge Police Department (BRPD) officers flagged by the department’s Early Intervention Program for receiving multiple citizen complaints will now be required to wear digital audio recording devices on duty, the department confirmed. According to reports, the department purchased more than 30 recorders and expects officers to switch them on for every encounter with the public. According to reports, other reform measures include new uniforms for supervisors to wear so that they are more easily recognizable by members of the public. The department will also conduct community audits by randomly selecting case files and interviewing the involved residents or businesses to receive feedback on its performance, said the reports.

The changes come amid complaints made against BRPD officers by state troopers from Michigan and New Mexico who were assisting Baton Rouge after

Hurricane Katrina. The two state police agencies reportedly ended their assistance to the BRPD after some of their troopers reportedly witnessed what they considered misconduct. The BPRD chief said in a press release that the troopers’ complaints are being taken very seriously and that an internal investigation is underway. *The Advocate*, October 8, 13, and 21, 2005; <http://ci.baton-rouge.la.us/dept/brpd/default.asp>

INTERVIEW

California Attorney General

Bill Lockyer was first elected in November 1998 and then re-elected for a second term in 2002. As head of the California Department of Justice, Mr. Lockyer created the Civil Rights Unit and was the first California Attorney General to launch a civil



investigation focused on police accountability of a local law enforcement agency in the state. He is a past president of the National Association of Attorneys General and served for more than two decades as a legislator in the California State Assembly and Senate. A graduate of the University of California, Berkeley, Attorney General Lockyer earned his law degree from McGeorge School of Law in Sacramento while serving in the State Senate. He also holds a teaching credential from California State University, Hayward. Mr. Lockyer has two children. His wife, Nadia, is a civil rights and public education attorney. *PARC* recently spoke with the Attorney General in his office in Los Angeles about his work, particularly in the area of law enforcement.

PARC: Could you describe your professional experience that led up to you becoming California’s Attorney General?

BL: Well, I was a roofer. Does that count? I was a school teacher and then spent 25 years in the California State Legislature in the Assembly and the Senate. After that, I became the California Attorney General.

PARC: Could you tell our readers about the California Department of Justice and your responsibilities as Attorney General? What is the nature of your working

relationship with the governor, the legislature, and other state governing bodies?

BL: There are three big sections of the Office of Attorney General. First, it is the largest law firm in the state, with about 1,100 lawyers working in every area of the law and with different people. To give you an example, of the more than 100 lawyers doing environmental work, about half of those will be working with an agency where we're the counsel—say, water resources, the governor's office, or the health department. The other half is doing independent work that, in effect, is for the people rather than for a state agency.

The second is made up of our law enforcement assets—police work essentially, in areas such as narcotics, sexual abuse, child pornography, and abduction. That section also includes our forensic labs where DNA work is done.

Our third section is electronics. This deals with background checks for new teachers and gun purchasers, Megan's Law, and the running of a license plate before or after a traffic stop to determine whether a car is stolen or whether there is a warrant out on the driver. We maintain that electronic communication system between the state and local law enforcement. We move two and a half million messages a day in the system.

There are other matters we handle, such as firearms enforcement and healthcare fraud. The list goes on and on, but the three sections I mentioned are the big pieces to the California Department of Justice.

PARC: *The California Attorney General is often referred to as the state's "top cop." Could you elaborate on your office's coordinating role within law enforcement?*

BL: We're active in trying to get the law implemented correctly and to write new laws. As such, we are advocates for legislation on some of these matters. The law enforcement work we do is essentially a partnership. We work together in task forces that focus

on various issues. Local law enforcement tends to either be independently elected, like sheriffs, or working for independently elected city councils and mayors, so it's important that we try to work with local departments in a collaborative way. Command-and-control methods would not be effective. Although as Attorney General I'm arguably given authority to directly supervise every sheriff and district attorney in the state, it would be unproductive and potentially harmful to public safety efforts for me to assert such dominance. Law enforcement is much more effective and successful when we work collaboratively. My office can help achieve the best results for public safety by providing quality services and leadership so that local law enforcement agencies can do their jobs even better.

PARC: *Do you partner with federal agencies in the law enforcement realm?*

"Law enforcement is much more effective and successful when [state and local authorities] work collaboratively. My office can help achieve the best results for public safety by providing quality services and leadership so that local law enforcement agencies can do their jobs even better."

BL: We have a long history of working together or at least making every attempt to do so, and sometimes this is frustrating, frankly. Whether the issue is

homeland security, major fraud, or narcotics investigations, we partner with U.S. Attorneys, the FBI, and other federal agencies. They are very commonly in our task forces, which frequently have federal, state, and local participating agencies.

PARC: *Have your office's priorities changed in the time since you were first elected in 1998? What challenges do police in California now face, and how is your office responding to them?*

BL: First of all, some of our legal work is different, with the enforcement of laws that sometimes were not so well enforced before. We didn't have a civil rights office, but I created one. We had a timid environmental office, and it's now very aggressive. We created the Office of Immigrant Assistance to deal with the special needs of the 27 percent of Californians who are foreign born and are frequently the victims of consumer fraud, immigration consultant fraud, and other rip-offs. Some of this new work has a law enforcement aspect to it.

In the law enforcement domain, there has been more of a need to work on anti-terrorism efforts post 9-11. In that respect, [former California Governor] Gray Davis and I created an intelligence collection center almost immediately after 9-11. The center doesn't have an operations role; it really just coordinates local law enforcement and federal agencies so that we are all sharing information and talking about the same problems and threats. The eyes and ears of law enforcement, generally, are the 90,000 local deputy sheriffs, police officers, highway patrol officers, and others. We hope to get information from them as well as to coordinate with the federal agencies.

There have also been some technological changes—Megan's Law, DNA, forensics—that have improved our response to law enforcement priorities.

PARC: *You mentioned post 9-11. Have federal funding priorities shifted over time? If so, how has that affected California, specifically?*

BL: There had been a more significant federal commitment during Bush I and Clinton to federal funding and support for officers on the beat. That's largely dried up under Bush II. We scrambled and were able to make up some of those lost monies, but the proposed budget for the next year contemplates very significant cutbacks in federal funding of a variety of pots of money that end up in state and local law enforcement. So that will probably necessitate some sort of scaling back of some of our state and local law enforcement responsibilities. I don't think anybody has yet figured out what exactly will be scaled back, but there will be a smaller pot of money. For a while, federal funding was reallocated for antiterrorism where it might have previously gone into organized crime work and other matters. Now the aggregate amount of funding is being cut.

PARC: *Does your office get complaints from Muslims or those from Middle-Eastern countries alleging that their rights have been violated by the police, post-9/11?*

BL: Actually, the complaints we receive are more often hate crimes that occurred against individuals who

appear to be from the Middle East. These complaints involve civilians abusing Muslims, Sikhs, and others. We get more of these complaints about abuses by other citizens than about abuses by police officers.

We did have one little tension point, and still do, with federal agencies. We follow the state constitutional rule that we can't do surveillance or investigate without reasonable suspicion. That's not always true with federal agencies. We have a different approach, and as a result there have been a few complaints about police practices in this area.

PARC: *In relation to federal enforcement efforts, there's a debate going on about immigration law enforcement and local police, and how involved local departments*

should be, with the impact that their policies might have on community relations. Does your office have a view on the issue of local police enforcing federal immigration laws?

"We do not inquire into immigration status. My office's policy is to encourage cooperation with the public. People obviously are not going to report a crime or other problems if they think they are going to get in trouble because of their immigration status. We separate ourselves from immigration enforcement in that respect."

should be, with the impact that their policies might have on community relations. Does your office have a view on the issue of local police enforcing federal immigration laws?

BL: We do not inquire into immigration status. My office's policy is to encourage cooperation with the public. People obviously are not going to report a crime or other problems if they think they are going to get in trouble because of their immigration status. We separate ourselves from immigration enforcement in that respect.

As a separate note on differences in federal and local law enforcement, a tension point we've had with the federal government has been over marijuana laws. I co-sponsored Proposition 215, which allowed for the medical use of marijuana. After a U.S. Supreme Court ruling against such use of marijuana, I put out bulletins to law enforcement that said that we still have our law—it wasn't invalidated by the court ruling. The court simply said that the federal narcotics law is valid and not unconstitutional as interference in interstate commerce. We've also advised local law enforcement not to make arrests just based on federal law. It makes more sense for officers to see a concurrent state law violation before making an arrest. They are not obligated to arrest people for federal violations. They

have discretion and may do so, but they are not required.

PARC: *What do you see as improvements or troubling trends in the realm of police accountability? What has your office done in response to any such concerns? What would you like to see done for improving accountability?*

BL: My impressions are—and certainly experts think—that California has one of the more professional and better trained cadres of law enforcement in the country. We do have robust examples of community policing strategies happening in California, perhaps more than in a lot of other states. There is an emphasis on training for contemporary problems.

One issue we got involved with in a systemic and comprehensive way was reform of SWAT team practices, which tend to be very different, especially between large and small agencies. There has been a report, and we've made some efforts to set standards for SWAT training.

When I look at polls of citizen attitudes about law enforcement, I still see an extraordinary level of distrust, especially among minority residents of California. There's clearly a lot of work to be done to try to bridge that gap of distrust. My general view about it is that law enforcement public safety efforts succeed when there is community and citizen involvement in trying to fight crime. If the police are regarded negatively, there's less cooperation, and it's harder to get the job done. There is a tangible benefit for public safety when there is a strong relationship between the police and the community. We need to build these relationships right. Almost every jurisdiction in this state is a good place for police to build better community relations. Every jurisdiction in California serves a diverse constituency—although some may be more diverse than others, you can't find a city or county here that does not have a broad array of residents who need and expect quality law

enforcement services. Establishing and maintaining good community relations is an ongoing project that requires constant diligence and effort, and so every jurisdiction in the state should continuously strive for better relationships with their residents.

PARC: *Have you seen any places in the state where you think the public's distrust of police has been whittled away?*

BL: Well, a lot of places are trying to improve relations, and I see that all over the state. An example of where my office was more directly involved in restoring community trust would be Riverside. On December 28, 1998, the week before I was sworn in, Tyisha Miller was killed by Riverside police officers in what was a controversial shooting. The incident resulted in a joint inquiry by the Riverside County District Attorney and my office to see if criminal charges should be filed. We both determined that there wasn't criminal culpability on the part of the officers but that the Riverside Police Department had very severe problems that needed to be addressed. We spent more than a year investigating the department and then held several months of negotiations with Riverside city leaders and the city attorney on a set of reforms.

“When I look at polls of citizen attitudes about law enforcement, I still see an extraordinary level of distrust, especially among minority residents of California. There's clearly a lot of work to be done to try to bridge that gap of distrust. My general view about it is that law enforcement public safety efforts succeed when there is community and citizen involvement in trying to fight crime.”

I take some pride in the new policing model that was created. There have been half a dozen federal efforts in the last nine years to address patterns of discrimination and misconduct. With

its consent decree, Los Angeles is one of several places under federal oversight. Riverside was different in this respect. It was the first time in history that a state attorney general had secured a consent decree under state law to reform a local police department. More significantly, we used a different approach. It was our conviction that the U.S. Department of Justice's very complicated, phonebook-size consent decrees invite conflict and tension between the parties. And so we wanted to figure out how to partner with the community and make it feel responsible for implementation of the reforms. As a result, the

consent decree was very brief—about a dozen pages. It set out goals and timetables, but then the community leaders had to figure out how to make it work. They are much more active participants in getting to the established goals. At least in that instance, our Riverside model seems to have been a good approach, measured by complaints from the public, liability, and lawsuits filed—tangible sorts of evidence we can use to measure the effectiveness of reform.

My office conducted an outreach effort. We spent about two weeks in the community, speaking to dozens of community groups. As for the police department itself, it had huge numbers of vacancies before the reforms. After our investigation and the start of the consent decree's implementation, there were many, many more officer applicants, for a variety of reasons. I think one of the reasons is that some recruits want to work in departments that are really addressing policing issues.

PARC: *Was there any coordination or communication between your office and the federal government as you undertook your investigation of the Riverside Police Department?*

BL: We regularly talked with U.S. Justice Department lawyers about what evidence we had accumulated, what conclusions we had made, and what kind of efforts would be necessary to make progress in Riverside.

PARC: *Do you see the Riverside approach making sense in other places?*

BL: It's certainly very labor intensive. While I can imagine situations where perhaps a consent decree would be useful, I am reluctant to use that method for fiscal reasons. When there is a need for one, I think getting locals involved in and having ownership of reforms helps, especially when the federal government comes to investigate. If outsiders come to tell you, "This is what you have to do," you resent the reforms, if they feel imposed.

PARC: *It seems like litigation is something that people turn as a way to pursue police reforms. Besides litigation, what other avenues do you pursue to promote improvements in policing policies and practices?*

BL: As a general matter of fights avoided or fights won, lawsuits are almost the slowest way I know to settle disputes. I always recommend alternatives if possible, though sometimes you don't have any choice.

My office will often go and serve as a consultant to local police departments that may have a problem with the community or some aspect of policing. I will offer our expertise and our lawyers, monitors, and the people we've worked with, for example, in Riverside.

One of things I did after Riverside was to hold a conference in Sacramento with local law enforcement command staffs, with people who had some experience dealing with policing problems providing seminars and training. The conference was very well attended, with about 300 participants. It showed that a lot of people in law enforcement had an interest in thinking and planning ahead and anticipating problems before they occur.

PARC: *In 1999, you issued a policy concerning state review of citizen complaints against police departments and their employees when complainants*

had exhausted local review processes. Could you elaborate on this policy and how it has been put into practice?

BL: We get several hundred complaints a year about law enforcement. In almost every one of them, we find that people have not exhausted whatever local remedies there may be. The first thing we do is try to steer them to the correct local person or process. On occasion, we receive some referrals from oversight bodies, grand juries, citizen review agencies, and police commissions. Typically, however, the complaints are from individuals about a single incident; they're not connected in a way that suggests a pattern or practice, which is what we need to get more actively involved in investigating a complaint. We often refer complainants to their district attorney

"...[W]e wanted to figure out how to partner with the [Riverside] community and make it feel responsible for implementation of the reforms.... It [the consent decree] set out goals and timetables, but then the community leaders had to figure out how to make it work."

to see if that office has an interest in prosecuting. On some occasions, people come back to us and say, “We think the D.A. didn’t do his due diligence.” Under this policy, my office has an obligation then to go and check to see whether the district attorney’s work was sufficient. If it was not, this may cause us to go ahead and investigate independently.

PARC: Does your office have any opinion about civilian oversight agencies?

BL: Sometimes they are very effective and needed mechanisms. It really depends on the local circumstance, and I defer to local decision making on whether or not a certain type of civilian oversight mechanism makes sense for a community. I think they can be very useful tools, though they vary in how they are structured and what their authority is.

PARC: Would you see any utility in a statewide report that tried to tally information from all the different law enforcement agencies on misconduct allegations, criminal prosecutions, civil suits, etc?

BL: It would be valuable to be able to collect that, though it might be methodologically difficult to get the same information from different entities. We keep track, for example, of hate crimes—how many complaints were filed and what happened to them. Was there a prosecution? Did it go to a jury? What did the jury do? We find that even in that little small niche, it’s frequently hard to get the same information from different jurisdictions.

We do maintain records of in-custody complaints of death or serious injury. That information is kept and is public information.

PARC: Is there a way that you identify model police practices to share with law enforcement agencies that are experiencing problems?

BL: There is a very robust conversation within the law enforcement community about what works. Riverside is not unlike Los Angeles or other jurisdictions. The ideas for improving accountability and professionalism are similar and fairly simple, for example: better screen your hires with psychological testing; better train department personnel; use more non-lethal weapons; have more community outreach; and install video cameras in patrol cars. It’s not a mystery the kinds of procedures and practices that work. I typically see different law enforcement executives sharing this information and trying to do these things.

PARC: On the issue of Tasers, what could be done to help law enforcement agencies trying to use them appropriately and safely?

“The ideas for improving accountability and professionalism are similar and fairly simple, for example: better screen your hires with psychological testing; better train department personnel; use more non-lethal weapons; have more community outreach; and install video cameras in patrol cars. It’s not a mystery the kinds of procedures and practices that work.”

BL: Well, there is training, of course. We had a troubling incident in a local jurisdiction where an officer reached for his Taser but instead pulled his gun and

killed the person. That would presumably be a training problem or possibly an issue relating to how dissimilar a stun gun and firearm are in terms of sizes and how easily they can be confused. The dilemma, of course, is that if departments rely on firearms then there are going to be a lot of complaints about excessive use of force. Hopefully the Taser or some other non-lethal weapon will allow an officer to do his or her job safely and without severe injury to a subject.

PARC: Could you discuss the California Senate bill you recently backed concerning bullet identification? What are the bill’s provisions? How do you see it affecting police work?

BL: Our forensic experts believe that the next big forensics breakthrough will be having the ability to recover and find the sources of bullets at a crime scene. This bill would require there to be a laser-etched number on bullets that people purchase at gun stores. When people purchase bullets, we’ll record that information. At crime scenes, investigators will then

be instantly able to find out where bullets came from, even if they don't know who shot them. We can find out who bought the bullet and perhaps quickly track them to find out who was involved in a particular incident.

As you would expect, the gun manufacturers and the gun lobby have loudly protested. They claim that our estimates of the bullet identification costs are understated. They refuse to work with us to try to get the right numbers, and so the numbers are the best that we could come up with. We want to make sure we get the numbers right before we go forward. This can on the table has an identification number on it, as does every container of yogurt. Somebody is doing this pretty easily and inexpensively. But somehow with bullets, they say they can't do it.

PARC: Now that you are approaching the end of your term, are there particular things you are proud of having done as California's Attorney General? What accomplishments of yours in the area of law enforcement make you proud?

"There are also a variety of areas where I've tried to contribute to improved police accountability and services to the public. [My] office developed a best practices report on SWAT Team tactics that we provided to every law enforcement jurisdiction in the state.... I have also made my Civil Rights attorneys and special agents available to local law enforcement agencies that want help in developing improved, and constitutionally sound, investigation and intelligence gathering protocols."

BL: I have gotten the California Department of Justice involved in civil rights, consumer protection, the environment, anti-trust, healthcare fraud, and elderly abuse. We actively enforce laws and reforms in these areas.

In the law enforcement domain, when I was elected six years ago, what I found was that the Justice Department had been collecting DNA samples from convicted felons for a decade. But the samples were all in a refrigerator and not digitized in a way that people could compare them to DNA from new crime scenes. When I first took office, law enforcement was catching about one suspect a year, using DNA. During May 2005, that number was 125. It has been a very effective program for solving crimes, closing old cases that have been dormant for years, and proving people innocent. Frequently, a lot of investigative resources

would be deployed towards a wrong suspect that can now be redeployed at a proper target through the use of DNA. In that way, my office's program makes for a more efficient use of resources and gets innocent people out of the system.

In terms of electronic technology, one of our accomplishments was getting Megan's Law on the Internet. You used to have to go to a police station to look at the file of ex-sex offenders who live in a neighborhood. That information is now on the Internet. We wanted it up by July 1 of this year and within a certain budget. We actually had it up under budget and by December 15 of last year. That may be unique for government. Since mid-December, 2004, there have been 165 million page hits. Of course, some people look at multiple sites—schools, parks, and where kids play—but 165 million page hits is still a very impressive number.

There are also a variety of areas where I've tried to contribute to improved police accountability and services to the public. As I mentioned earlier, my office developed a best practices report on SWAT Team tactics that we provided to every law enforcement jurisdiction in the state. My hope is that by adopting the recommendations in the report we can prevent senseless injuries and, potentially, deaths for innocent bystanders and peace officers alike. In September of 2003, I issued a report ("Criminal Intelligence Systems: A California Perspective") that gives law enforcement clear guidelines on permissible and impermissible investigation and intelligence gathering techniques. I have also made my Civil Rights attorneys and special agents available to local law enforcement agencies that want help in developing improved, and constitutionally sound, investigation and intelligence gathering protocols. Similarly, my office provides mediation services to law enforcement agencies and

community activists who want to improve their communication and relationships.

PARC: Thank you for allowing us this opportunity to interview you.

BL: You're welcome. It was my pleasure.

CONFERENCES & MEETINGS

November 7-9, 2005 – Americans for Effective Law Enforcement, Criminal Justice Agency Compliance and Management Auditing, Las Vegas, NV. Online at www.aele.org/

November 14-17, 2005 – National Native American Law Enforcement Association, 13th Annual Training Conference, Las Vegas, NV. Online at www.nnalea.org/

November 14-18, 2005 – International Association of Law Enforcement Planners, Police Planners Course, Boise, ID. Online at www.ialep.org/

November 16-19, 2005 – American Society of Criminology, 2005 Annual Meeting, Toronto, Canada. Online at www.asc41.com

November 16-19, 2005 – Commission on Accreditation for Law Enforcement Agencies, Fall Conference, Nashville, TN. Online at www.calea.org

December 11-14, 2005 – National Association for Civilian Oversight of Law Enforcement, 11th Annual Conference, Miami, FL. Online at www.nacole.org/

January 4-7, 2006 – National Sheriffs' Association, Mid-Winter Conference, Palm Springs, CA. Online at www.sheriffs.org/

January 8-11, 2006 – American Probation and Parole Association, Winter Training Institute, Austin, TX. Online at www.appa-net.org/