

POLICE PRACTICES REVIEW

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CIVILIAN OVERSIGHT

Special Counsel Issues Report On LASD

Merrick Bobb, PARC President and Special Counsel to the L.A. County Board of Supervisors, has issued the twenty-first semiannual report on the Los Angeles County Sheriff's Department (LASD). The report focuses on the training challenges faced by the department, including initial and refresher training on policies for patrol and custody deputies. Special Counsel notes that LASD training challenges are exacerbated by current personnel shortages. "Unfortunately, over the past five to six years, as the Department's budget tightened, training programs have frequently suffered," said the report.

The report examines specific training on new LASD policies and suggests ways the department can better communicate its commitment to those policies. Differences in training approaches on two new or amended policies – one on foot pursuits and one on shooting at moving vehicles – are examined. In reviewing training in the Custody Division, Special Counsel notes that the quality and frequency of refresher training varies from jail facility to facility. Special Counsel also expresses concern that Custody Training Officers are undervalued and urges the department to reward deputies who fill these important positions.

The report emphasizes the importance of training and concludes that the department should allocate generous training budgets that cannot be cut or used for other purposes. In relation to patrol deputy training, Special Counsel recommends refresher training on tactical firearms skills each year for all deputies; assigning resources to allow for a resumption of station-level training using the Mobile Tactical Live

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

Fire Shooting Simulator; instituting a mandate that deputies attend the mobile shooting simulator training annually; working with deputies' unions and the county to bring back formal briefings; and maintaining accountability for the newly-created Master Field Training Officer positions. Special Counsel also calls for a commitment to custody training, demonstrated by providing sufficient funding for substantial training staffs at each jail facility to guarantee each assigned deputy 24 hours of training annually. www.parc.info

San Diego Board Marks 15 Years

With the release of its 2005 annual report, the Citizens' Law Enforcement Review Board (CLERB) of San Diego County marks 15 years since its inception. CLERB, which is comprised of 11 citizens appointed by the county's board of supervisors,

receives and investigates misconduct complaints against the San Diego County Sheriff's and Probation Departments. It also has the power to investigate any deaths occurring in custody or in connection with the actions of peace or custodial officers from either of the two departments.

The report showed a "significant" increase, of 57 percent, in the total complaints received. The board received 182 complaints with 440 allegations in 2005, compared with 116 complaints and 357 allegations in 2004. The number of total complaints is the third highest in the last ten years. Just over 19 percent of all allegations in 2005 were allegations of excessive force, while misconduct allegations from death cases made up 6.6 percent of the total and false arrest allegations comprised 4.8 percent. Each of these three categories of allegations increased over their 2004 percentages of nine, 4.5, and 3.6, respectively. Almost 60 percent of the allegations were labeled "Other Misconduct"—a category that includes discourtesy, harassment, intimidation, and retaliation, among others.

CLERB closed 168 cases in 2005, 76 of which warranted full investigations. Of those 76 fully investigated cases, 12 percent had at least one allegation sustained. Sheriff's department units with notable increases in complaints were several detention facilities and the Vista Patrol Station. The City of Vista made headlines last year when five deputy-involved shooting deaths occurred there between March 7 and August 1, three of them within a period of five days. The report noted that there were 22 reported death cases in the county in 2005 and only 10 during the year prior. Nine death cases in 2005 were deputy-involved shootings—"a 450% increase over the 2004 total" of two.

Parker commended San Diego County Sheriff Bill Kolender for agreeing to undertake an extensive examination of the department and its use-of-force policies and practices to be conducted by an independent consultant. Parker also encouraged the department to address the "growing rift" between the Hispanic community and law enforcement. All five subjects of the Vista shootings were of Hispanic descent, the report stated, and in particular the last three incidents "prompted considerable outcry from the Hispanic community." The CLERB report pointed out that the "obvious immediate issue is the fact that



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the Sheriff had virtually no Spanish-speaking deputies assigned to work in the overwhelmingly Hispanic/Spanish-speaking Townsite area.” The full CLERB report can be accessed online at www.sdcountry.ca.gov/clerb.

DC Annual Report Released

The Office of Police Complaints (OPC), the independent agency that investigates misconduct complaints against the District of Columbia’s Metropolitan Police Department (MPD) and Housing Authority Police Department, has released its 2005 annual report. The OPC, governed by the Police Complaints Board, is authorized to investigate complaints about misconduct such as harassment; excessive use of force; inappropriate language; discrimination; retaliation for filing a complaint; and failure to display or provide identification. The report said that 2005 was the second consecutive year in which the OPC closed more complaints than it received during the year. The number of open cases at the end of the year was 13 percent lower than at the end of 2004, a change that the OPC attributed in large part to the addition of four investigators, bringing their staff total up to ten. The fewer complaints in the investigation and review process “creates a more manageable workload that allows investigators and managers to devote more time to each investigation,” said the OPC.

2005 was the second consecutive year in which the OPC closed more complaints than it received during the year.

The OPC closed 368 complaints in 2005, an 18 percent increase over the prior year, despite an increase in the number of formal complaints received. A 27 percent jump in the number of complaints resolved through adjudication, dismissal, or successful mediation was cited as another reason for the increase in closed cases. Nineteen complaints were mediated, 13 of them successfully. An OPC survey found that 43 percent of all respondents left their mediation sessions “with more positive feelings about the other party.”

The OPC reported that at least one allegation was sustained in five percent of all resolved complaints.

Alleged misconduct in the area of language and conduct accounted for 34.4 percent of all allegations in the 326 formal complaints received. Harassment at 32.2 percent and excessive force at 18.5 percent were the next two most common allegations made. Close to eight out of every ten complainants were African Americans, whereas the number was around seven in ten in 2004. Both white as well as Latino complainants comprised smaller percentages of the whole in 2005 than in 2004. The OPC observed that the changes were occurring at the same time that the city’s African-American population was decreasing and its white and Latino populations were increasing. The full OPC report can be accessed online at www.policecomplaints.dc.gov.

CONSENT DECREES/ MEMORANDA OF AGREEMENT

Riverside Fulfills Conditions of Agreement

California Attorney General Bill Lockyer recently announced that the Riverside Police Department (RPD) has fulfilled the conditions of its 2001 Stipulated Judgment, a court-enforced agreement among the Attorney General, the RPD, and the City of Riverside. The Riverside Superior Court subsequently approved the judgment’s dissolution. The judgment, which reportedly has cost Riverside \$22 million in new personnel, training, equipment, and technology, was reached in the wake of the December 1998 officer-involved shooting death of Tyisha Miller. Attorney General Lockyer launched a civil rights investigation into the RPD’s policies and practices and found that the agency “had established a pattern or practice of violating the statutory and civil rights of the public and also had failed to uniformly and adequately enforce the law,” according to the California Department of Justice.

The judgment mandated reforms in the broad categories of training, accountability, and supervision and management. It also required the RPD to develop a Strategic Plan. The attorney general stated that the RPD had lost the support of the community before state intervention but that the stipulated judgment “has served its purpose, and now it’s time for the city and the community, without my direct involvement,

to oversee the RPD once again.” He added, “No judgment alone can or ever will create a perfect police department, but it can create a solid foundation for growth.”

The judgment’s monitor, Joseph Brann, wrote in his final compliance report of the five-year monitoring period that the police department “is a very different and improved law enforcement agency today.” According to Brann, Riverside has already begun to see cost benefits from the reform process. In fiscal year 2000-2001, \$3.8 million was paid to settle excessive force claims and lawsuits involving the RPD (including the Tyisha Miller case); during each of the past five fiscal years, the average cost of settling comparable claims was \$96,000.

The monitor said that the RPD is in compliance with every training provision, which includes training for managers, supervisors, and field training officers, and training on complaint policies, use of force, diversity, and pretext stops. The department has continued to conduct the Traffic Stop Data Collection study, affording the RPD beneficial research and more credibility in the community, said the report. An early warning system has also been implemented, which, if expanded and fully utilized, will be able to track trends and spot problems in particular shifts and with individual officers. Finally, the RPD was given formal approval of its Strategic Plan—its “blueprint” for implementing community policing and advancing the judgment’s reforms into the future. “The creation and implementation of the community policing strategic plan,” the monitor said, “is of singular importance for the RPD and the community.” The attorney general’s press release can be found online at:

<http://ag.ca.gov/newsalerts/release.php?id=1265>.

The full monitor report can be accessed online at http://ag.ca.gov/newsalerts/cms06/06-017_0c.pdf.
The Press-Enterprise, March 2, 2006.

Detroit Commended for Improved Compliance

The City of Detroit and the Detroit Police Department (DPD) were commended during the tenth quarter of monitoring, which ended February 28, 2006, for moving closer towards compliance with their two Consent Judgments. The monitor noted that “the City and the DPD continued to make progress by successfully disseminating various policies

and training directives” in areas addressed by the judgments. The parties reached both agreements with the U.S. Department of Justice (DOJ) in 2003. The Use of Force and Arrest and Witness Detention Consent Judgment (UOF CJ) and the Conditions of Confinement Consent Judgment (COC CJ) require reforms in areas such as: use-of-force and firearms policies; force and arrest documentation, investigation, and review; risk management; officer training; and holding cell conditions.

The monitor reviewed a total of 81 provisions during the quarter—46 UOF CJ and 35 COC CJ paragraphs or subparagraphs—finding the City and DPD in compliance with nine and not in compliance with 68; the remaining four had a determination withheld. With past problems resolved in its policy dissemination, the DPD has consequently achieved compliance with the policy requirements of several provisions of the agreements, the monitor said. Almost all of the policies and training directives the DPD has revised “now meet the policy requirements of the Consent Judgments,” allowing the department to engage in training and implementation. The report stated that “[t]his milestone paves the way for the monitor to commence assessing the DPD’s compliance with the implementation of these paragraphs.”

The monitor commended the DPD for eliminating a backlog of disciplinary cases and matters, noting the “significant effort that was required to accomplish this task.” The DPD’s Audit Team was also praised for the improved quality and timeliness of its audits, but the monitor said that “it has become apparent that the inconsistency in the quality of these audits is due to both the shortage of audit staffing resources, as well as a lack of applicable audit-related experience and skills by some auditors.” The monitor also expressed concern that the department had failed to comply with a majority of the UOF CJ’s paragraphs on risk management. The full monitor report can be accessed online at www.krollworldwide.com/library/detroit/DPD_Q10_Report_1-17-2006.pdf.

PG County Monitor Issues Quarterly Report

The Independent Monitor Team for Prince George’s County’s January 2004 Memorandum of Agreement (MOA) with the U.S. Justice Department has released its seventh quarterly

assessing MOA compliance by the county and its police department. The Justice Department began investigating the Prince George's County Police Department (PGPD) in 2000 for an alleged pattern or practice of excessive force. The agreement that resulted focused on use-of-force reporting, investigation, and review; officer training and supervision; and personnel management.

The Independent Monitor Team (AG-IMT) led by Eduardo Gonzalez and The Alexandria Group of MPRI, reviewed six specific areas of concern for the quarter ending December 31, 2005: the directive system, use-of-force reporting; early intervention system implementation schedule; response to incidents involving mentally ill individuals; status of completed Bureau of Professional Responsibility investigations; and mobile video cameras. The monitor noted that the department issued new General Order Manual in December 2005 and that it generally comported with the MOA. In November 2005, the Justice Department approved the new use of force and weapons policies required by the MOA, and the monitor called the policies improvements that stemmed from an inclusive creation process. The monitor reviewed use-of-force forms and noted that their content was better than in previous quarters but also found that their quality and detail needed improvement.

The monitor found that the PGPD continues to move forward in its implementation of an early intervention system and that there was "excellent correspondence" between use-of-force reports' contents and information entered into the EIS; the monitor did express concern that the PGPD stated some changes to bring the EIS into MOA compliance required legislative action. The monitor found that the new general order addressing emergency petitions and responses to mentally ill persons met the MOA's requirements and that related reporting and supervisor notifications had improved, but the monitor also noted that in reviewing emergency petitions some uses of force had not been reported using the required Commander's Information Reports form. In reviewing BPR reviews, the remaining challenge identified by the monitor is

The monitor's report took the opportunity to single out one individual, Major Leroy James, for his hard work as MOA coordinator.

to finish the reviews within 90 days. Finally, in reviewing mobile video cameras, the monitor found that the cameras were not being used enough and blamed a lack of inspections for the low usage.

The monitor's report took the opportunity to single out one individual, Major Leroy James, for his hard work as MOA coordinator, with the monitor crediting him with playing a central role in progress thus far in PGPD compliance. Major James was to be reassigned within the department. The full monitor report can be accessed online at http://www.goprincegeorgescounty.com/Government/PublicSafety/Police/pdfs/IM_3-27-06.pdf

DC Monitor Releases Mixed Report

The Office of the Independent Monitor (OIM) released its sixteenth 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.

The report highlights two significant developments. First, Independent Monitor Michael R. Bromwich announced his initiation of an extended examination of the impact of the MOA on the reasonableness of uses of force by the MPD. Second, the monitor described his review of the department's internal audit function, Quality Assurance Unit (QAU). According to the monitor, a properly functioning internal audit function is central to MPD's ability to achieve and maintain substantial compliance with the MOA. The monitor states that "the QAU's productive start is an encouraging sign that MPD is focusing on identifying and addressing deficiencies relating to compliance with the requirements of the MOA and MPD's policies."

This report focuses on six areas: investigations performed by the Force Investigation Team; other internal investigations of uses of force and allegations of misconduct; the Use of Force Review Board; MPD's responsiveness to requests for information from the Office of Police Complaints; development and

IN FOCUS

Michael W. Quinn

**Author of *Walking with the Devil:
The Police Code of Silence***



Mike Quinn, author of *Walking with the Devil: The Police Code of Silence*, served in law enforcement for 25 years, almost all of them with the Minneapolis Police Department (MPD). During his time with the MPD, he worked in high-profile units, including the Emergency Response Unit (also known as SWAT). He has testified as an expert witness on topics from search and seizure to deadly force. Mike is the recipient of a number of awards—an Outstanding Service Award from the FBI, a Leadership award from the Urban League, and the Lifetime Achievement in Law Enforcement Training award from the Association of Training of Officers of Minnesota, to name but a few. PARC recently spoke with Mike Quinn about the code of silence and his book, about which more information can be found at www.booksbyquinn.com.

PARC: *What is the Police Code of Silence, and why did you focus on it in your book?*

MQ: The Code of Silence is the old “You lie, and I’ll swear to it or pretend I never saw what happened.” I wrote about it because there isn’t a lot of good literature out there about the real issues that cops face on the street. The dilemma is when your partner or somebody who has saved your life or somebody else’s life—a person you truly respect—does something really wrong on the job. Maybe it’s use of excessive force, lying in a report, or lying about evidence in a case. How do you respond? How are you supposed to work around that? These are the men and women you depend on for your life when you’re on the street. So who do you go to when they’ve done something wrong? Typically in police departments, from my experience, it’s hard to go to your supervisors, as supervisors tend to cover. Sometimes even commanders cover. Even chiefs will in some cases cover, not because they like bad cops but because they don’t want the publicity.

I wrote this book primarily for people going into law enforcement and for people dealing with cops so that they understand how powerful the code is and have some ideas on how to deal with it. I don’t think we’ll ever eliminate it, but I think we can change the extent to which it hurts policing.

PARC: *How is the Code perpetuated among officers? What are some ways the Code can undermine good policing?*

MQ: Cops get drawn into it subtly very early in their career. There’s a tremendous amount of discretion involved in the job, and a lot of the people we hire are fairly young; they haven’t faced a lot of really tough decisions about what’s right and wrong. So what happens is that the senior cops draw them in and cover for them when they make small mistakes—for example, making arrests without enough probable cause. The senior cop or Field Training Officer (FTO) says, “Look, to make this a legal arrest or search, you have to say that you saw or did A, B, and C, and in that order.” Maybe the rookie says that that isn’t what happened, but the other officer says, “Look, just do it this way this time, so you’ll understand how it’s done. We’ve already got the guy in jail, he’s locked up, and we know he’s guilty.” It’s a very easy buy-in for a young police officer who thinks he’s made a great arrest.

There’s not only the pressure to succeed and have good arrests, but there’s also this pressure to get through the field training process. Your FTO is the person who decides whether or not you’re going to stay a police

officer. You either get along with your FTO and do things his or her way or you're out looking for another job.

There are a lot of good officers who don't buy into the Code of Silence but don't stop the bad behavior either. Rather than stepping in and stopping it or saying something, they walk away and choose not to witness it. The message is that this kind of stuff is okay, so long as you don't get involved in it. That message is just as harmful and destructive as participating.

The code has ramifications for officers and their work. Say you have a number of officers who are doing illegal or unethical things and covering for each other, and somebody gets caught. The first person to come forward and admit to what happened is probably the only one who's going to get off. Everybody else is going to be in trouble and face discipline or maybe even termination. So they end up covering for each other, but at the same time they can't trust each other because everybody knows that nobody is going to give up his or her job or career or go to prison when the officer could testify against the rest of the cops. They call it a bond, but it's more like everyone holding a hammer over each other, saying, "I won't drop my hammer as long as you don't drop yours."

The code can also undermine policing and the public. One of the most destructive things that can happen in policing is when citizens see something wrong—either in excessive use of force or just a clear violation of somebody's rights—and they see other cops walk away and let it happen. The message is that we allow our cops to do whatever they want. When citizens don't trust their own cops to protect them, then you've lost the ballgame because you don't have the citizen cooperation you really need to fight crime.

PARC: Are there ways for police executives and departments to counteract the Code?

There are a number of things that police executives and departments can do. First of all, they need to educate their officers about what the real dilemmas are going to be. They need to talk about what cops are supposed to do when other cops get involved in unethical behavior. Agencies must also create environments in which officers are able to call somebody and talk about other cops with some sense of safety and not end up becoming victims themselves of a problem.

I think departments have to acknowledge the problem and explain how they're fighting it. They do it by supporting the cops that do come forward and then dealing with the unethical officers. Departments need to push the limits on discipline and show the community that misconduct is not something that will be tolerated. Individual cops can really make a difference when they make it very clear that "You're not going to do that in front of me, not here, not now, not ever, because I'm not going to tolerate it. And if it happens again, I'm taking it to internal affairs myself."

implementation of the Personnel Performance Management System; and implementation of the field training officer program.

On the positive front, FIT investigations were found to be sufficient, yet four were incomplete; non-FIT investigations had improved, with the monitor finding 99.2 percent of the reviewed cases both complete and sufficient, exceeding the substantial compliance threshold and setting a new high-water mark for these

investigations. The monitor also found that the Use of Force Review Board was performing well.

There was less positive news about the other areas of focus. The monitor found that the MPD's system for tracking and responding to OPC information requests was inadequate and made a series of recommendations to facilitate timely and complete MPD responses to OPC requests. In describing progress in implementing the PPMS, the monitor noted that there were concerns regarding the PPMS's search function and that the

MPD has cited “vendor failure” as responsible for its inability to meet the deadlines agreed to in implementing the system. Finally, the monitor raised serious concerns regarding the MPD’s field training officer program, reporting that the MPD had not made progress in developing and applying criteria for the selection of FTOs; that officers who had not received required FTO training were training probationary police officers; and that probationary police officers were not being paired with FTOs who maintain the same schedules, so are not being trained and monitored by the same qualified FTOs on a daily basis.

The report concludes: “After four full years of monitoring...there remain many important areas in which MPD is falling short of substantial compliance.... Although MPD and the City continue to make progress, the road ahead for achieving substantial compliance with all of the MOA’s provisions still appears to be a long one.” The full monitor report can be accessed online at <http://www.policemonitor.org/060427report.pdf>

COMMUNITY POLICING

COPS Office Examines Use of CCTV

Closed circuit television (CCTV) technology as a problem-oriented policing response to a crime problem is an issue with support, criticism, and debate about its effectiveness, according to the U.S. Justice Department’s Office of Community Oriented Policing Services (COPS). In *Video Surveillance of Public Places*, COPS says that about 75 percent of small businesses now use CCTV to record people entering their locations. Surveillance in public places is seen by some “as a panacea to crime and disorder,” the guide notes, while others “view the growth of CCTV as an intrusion, with visions of an Orwellian ‘Big Brother’ invading personal privacy.” The guide lays out some of the strengths and weaknesses for those considering the technology as a crime prevention option.

The guide says that a CCTV system “is not a physical barrier.... In other words, CCTV aims to increase the perceived risk of capture, a factor which, assuming

the offender is behaving in a rational (or limited rational) manner, will de-motivate the potential offender.” COPS points out that CCTV must be visible to the public and that the public must be well-informed about the cameras if the technology is to act as a deterrent. Other potential benefits from CCTV include: reduced fear of crime; information for police investigations; and improved medical response time for events captured on camera. A reduction in fear of crime can lead to more investment in communities, which can in turn lead to “greater civic pride” and “an increased level of informal social control among the local people,” according to the study. Cameras can also help police identify witnesses who might not come forward out of their own volition.

Cameras provide surveillance but “may not necessarily act as a replacement for police officers, as they cannot offer the same range of services an officer can provide.”

Unintended consequences of CCTV can include crime displacement and heightened suspicion of crime. Increased reporting of certain types of crime might also occur. This can complicate evaluations of CCTV effectiveness in reducing crime since cameras “may detect offenses that police would not otherwise notice.” The guide notes that covert cameras in particular can lead to questions about accountability because the public “has no way to determine the target of the surveillance,” resulting in privacy concerns.

The guide notes that cameras provide surveillance but “may not necessarily act as a replacement for police officers, as they cannot offer the same range of services an officer can provide.” It is recommended that camera location be based upon local crime pattern mapping and analysis. Agencies should also adopt “a clear policy about whom and what are the subjects of targeting” and be aware of what could be considered unreasonable audio and visual intrusion into privacy. Even with little evidence that CCTV reduces public order and violent offenses, notes the guide, departments can still soften the impact of such crime by using surveillance to improve response time and effectiveness. The full COPS guide can be accessed online at www.cops.usdoj.gov.

LEGAL AFFAIRS

Court Rules on “Knock and Announce”

In a five-to-four decision, the U.S. Supreme Court ruled that evidence obtained by police who enter a home to execute a search warrant without first following the requirement to “knock and announce” can be used at trial despite the constitutional violation. The dissenting opinion in *Hudson vs. Michigan* stated that the ruling undermined the right to privacy in one’s home and that it “destroys the strongest legal incentive to comply with the Constitution’s knock-and-announce requirement. And the court does so without significant support in precedent.”

In this case, Detroit police had a warrant to search Booker T. Hudson, Jr.’s house. They announced their presence, did not knock, and entered after a few seconds – not the 15 to 20 seconds established in precedent. Once they entered, they found drugs and a loaded gun. Hudson’s attorneys sought to exclude the evidence collected because the police had not allowed sufficient time for anyone in the premises to respond and consent to the search.

The majority summarized by stating that, “the social costs of applying the exclusionary rule to knock-and-announce violations are considerable; the incentive to such violations is minimal to begin with, and the extant deterrence against them are substantial...Resort to the massive remedy of suppressing evidence of guilt is unjustified.” Furthermore, the majority stated that this application of the exclusionary rule was outdated, in part, because of the “increasing professionalism of police forces.” *New York Times*, June 16, 2006. *Hudson v. Michigan* can be accessed online at <http://www.supremecourtus.gov/opinions/05pdf/04-1360.pdf>.

STANDARDS & TRAINING

Guide on Policing Crowds Released

"Perhaps there is no greater challenge for police officers in a democracy than that of managing mass demonstrations,” writes the Police Executive

Research Forum (PERF) in *Police Management of Mass Demonstrations: Identifying Issues and Successful Approaches*. “It is here, after all, where the competing goals of maintaining order and protecting the freedoms of speech and assembly meet.” Issues such as the management of resources for dealing with large crowds, integration of different agencies while maintaining accountability, and identification of policies and procedures for mass arrests and use of force are among those highlighted. The report is divided into six topics: planning and preparation; training; intelligence and information management; roles and responsibilities; crowd control and use of force; and media relations.

Proper planning helps an agency “to prepare its internal resources for a variety of contingencies, and to secure cooperation among partner agencies that will be sharing resources and knowledge during the event,” the report’s authors state. Planners must constantly challenge assumptions, consider the “what ifs,” and address worst-case scenarios. Training commanders and officers from each involved agency on the same standards, to “reflect the same mission, strategy, and terminology,” can ensure the proficiency of various players in carrying out plans as intended, according to the report. Personnel at all levels should review applicable laws, statutes, and policies; civil liberties issues; rules of engagement and use of force; and de-escalation techniques.

The report commends overt intelligence gathering, such as meeting with protest leaders. Some groups will be interested in cooperating with the police, says PERF, and departments can take the opportunity to inform protest leaders of police expectations. The report also suggests that a designated officer document the policing of a demonstration in order to assist other officers to recall the event and to maintain an audit of a department’s actions. Each commander must know his or her role and responsibilities, what resources are available, the geographical boundaries of operations, and contingency plans for the transfer of command, observes the authors. PERF says that agencies must be aware of actions that can result in liability, such as mass arrests. It also recommends that standard-issue equipment be reviewed for “applicability, proper utilization (both technique and placement within the use-of-force continuum) and officer proficiency.” The full report can be ordered online through PERF’s web site at www.policeforum.org.

POLICE ADMINISTRATION

Report on Tennessee Highway Patrol Issued

A recent report commissioned by the governor of Tennessee examines allegations of political interference by elected state officials with the Tennessee Highway Patrol (THP) and provides recommendations for reform. Researched by Kroll Government Services, the *Report on Targeted Operational and Management Review of the Tennessee Highway Patrol* finds that political interference is engrained in THP culture and suggests that this has negatively impacted both the organization and its relationship with the public.

The report states that the hiring and promotion procedures within the THP are unnecessarily exposed to political influence and favoritism. That political interference appears in the recruitment and selection of troopers and in the appointment and selection of senior executives. According to the report, these problems and the manipulation of the recruitment and promotional processes have kept minorities and women from joining and being promoted within the ranks of the THP. In order to eliminate political influence, the researchers recommend that there be explicit policy prohibiting promotions and transfers that are not directly related to the candidate's professional qualifications. It also proposes that legislation be passed to prohibit outside interference in THP personnel decisions and an end to external recommendations of candidates.

The report states that the hiring and promotion procedures within the THP are unnecessarily exposed to political influence and favoritism.

The report also touched on the issue of citizen complaints, which appeared to researchers to be handled in an *ad hoc* manner at a local level, and recommends the creation of an early warning system to track and manage officers' conduct as well as a centralized complaint system that records and monitors all complaints.

Finally, the study proposes the establishment of a new state law enforcement agency. This new body would be created through the consolidation of the THP and several other Tennessee law enforcement agencies. The benefits of such a merger include improved investigations, a better integration of resources, and a more robust capacity to address homeland security issues, according to the study. The full report can be accessed online at

http://www.krollworldwide.com/library/THP/THP_Report_03-20-2006.pdf.

NEWS BRIEFS

DOJ Urges Warren (OH) Police Reforms

A recent U.S. Justice Department (DOJ) letter to the Warren Police Department (WPD) outlines a series of concerns and recommendations to improve WPD policies, practices, and procedures and to ensure that they comply with constitutional rights. The letter focuses most heavily on use of force, use-of-force policies, the reception and investigation of citizen complaints, officer conduct and discipline, and risk management. The DOJ recommended that the WPD "review all of its policies and procedures and, where necessary, revise them to reflect current accepted police practices and to provide sufficient detail to appropriately guide officer conduct." It expressed concern that agency policies and procedures "do not explicitly state that officers must report violations of law or WPD codes of conduct that would be subject to disciplinary action." The letter also suggested the WPD develop a disciplinary matrix, routinely review officer conduct, and establish an early warning system with clear guidelines about what would "trigger an additional supervisory review" of a member of the agency.

The investigation into a "pattern or practice" of misconduct in the WPD, launched by the Special Litigation Section of the DOJ's Civil Rights Division in December 2004, is pursuant to Justice Department powers from the Violent Crime Control and Law Enforcement Act of 1994. The DOJ noted that although the letter provides the WPD with technical assistance, the investigation is not yet complete into the agency of roughly 70 sworn personnel that serves

Warren's approximately 46,000 residents. Information about Warren and the WPD can be found online at www.warren.org/index.htm. The full DOJ letter can be accessed online at www.usdoj.gov/crt/split/documents/wpd_talet_3-2-06.pdf.

Judge Extends LAPD Consent Decree

On May 15, U.S. District Judge Gary Feess extended for three years the consent decree requiring reforms to improve the operations of the Los Angeles Police Department. The judge rejected the request of the City of Los Angeles and U.S. Justice Department officials who had asked that the decree only be partially extended. The decree's monitor, Michael Cherkasky, had argued against partial extension, as had civil rights advocates. The five-year decree was initially set to expire on June 15, 2006.

The judge focused on the LAPD's inability to make operational the TEAMS II computerized officer-tracking system. "TEAMS II is not just a material part of this consent decree, it's an essential part of this consent decree," said the judge. The judge noted the department's prediction that the system might not be operational until September and said that the decree's requirement of two years' of sustained compliance after initial compliance is achieved made a two-year extension unworkable. The judge also questioned the U.S. Justice Department's support of the City in its quest to reduce the scope of the decree. A Justice Department official stated that "now it's most important to focus on those areas where there hasn't been compliance." The judge also rebuffed the City's request to assign monitoring of compliance after a year to the Police Commission's Office of the Inspector General instead of the court-appointed monitor. *Los Angeles Times*, May 15, 16, and 23, 2006. For additional information about "pattern or practice" cases, see the Special Litigation Section, Civil Rights Division at <http://www.usdoj.gov/crt/split/index.html> or "Report of the conference on pattern or practice litigation: a 10-year assessment," by Professor Samuel Walker at <http://www.policeaccountability.org/PPLexecsum.pdf>.

"TEAMS II is not just a material part of this consent decree, it's an essential part of this consent decree."

INTERVIEW

San Diego Interview Panel: Chief Bill Lansdowne (BL), San Diego Police Department; Riley Gordon (RG), Chair, Citizens' Review Board on Police Practices (CRB); Patrick Hunter (PH), Former Chair, CRB; Scott Fulkerson (SF), Executive Director, CRB; and Bill Nemece (BN), President, San Diego Peace Officers Association.

PARC: *Could you all describe your relevant professional backgrounds and what led you to your current positions?*

SF: By training, I'm a psychologist. After graduate school, I designed, implemented, and for many years directed a drug treatment program within the State of Utah's corrections department, so I have a background in corrections. I also trained police officers through that program. When I came to San Diego, I was the executive director of a large nonprofit agency when Proposition G passed, creating the Citizens' Review Board on Police Practices (CRB). I was nominated for and appointed to the review board. A few years later, the San Diego city manager asked me to be the CRB's executive director.

RG: I'm the current chair of the CRB. My background is in government, primarily in human relations—equal employment opportunity and labor relations. I have a B.A. in Economics and a Master's degree in Public Administration. My last position before I retired was with the Department of Veterans' Affairs in Washington, DC, as the deputy director of the Discrimination Complaints Service in the Office of Legal Opportunity. We processed about 2,500 complaints a year and conducted investigations to determine whether or not there was discrimination involved in judgments. In 1997, I moved to San Diego and became involved in the CRB.

PH: I concluded a 22-year naval career in 1996 and then received my Master's in Public Administration. Around that time, I wanted to do something in the community. I had reservations when I first applied to the CRB because I thought, "Do I really want to look at complaints against a police department?" Upon learning about the process that San Diego had in place, I realized that this was the right type of oversight board and that I wanted to become a Board member. This

past October I wrapped up eight years on the CRB, including serving as its chair. I continue to be involved with civilian oversight of law enforcement with the County of San Diego.

BL: I started in law enforcement in 1966 and had the great opportunity during and right after the Vietnam War to be part of the Free Speech Movement at Berkeley and to watch how we managed those events before we had any form of civilian review. I've been on both sides of the issue. I was chief in the City of Richmond, California, and then in San Jose before getting the chance of a lifetime to be here in San Diego. I have seen three different forms of civilian review, and the process used here in San Diego gives us the most opportunity to learn from and be interactive with the community.

"The goal is to have as many people look at how we provide services to really build an organization that represents the community and is open, visible, and focused on building trust."

--Chief Bill Lansdowne

BN: I started with the San Diego Police Department (SDPD) as a police intern in 1975 while attending college, and then I became a sworn police officer in 1978. I've had the good fortune of being assigned to various divisions, including SWAT, narcotics, and robbery investigations. In one incident, I shot and killed a suspect who had shot my partner. I was later asked to join a peer support team for officers who have been involved in shootings and other high-stress situations. From that, I developed experience dealing with and supporting officers, many of whom told me I should run for the Police Officers Association (POA) Board of Directors. I was elected in 2000 and worked as part-time director. I was elected as the POA President last year.

PARC: *How do you all work together to deal with citizen complaints and community concerns related to policing in San Diego? What do you each see as the appropriate role of civilian oversight of law enforcement?*

BL: There needs to be total independence on the part of the civilian review board and the police department. We both have the same goals, but it's important to remember that we come from different disciplines. The goal is to have as many people look at how we provide services to really build an organization that

represents the community and is open, visible, and focused on building trust. Many citizens in San Diego might be afraid to report to the police but are certainly not afraid to go to a committee that represents them, looks and sounds like them, and identifies with them as a community.

BN: I think it's important that civilian review be a component of evaluating the way we deliver our service to the community. It's a clear perspective on what the citizens expect of us. It's important the CRB has a role in at least coming to the table and suggesting ways of dealing with very sensitive issues, none more so than when an officer uses force.

My role, of course, is to ensure that during the course of any investigation the officers' rights are preserved, that the officers receive whatever support they may need. It can be intimidating to the officer during an ongoing administrative investigation if they are not familiar with the process. The POA, SDPD, and CRB have worked closely together; I've received a lot of support and suggestions from both on how we as an association can actually better represent our members.

SF: We work together in a cooperative, collaborative manner, and everybody knows his job. It's clear to the members of the CRB that their job is to review and evaluate the work of SDPD Internal Affairs, to comment on that work, and to make policy recommendations. Of course, there's always some tension because of our different roles.

Civilian oversight must be independent, and our review board members must be objective fact finders. They can't come to the table without prejudices, but they must work to set those aside and make their decisions not based on emotion or preconceived ideas but rather on the facts. If the board members are not totally satisfied with an investigation, Internal Affairs (IA) will reopen it.

RG: As Scott said, we are objective fact finders, advocates for neither the citizen nor the department.

We look at the process and policies and try to make objective and hopefully enlightened suggestions if we see changes that need to be made.

PARC: *What is the mission of the CRB, and how does the board work with the SDPD to resolve complaints and provide independent oversight? How does the complaint process work from an initial incident to the ultimate resolution?*

SF: The CRB's mission is to review the investigations conducted by IA of all serious, Category I civilian complaints as well as some less serious, Category II complaints when they are part of the investigation. We also review all deaths in custody, and officer-involved shootings. A second part of our mission, from that case review work, is to make relevant policy and procedural recommendations to the chief.

The SDPD makes the filing of a complaint as easy as possible for the citizen. Recognizing that some citizens are hesitant to go to police headquarters and to talk with an officer, the department will take a complaint in person, through the Internet, by telephone, and by referral. A citizen can file a complaint at IA, at any police substation, with dispatch, at some local nonprofit agencies, and at our office, but all complaints are forwarded to IA. We take phone complaints or a person can file a complaint through our web site.

When the IA investigation is complete, the entire investigative package is handed to one of our seven review teams of three board members. The team does an initial evaluation. If the team members have all of the needed information, they can finish their review and make a recommendation to the full, 23-member board. If questions remain unanswered, the team members go back to the IA investigator, whose job it is to provide answers. This process continues until the full review team is satisfied. The majority of our disagreements, and for the last two years all of our disagreements, have been worked out at this stage. Sometimes IA changes its findings; sometimes it has

been able to explain its position and resolve the board's disagreement.

After this process, the review team writes a report and presents it at one of the CRB's two monthly meetings for review by the entire board. The chief sits in on these meetings and quite often so does the IA lieutenant, one of the investigators, or the executive assistant chief. There is a thorough discussion of each case, and then the full board votes on it. If, in the final analysis, there is a disagreement between the SDPD and the CRB, then historically that disagreement has gone to the city manager. The voters passed a ballot proposition last year which calls for a change in the form of City government. We have had a Mayor/Council system with a Strong City Manager who was the Chief Operating Officer of the city. The new city government does away with the City Manager and gives the powers formerly held by the City Manager to the Mayor. With San Diego's change to a strong-mayor form of government, disagreements will now be decided by the Mayor.

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---CRB Chair Riley Gordon

PARC: *Chief Lansdowne, what is done with CRB requests for additional investigation or its recommendations once they reach you? Does the department use the CRB's comments to investigate further when*

the board feels that the SDPD's initial work is inadequate in some way? Have any suggestions from the board provided insight or information you hadn't yet considered on an issue?

BL: The SDPD follows a commitment to be fully cooperative with the CRB. The chief of police, executive assistant chief, and IA lieutenant are present at CRB meetings to address any questions or comments. On many occasions, the SDPD has responded to the satisfaction of the board. Many times, these discussions bring about immediate change or modifications to police procedure. If the subject matter requires further follow-up, the board refers the matter to its Policy Committee. The committee's recommendation is forwarded to the department for a response or action.

If there is an issue or a question, the CRB has total access to the investigators and the lieutenant. IA will do everything it possibly can to quickly provide answers to the board. IA will provide the board with additional documentation, statements, physical evidence and/or testimony from experts in the specific field of the question at hand. In most cases, an informal meeting between the reviewing team and the IA investigator has clarified all questions. If necessary, IA will conduct additional investigation to respond to the CRB's inquiries or concerns. This process is documented in the IA Operations Manual to maintain guidelines and ensure consistency with IA's response to the CRB.

Because we have worked so long together, the CRB gives us another perspective on the SDPD.

Police departments tend to be myopic. We want to control everything; it's the genesis of what law enforcement is all about. The questions that CRB members ask come from a different perspective in many cases and give us that second look at what we're doing and how it affects the community. Sometimes we miss that as an organization because we're trained to let go of our emotions to be in control. The board very quickly reminds us that we do work for the community and are held accountable.

Many of our policies related to use of force and our response to calls have changed because of the CRB. It was the board, as we began to look at officer-involved shootings, which really pushed us to look at how we can better manage force and our response. We had a large number of officer-involved shootings that involved people with mental illness or with sticks, rocks, and bottles. These created a lot of concern in the community and certainly a lot of difficulties for officers as they second-guessed themselves. All credit going to the board, we now have specific training as it relates to mental illness, we've increased our less-lethal options, and we've learned to manage critical events.

PARC: *Sergeant Nemec, how is the POA involved during complaint investigations and resolutions, if at all?*

"Our primary role is representation of the officers: preserving their rights; giving them advice and counsel when they're the subjects of investigations; and giving support to officers' family members and colleagues."

--San Diego POA President Bill Nemec

BN: Our primary role is representation of the officers: preserving their rights; giving them advice and counsel when they're the subjects of investigations; and giving support to officers' family members and colleagues. Sometimes we're involved in formal or informal mediation. When an investigation is over and the CRB and chief's office have reached a conclusion, the POA will come back in to help deal with any changes to or suggestions about policy and training. Some issues fall in the areas of "meet-and-confer" and negotiations. When suggestions are made, we say, "Okay, this is the way we can craft or shape a policy or training while preserving the officers' negotiated rights and benefits."

We come through this process with a way of better doing our job.

PARC: *What are some of the challenges the CRB faces in carrying out its duties and how has the board tried to address those challenges?*

RG: One of the biggest challenges is the confidentiality issue with regard to police officers' records. It frustrates our ability to get out to the public and talk about what we do in specific terms. I think the majority of complainants don't even have a clue about the extent of the work that board members do to review and evaluate their cases. We are confined to talking about the CRB in very general terms. While we understand the necessity of officers' confidentiality and appreciate that we can't talk about cases, I think the public would have a better understanding of the function of the board if we could.

PH: As Riley mentioned, the board activity in a public forum (open session) just doesn't have the sizzle that many other commissions might have because the CRB is constrained by the information that can be disseminated. The biggest obstacle with the board is being able to explain to the public how the process works without being able to give any substance to go along with it. You have to talk in generalities, and that kind of hurts. The board doesn't just stop at hearing a case and either agreeing or disagreeing with IA. The CRB uses each case as a means to

communicate directly with the Department to improve. Additionally, the CRB follows up to ensure that discipline—which falls under the department’s purview—is administered if necessary.

RG: I’m very grateful that we have the opportunity to look at discipline and its consistency. For instance, if we see a discipline case where an officer was suspended and then had a second but less aggressive disciplinary action, we question why that occurred. There may be a very valid reason, but our teams look at patterns, why they exist, and reasons for variations. In explaining a pattern, the SDPD might say, “Well, maybe we need to look at this in a little different light and make some adjustments.”

SF: The problem Riley pointed out, that we’re limited in what we can say to the public, is probably our greatest challenge. Two other challenges are member recruitment and training. We provide complex information to a large group of people and ask them to evaluate it. We’re looking for fair-minded people. I’m not looking for knee-jerk supporters or opponents of the police. We can’t ask people to get rid of their biases, but we can insist they set them aside and develop their decisions based on the facts as presented. If they don’t feel they have all of the facts, they can ask for more information.

We provide at least six months of training—though it usually stretches to 12 to 18—before people even become members of the board. We learned early on, by 1990, that it was impossible to take community members and put them on the board immediately. They just floundered; they simply did not have the background to render a considered opinion on the subjects put before them. Prospective CRB members have at least six months to look at the process. That’s where we have people drop out and decide they can’t put in the time and effort. We have training presentations at every monthly public meeting, an annual training retreat, and a few training days at the police academy each year. Our board

members can attend any regional training academy class, any in-service training, and special-unit training. Also, the SDPD periodically does special trainings for the board. Most importantly, we insist that our members do ride-alongs, as we’re always looking to give them a sense of what a police officer faces in the street.

PARC: *This issue has already been brought up—the issue of the confidentiality of personnel records. A recent court ruling found that CRB reports were personnel records and could not be publicly disclosed. Other jurisdictions in California have cited these rulings for their holding closed hearings or not issuing public investigative reports. What are your views about the balance between protecting an officer and presenting the public with information about its police force? How does the CRB uphold the “citizen” part of citizen oversight if the public cannot hear or read about cases in more detail than is currently allowed?*

BL: It’s important for the system to serve its real purpose, which I believe is not only to look at the cases and come up with independent decisions but to also give me as the chief of police proper advice on how we can best manage the organization. In order to have this open, cooperative relationship, the officers need to believe that the system is designed to improve performance in the organization. If the CRB held open meetings on cases, you would lose that. In the City of Berkeley, for example, they have open commission meetings, and none of the officers go to those meetings anymore. They are specifically advised by the chief not to go. I think the CRB has to have the same rules that I have, and I can’t talk about everything in a case. But the board and public hold me personally accountable as the chief, and so I go to many meetings to answer questions.

If you want to have the access to confidential information, you’ve got to get on the board and put in the time to be a part of the system that makes change. The challenge I give to everyone is that you

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can be on the board like anyone else. If you want to help manage the police department, you've got to step up to the plate. No board that handles these cases in a public forum has ever been successful, at least no board that I have seen.

PARC: *What about releasing an investigative report that protects officers' confidentiality by substituting Officer "A" or "B" for real names? Would that work?*

BL: In this very litigious world of ours, I don't know that there's any way to make that kind of report public without giving access to the attorneys to information.

BN: While I share some of the frustrations and concerns expressed, officers' confidentiality, simply put, is codified in law. We have to ask ourselves: In order for the CRB to be effective, must it reveal personnel files, names, and discipline records? CRB input is highly valued. The board has affected policy, training, and our officers' own views of how they do their job and how the public perceives their job.

As Mr. Gordon stated, the CRB can look at the consistency of discipline and discipline itself. This should be and rightly is a concern. It took time for all of our sides to trust one another and embrace each other's opinions, views, and input. I think the public needs to do the same for the CRB. This is a two-way street here that has really fine-tuned the way we do our job in the city and how we become a more effective law enforcement agency. But again, confidentiality laws do exist, and it's my duty to uphold those laws in representing the POA's members.

RG: Since I've been on the board, I've come to realize that rather than talk about what Officer "X" did, it's much more important to look at the policy under which that officer was operating. We really want to look at whether or not the policy does the job. That's more important than identifying Officer "X." When we look at a shooting, for example, what I want the

CRB to do is to consider what the board and the department can learn from the incident so that maybe this kind of incident will not be repeated. Making that kind of input, like we've done in incidents involving the mentally ill, is far more important than this issue of confidentiality because it gets to the heart of the matter and makes fundamental adjustments in the way the department and we function and, finally, in the way the citizen perceives us.

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SF: I more or less agree with what all of the gentlemen have said, but I have a different take on it because I'm the person who gets the telephone calls from the public saying, "What happened?" or "Why are you covering this up?" I frankly don't have a good answer for it. If we violate confidentiality,

the relationship with the rank and file will go by the wayside. If we hold open hearings, the relationship with the rank and file and with the department will go by the wayside.

But I think there are some ways we could fine-tune things. Sometimes, I know I could say 15 words to a person and he or she would say, "Oh! That's why they did that." I don't want to breach the confidentiality of officers. As a city employee, no citizen can come in and look at my entire personnel record, and I don't think that officers should be subject to that either. But I think that on questions about the use of force, maybe we can take some baby steps to provide a bit more information to the public. Simply telling the public, "You have to trust us," is not going to convince everyone. The public doesn't know how well-served it is by officers, and I'd like to tell that story a little bit better too. The department shoots itself in the foot with this. Nine times out of ten, the information we'd like to divulge is going to make it very clear to the public that it has a courageous officer who acted very coolly in a tough situation. Right now, it's all or nothing.

PARC: *The relationship between a union and an oversight body can be contentious in any jurisdiction. Beyond the*

issue of confidentiality, what are some disagreements the POA and the CRB have had? How do you work through these differences?

BN: Confidentiality is obviously the most important. After 28 years in law enforcement, there are many things I would like to have said to the CRB and public about some of my own conduct and taken the opportunity to better explain myself. Other than this issue, I can't say I've had any real disagreements with the CRB. We have discussions about small details surrounding procedural issues. But the confidentiality issue is going to be a tough nut to crack; everything revolves around that—liability issues for the officer, for the city, for the chief. If we look at what prompted the legislation in the early 1970s for the Officer Bill of Rights, its scope, merits and foundations, maybe there's something we can do about it. It's important to examine the history behind the legislation to understand why the aspect of confidentiality was so important to those who drafted the law.

SF: The biggest disagreement we've had in the last several years was over the release of a redacted shooting report. They sued us, and we lost, appealed, and lost again. The disagreement didn't come so much from the fact that we wanted to release more information but from the way in which we had to release the information. At the time, we didn't have the right to make policy recommendations independent of a case. We had to use language in our report suggesting that in this shooting the officers could have used their discretionary powers differently. The officers and POA were outraged. It was the best language we could come up with at the time. To the department's credit, it then changed the rules, allowing us to make policy and procedural recommendations that flowed from our general work. We'll never find ourselves in that position with the union again because we'll never have to use tortured language to get someplace else where we want to be. The POA, too, was very supportive of changing the purview, responsibility, and authority

of the board to get done what it needs to get down. We may have lost on the issue of the report, but in a bigger sense we won.

PARC: *Mr. Fulkerson, could you explain how the CRB makes policy recommendations to the police department? What are some notable policy changes that have come from CRB recommendations?*

SF: The process is really quite simple. Any board member can question a policy or a procedure and open a discussion at a board meeting on the subject. If the policy or procedure can't be explained by the department to the CRB's satisfaction, the issue is referred to the CRB's policy committee. The committee will meet and bring in whatever departmental or legal resources it needs in order to form a recommendation. The recommendation is made formally at the next board meeting to the chief. The SDPD takes 30 days to look at the issue and then accepts, partially accepts, asks for a modification on, or declines the recommendation.

Either the chief or his executive assistant chief is at our meetings, so many of our policy recommendations are simply informal, with the chief saying, "I hear what you are saying, and I will implement that." This ability to make recommendations has come about because the SDPD asked us to do so. We also review shootings and in-custody deaths because two different chiefs of

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police decided that the input they saw on complaint cases was valuable to them, and they wanted us to weigh in on shootings and in-custody deaths. That's not part of what Proposition G allowed when the CRB was created, but it's a big change and one instituted at the request of the

department.

A major policy change recommendation currently being implemented is the department's Critical Response Team training, which changes the procedures used in potentially lethal force situations

in order to reduce the number of officer-involved shootings.

PARC: *Another issue in the news has been local police involvement in the enforcement of federal immigration laws. What are the SDPD's and POA's stances on this, especially in San Diego?*

BL: We've had a 30-year policy here in San Diego of not enforcing federal immigration laws unless there's a criminal nexus. If an officer sees someone obviously dealing drugs, the officer can investigate. If there is an issue of immigration as a part of the arrest or investigation, the officer can then look into the immigration issue. But the understanding—it's the policy of the state, and I agree with it 100 percent—is that we as local law enforcement don't have the personnel, training, and in many cases the authority to investigate immigration issues. It is our responsibility to provide professional law enforcement services for anyone who visits or lives in the City of San Diego. You don't want to discourage someone who is a true victim of criminal activity—domestic violence or child abuse, for example—and make them so afraid of reporting a crime because they may be deported that they will not come to us. Homeland Defense does not have access to and would not ask for information we receive from a victim who files a complaint in a criminal case.

BN: We all took an oath to protect the lives of the innocent and property of the people. I don't think it is my role to say, "Before I protect you from an assault or a burglary, first I need to determine whether or not you're here legally." If a person commits a crime, then it is a violation of the state penal code and we arrest them. If we find the person is here in the country illegally, there are avenues that the federal government pursues once we're done with the state violation. I agree with Chief Lansdowne: Our policy encourages crime victims not to fear the police department, regardless of their immigrant status. They need to report these crimes because we have criminals who actually profile these victims, knowing full well that they may fear law enforcement and may not report the crimes. After growing up in this community, I think it's important that people

regardless of their immigrant status know they can trust the police and that, no matter what, we're going to protect them and keep these criminals who prey upon them from continuing their activity.

PARC: *Chief, SDPD officers carry and use Tasers, and Taser use has been a subject of debate during recent years. What kind of an impact are Tasers having on policing in San Diego? Where do you place them on your force continuum? Have residents expressed concerns about them? Mr. Fulkerson, does your office receive complaints about police uses of force involving Tasers, and do you see any patterns relating to those complaints?*

BL: I think Tasers are an exceptionally good tool if they are managed well and you have good policy in place. We have a very restrictive policy: there must be active rather than passive resistance; and the Taser is not allowed to be used on people who are pregnant or who are over or under a certain age limit. We had an unfortunate incident where someone did die when a Taser was used. Because of that incident, we also mandate no more than two uses of five-second bursts. We've seen across the country unfortunate situations in which someone has died following multiple uses over a very short period of time. Not only is the CRB

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comfortable with our policy, but we also actually sat down with the ACLU. We worked our policy out with them to the point that they, too, are very comfortable with it. The ACLU has been using it as one of

the templates for other cities across the state and country.

We created a critical response team (CRT), which manages less-lethal equipment—including Tasers—and handles very volatile situations. In order to carry the Tasers, CRT officers have to go through an 80-hour course of instruction. We try to put a Taser on each team at night because our experience has been that in officer-involved uses of deadly force, from the time we get the call to the time the first shots are fired is 15 minutes. We've got to get this equipment there within that window of time. Regular patrol officers and supervisors also may carry Tasers.

In the past, if we got a high-risk call, say, a mentally-disturbed person on the street, naked with a club, two officers would have responded with their options—pepper spray, baton, deadly force, and verbal and hand controls. Those are the situations that escalated very quickly into shootings. Today, the very same call goes much differently. We first make sure we have a sergeant. We send the canines, and CRT officers come with the bean bag, rubber rounds, and the Taser. One of the CRT officers is the Taser officer and has a large amount of training on how to de-escalate people in mental crises. We haven't had an instance where we had to use deadly force once the CRT is on the scene.

We see that officer-involved shootings resulting in injury or death dropped dramatically after the 2004 implementation of the CRT Program, with 15 such shootings in 2002, dropping to 9 in 2003, 4 in 2004 and 6 in 2005.” It's not just the Taser that does that, of course, but it's certainly a piece. The ACLU asked what would happen if we moved the Taser up to deadly force on the force continuum. In our experience, officers wouldn't use the tool; the option would be the firearm. This year we've had five officer-involved shootings, and all of them have involved individuals with guns or other serious deadly threats. There have been no shootings of people with sticks, rocks, bottles, knives, or clubs.

RG: The SDPD has done an exceptional job planning with Tasers. As a result, we have not seen many Taser complaints, with the exception of the death the chief mentioned.

SF: The board requested training several years back when the department first started using Tasers and has gone through several different training sessions about their use. We've been very much involved in looking at this issue. But as Riley said, we have not seen those complaints, I think because the SDPD has been so conservative and cautious.

PH: The board has been comfortable with the process of introducing Tasers because the department invited

us to the very first training session. Two CRB members participated in the first Crisis Response Team training session, completing the entire 80-hour training program. The CRB has since been inserted into the training curriculum when officer-involved shootings are discussed. The board will be really comfortable with the issue when Taser complaints do come through, which they ultimately will.

PARC: *The CRB's most recent available annual report shows that of a total 204 Category 1 and Category 2 allegations investigated by the SDPD and subsequently reviewed by the CRB, the CRB did not disagree with any of the department's findings. There was no disagreement in 2003 either. According to the 2004 report, IA sustained*

“The board has been comfortable with the process of introducing Tasers because the department invited us to the very first training session.”

-- Patrick Hunter, Former CRB Chair

less than one percent of the 204 allegations. Mr. Fulkerson, do you have any concerns about the rate of concurrence? Chief, in your opinion what explains such a small number of allegations being sustained?

SF: We have a high level of *ultimate* agreement. Not a case review meeting goes by where there aren't disagreements. Our process resolves those disagreements before a case gets to the full board, so that in a vast majority of cases the CRB review team and IA are going to the board on the same page. In some cases IA has been able to develop information or explain its position in such a way that the review team ultimately agrees. In about an equal number of cases, IA has changed its findings based on our questions and input or its own further investigation. The give-and-take in the review process is dynamic even if in recent years we've had unanimous agreement ultimately.

BL: You're right, the sustain rate for the department has gone down, but the number of complaints has also dropped, by almost 42 percent this year. The sustain rate for internal investigations—ones brought within the department—has dropped by 33 percent. It's because we've changed the way we manage investigations. We have a much more aggressive process internally now. We have lieutenants in the field responding to calls and addressing complaints 24 hours a

day. Our new training has reduced our complaints by 60 percent. The result is fewer total complaints and fewer of those sustained. We're more aggressive in catching an issue before it's a problem in the community of San Diego.

A second piece of this is that we have another program in play—mediation. Mediation has turned out to be a real benefit to the SDPD. The complainant and the officer can sit down and talk to each other about difficulties and misunderstandings. Both go away with an increased understanding of how they could have better managed a situation.

All of that comes together for us and has reduced the numbers of sustained complaints from the community. Of course, the other side of the question is, "Well, maybe people don't think the complaint process is effective and thus don't use the process." That's not true. We're still finding misconduct, but we're catching it on the front end. We're finding that with officers who show up on our system a lot, if you can figure out what the real issue is, you can correct it. In many cases, it's a domestic problem or a problem with drugs or alcohol. We're finding people with a problem, and we're correcting it well before it is manifested on the street.

SF: One last comment. We don't see the types or volume of complaints today that we did 16 years ago. The board has talked to the SDPD about what the problems were and what needed to be changed, and changes have been made. Officers behave differently today than they did in the past. Yes, as oversight, we look at individual cases, but more importantly we focus on long-term, systemic change in the way our city is policed. I think that's one of the reasons we're seeing a lower number of complaints today.

PARC: *Community policing in San Diego has received a lot of attention. What are your current views on this policing philosophy? To what extent has it been successful and how do you measure that success?*

BL: Let me touch upon this, and then I'll let Bill [Nemec] speak since he has the history in San Diego that I don't. I give my predecessors in this city all the credit in the world. They embraced what community policing is all about. It's not just a program or sending officers out to fix a specific problem; it's a day-to-day operation and way of doing business. Former Chiefs Bill Kolender, Jerry Sanders, and David Bejarano embraced the community and met with the public in very volatile circumstances in order to let people vent. As an example of our success, we have the largest number of civilian volunteers of any department in the country today. We have over 900 civilian volunteers working the city daily, driving cars, handling calls, and taking fingerprints. It's one of the reasons we can operate with so few officers.

BN: The old method of policing here was: "First I ask, then I tell, and then I make," meaning I first ask for your compliance, then I tell you I need your compliance, and then I make you comply. Contrast that with what we were taught in the academy, which was that every community is different and that community members sometimes should be allowed to set the priorities not only for how they want their police to enforce the law but also how they want us to deal with the laws in the community.

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--Chief Bill Lansdowne

I'll give you an example of how community policing has worked. After the Vietnam War, we had Southeast Asian immigrants coming to San Diego. At first, we were not familiar with their customs. We would go to families' home and see these horrific burns on children's bodies. Anybody in the old system would say, "I've got to enforce the law here. This is obviously child abuse." Through community policing and the community teaching us, we found out that it was a custom to heat a coin and place it over the area where the child was injured or feeling pain, believing this would draw out the pain. By going into that community, we were able to turn things around. We didn't go in and suddenly haul parents out of their home for child abuse. We brought the community

in to understand our laws, medical care, and pediatric programs. In turn, I was put through intense training to understand the customs of that community.

Going from the old system of “I ask, I tell, I make” to “I come in, I understand, and I apply the laws of our community in the spirit in which those laws should be enforced”—that’s community policing for me.

SF: Thirty years ago, police officers used to raid gay bars just to do it. Now every year one of the largest contingents in the gay pride parade is officers in uniform. One of the things that the SDPD did for a number of years with all of the recruits was to have them work for a day or two in the Gay and Lesbian Center. Even with this one community, the department has taken a lot of steps, from absolute alienation to integration. San Diego has a very small police department. The SDPD couldn’t do its job if it didn’t have the support that it has from the community.

PARC: *What do each of you see as the policing and police accountability challenges you will face during the next few years and how do you plan to address them?*

RG: We need more officers and must have officers of high quality who continue to receive excellent training.

SF: For the board, we need more outreach to the community and to the officers. We don’t have a system that is totally transparent. Neither the community nor the officers can see what we really do. We must constantly prove ourselves before the public and the department, talking about what we do and how, explaining the board’s limitations, and also pointing out our successes.

PH: It’s taken a long time for this board to get to where it is today, and it’s going to be a challenge to maintain and increase the success. Nobody should sit back and

rest on the laurels of what happened five or ten years ago and expect the same thing to happen. We get new chiefs or new executive directors of the CRB or maybe the board changes over. The CRB has developed a lot of credibility with the community with as much as we can relate, and we’ve also developed credibility with the department. We need to maintain both at the highest levels.

BL: There are some real issues we’re going to have to face. One is hiring people with the language skills that police in a city as diverse as San Diego require. Another is how we can create that diversity within our organization. Also, we must find the personnel. Right now we hire three percent of the people who apply to the SDPD. We’re in competition with many other departments, many of which provide more benefits. Unfortunately, we’re beginning to price ourselves out of the market. We do have the lowest number of officers of any large city in America today. We’re going to be in trouble if we don’t fix this in the next couple of years.

BN: As the chief mentioned, we’re a very diverse community. We need language and cultural skills and the education to deal with the complex problems that arise in such diverse communities. We’re the first responders to incidents. My concern is that as we start to lose officers and our response times begin to lengthen, the service level and quality-of-life standards the community is used to might start to be affected.

“Thirty years ago, police officers used to raid gay bars just to do it. Now every year one of the largest contingents in the gay pride parade is officers in uniform...Even with this one community, the department has taken a lot of steps, from absolute alienation to integration.”

--CRB Executive Director Scott Fulkerson

For instance, at a SWAT incident I responded to years ago, two of our officers were killed in a horrific shooting. It started with a small argument between neighbors. These things escalate. If we had been able to respond sooner with some of the things

we have available today—giving these people mediation services or zoning assistance—the incident might have turned out differently. Our department has become sort of a clearinghouse for information and can give people access to social services and agencies and provide education. If we’re not able to

do that as the first responders because there are not enough police officers out there, I'm afraid about accountability issues and just exactly where this community will end up.

PARC strives to provide all of its readers with comprehensive information. If you have news you'd like to share with us for inclusion in the PPR or on our website at www.parc.info, please send us an email at information@parc.info.

CALENDAR

July 17-19, 2006 – National Institute of Justice (NIJ), NIJ Conference 2006, Washington, DC.
Online at www.ojp.usdoj.gov/nij/events/nij_conference_2006.html

July 24-25, 2006 – The Performance Institute, National Summit on the Advancement of Women in Law Enforcement, Arlington, VA.
Online at <http://www.performanceweb.org/>

July 27-29, 2006 – Office of Community Oriented Policing Services (COPS), COPS National Community Policing Conference, Washington, DC. Online at www.cops.usdoj.gov/Default.asp?Item=1044

July 31-August 2, 2006 – National Criminal Justice Association, National Forum on Criminal Justice and Public Safety, Baltimore, MD. Online at www.ncja.org/national_forum.html

August 28-29, 2006 – The Performance Institute, National Summit for Law Enforcement Diversity Recruiting, San Diego, CA. Online at <http://www.performanceweb.org/>

September 7-10, 2006 – Coalition for Juvenile Justice and Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Solutions for Reducing Racial Disparities & Disproportionate Minority Contact in Juvenile Justice, New Orleans, LA. Online at www.juvjustice.org/conferences/index_conferences.html

September 25-27, 2006 – Bureau of Justice Assistance (U.S. Department of Justice), Florida Mental Health Institute, Orange County Sheriff's Office, Orange County Corrections, and National Alliance on Mental Illness (National), 2nd Annual National Crisis Intervention Team (CIT) Conference, Orlando, FL. Online at <http://mhlp.fmhi.usf.edu/web/cit/citintro.cfm>

September 25-28, 2006 – National Association for Civilian Oversight of Law Enforcement (NACOLE), 12th Annual NACOLE Conference, Boise, ID. Online at www.nacole.org

October 14-18, 2006 – International Association of Chiefs of Police (IACP), 113th Annual IACP Conference, 2006, Boston, MA. Online at www.theiacpconference.org/

November 1-4, 2006 – American Society of Criminology, Annual Meeting, Los Angeles, CA. Online at www.asc41.com/caw.html

