

# POLICE PRACTICES REVIEW

A Publication of the Police Assessment Resource Center

January-March 2007  
Vol. 6, No. 1

<b>CIVILIAN OVERSIGHT</b> .....	1
New Report Issued on Portland Police Shootings Audit Criticizes SF's Police Review Agency NYC's Review Board Gets Funding Boost New Tacoma Policy Advisory Board Created Boston Review Panelists Named Fired Omaha Auditor Protests Dismissal	
<b>CONSENT DECREES/ MEMORANDA OF AGREEMENT</b> .....	4
MPD's Monitor Issues Report Cincinnati Monitor Reports on Compliance Progress Detroit Monitor Describes Progress, Challenges Oakland's Monitoring Team Releases Report NJ Debates Post-Decree Oversight	
<b>COMMUNITY POLICING</b> .....	8
Sharp COPS Office Budget Cuts Consultant to Assist NOPD's Community Policing Efforts	
<b>RACIAL PROFILING</b> .....	8
MPD Gets Mixed Review in Racial Profiling Study Roughly Half of Force Complaints in Seattle Filed by Minorities Stark Racial Disparities in SFPD's Felony Arrests	
<b>RESEARCH</b> .....	10
RAND Issues Report on Police-Community Relations in Cincinnati	
<b>FORCE MANAGEMENT</b> .....	11
Investigative Report on HPD's Taser Use	
<b>LEGAL AFFAIRS</b> .....	11
Recent Garrity Ruling Could Impact Police Misconduct Investigations	
<b>POLICE ADMINISTRATION</b> .....	12
Atlanta's Chief Reviews "No Knock" Policy	

Continued on Page 2

## CIVILIAN OVERSIGHT

### New Report Issued on Portland Police Shootings

The Portland City Auditor has released the Police Assessment Resource Center's (PARC's) latest follow-up report to its 2003 study on officer-involved shootings and in-custody deaths prepared for the Auditor's Independent Police Review Division. In this report, PARC examined the Portland Police Bureau's responses to recommendations concerning the Bureau's internal processes for reviewing such incidents, as well as its management of records and information. The report also reviewed 10 officer-involved shootings and presented 16 new recommendations.

PARC's latest review found that the Bureau has responded "very positively" to most of the 25 prior PARC recommendations examined. The report notes that the current Bureau Chief, Rosie Sizer, has indicated willingness to study the relatively few remaining recommendations related to the review process not yet implemented. With those changes, wrote PARC, the agency's "vastly-improved review process would be fully in accord with national good practices."

The latest report examined the PPB's new Use of Force Review Board's policies and procedures, crediting it with providing an effective and credible review process to identify and learn appropriate lessons from officer-involved shootings and in-custody death incidents. That review process, which now includes two civilians and two Bureau peers among the nine-person board, has helped to identify training needs and other lessons.

**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](mailto:information@parc.info)

**NEWS BRIEFS ..... 13**

- Data Show Dramatic Rise in NYPD Stops
- Expert Issues Critical Report on the Chicago PD
- Cleveland Officers' Use of Non-Deadly Force Always Justified
- IACP Issues Civil Rights Report
- Review of Peña Shooting Faults LAPD Tactics, Supervision
- Videotaped Incidents Lead to LAPD Changes
- LAPD's Secrecy in Disciplinary Process Decried
- Recorded Taser Incident at UCLA Leads to Inquiry

**PARC INTERVIEW ..... 16**

Providence Chief Dean Esserman

**CALENDAR ..... 21**

Despite a generally positive review of PPB progress in implementing improvements, PARC noted a few areas where the Bureau had not adopted suggested recommendations. The report said that the Bureau should conduct internal reviews more quickly, noting that it took up to 15 months from the time of a shooting for cases to receive a hearing. The Bureau also has not accepted PARC's recommendation that an involved officer's unit commander should not be a voting member on the Force Board because of an inherent conflict of interest. In another PARC recommendation related to the Force Board that has not been implemented, no written report explaining Force Board's findings is provided to the police chief. PARC highlighted the need for Force Board's to focus more on tactical issues, rather than limiting outcome determinations to legal and policy questions, but also praised the Bureau's training division for independently examining incidents and adjusting training accordingly. The full report can be accessed online at: [http://www.parc.info/portland\\_police\\_bureau-publications.shtml](http://www.parc.info/portland_police_bureau-publications.shtml)

**Audit Criticizes SF's Police Review Agency**

**A**n audit of San Francisco's Office of Citizen Complaints (OCC) found that "OCC management does not meet standard expectations for performance and management accountability." It found "pervasive case management issues" resulting in delays that, in some cases, thwarted the police department's ability to consider discipline before the statute of limitations expired. The audit was requested by the San Francisco Police Commission and conducted by the Office of the Controller (City and County of San Francisco).

According to the audit, in 40 percent of cases the OCC sustained between 2003 and 2006, the agency took ten months or longer to complete its investigation; in 22 of those 113 cases, the SFPD reported that it could not review the cases and consider discipline before the one-year statute of limitations expired. The primary cause of late investigations was inaction on investigating complaints for more than a month after their receipt. In 59 percent of the late investigations, no reason for delays was noted in agency files. The auditor also noted that two of the agency's 16 investigators were responsible for 39 percent of the unexplained delays.



*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*                      Michael Jacobson  
Ellen Scrivner    Christopher Stone

**Senior Advisors**

Thomas Frazier    Bernard Melekian

**President**

Merrick Bobb

Copyright © 2007, all rights reserved. Material in this newsletter may be reproduced and/or circulated without permission when proper acknowledgment 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.

The auditors, who surveyed agency staff, found that agency leaders had not “demonstrated the required tone for integrity and ethical values.” Employees described unethical or improper behavior, as well as poor performance not addressed by management. Annual performance evaluations had not been conducted and low-performing staff had not been disciplined or counseled. According to the survey of workers, 72 percent said that morale was poor.

The report identified reasons other than management shortcomings for case delays, including the lack of cooperation from complainants and witnesses, SFPD's refusal to comply with OCC requests, and overburdened investigators. The auditors noted that in comparison with other jurisdictions, OCC investigators had larger caseloads, fueling delays. The auditors suggested that, with the Police Commission and other relevant officials, the OCC should determine whether the ratio of one investigator for every 150 officers should be re-tooled to identify appropriate staffing levels for the actual caseload.

Among the report's 45 recommendations, the auditors urged the OCC to:

- monitor the progress of its investigations and work with the SFPD to meet the office's deadline of nine months to complete investigations and to avoid delays that preclude discipline within the one-year statute of limitations;
- create an “aging report” of open investigations to prioritize cases and redistribute caseloads, as warranted;
- identify staff training needs and develop a plan for both new and current staff;
- improve community outreach and produce annual and quarterly reports; and,
- conduct employee performance goal setting and appraisals.

The full report can be accessed online at: [http://www.sfgov.org/site/uploadedfiles/controller/reports/OCC\\_012407.pdf](http://www.sfgov.org/site/uploadedfiles/controller/reports/OCC_012407.pdf)

## NYC's Review Board Gets Funding Boost, Faces Backlog Questions

New York City's Civilian Complaint Review Board (CCRB) will receive an increase in funding to handle a significant rise in citizen complaints of police misconduct and related case backlogs during the past

several years. The agency will receive a \$1.5 million increase to its budget of about \$10 million, allowing it to hire 25 more staff members. The budget increase stems from a review by Mayor Michael Bloomberg's administration amid concerns about police-community relations following the police shooting of Sean Bell in November.

While civil rights leaders lauded the funding increase, they argued that additional changes were needed to authorize improvements in administrative prosecutions of officers against whom complaints are substantiated and for CCRB to more aggressively investigate NYPD policies. The New York Civil Liberties Union (NYCLU) had also raised questions about the CCRB's case backlogs before the funding boost for the agency was announced. The NYCLU learned that the CCRB had a backlog of more than 800 cases because one of the Board's panels charged with making final determinations about investigative findings reportedly had not met for approximately six months. When that panel met, it reportedly dispensed with the backlog in one day, leading the NYCLU to question the quality of the panel's review. The NYCLU requested additional information and suggested that the agency look at reasons for the substantial backlogs.

“Police Shooting Led Mayor To Bolster Review Board,” *New York Times*, January 19, 2007; [http://www.nyclu.org/pdfs/ccrb\\_backlog\\_ltr\\_111406.pdf](http://www.nyclu.org/pdfs/ccrb_backlog_ltr_111406.pdf)

## New Tacoma Policy Advisory Board Created

Tacoma's City Council has approved an ordinance formalizing a resolution passed in June 2005 to formalize the Police Citizen Review Panel as a policy advisory board. The City Council approved a measure to create civilian oversight of the police, but the police chief and police unions opposed an initial effort to create an independent auditor, resulting in the compromise of a policy advisory board. According to Tacoma's City Manager, “it's a policy review group, not a case review group.”

Tacoma residents had supported citizen oversight of the police department for some time, but the effort gained momentum after Police Chief David Brame fatally shot his wife and killed himself in 2003. The advisory board will promote a new, online complaint system, review overall results of citizen complaints,

track complaint trends, and make policy recommendations. Five residents have been named to serve on the panel, which began operations in late February.

“Police complaints get heard,” *News Tribune*, February 7, 2007; <http://www.cityoftacoma.org/Page.aspx?hid=5064>

## Boston Review Panelists Named; Rights Groups Call for Mandate Changes

Mayor Thomas M. Menino has appointed the three members of Boston’s Community Ombudsmen Oversight Program: New England School of Law Dean John F. O’Brien, Northeastern University law professor David Hall and former state Parole Board member Ruth Suber. The panel is tasked with reviewing allegations of serious misconduct that are not sustained by the Boston Police Department’s Internal Affairs Division (IAD) and with accepting appeals from complainants whose complaints alleging less serious misconduct are not sustained.

A coalition of civil rights groups, which called the panelists “excellent choices,” recommended significant changes to the panel’s scope and mandate. The groups called for the creation of a separate, independent board with investigative and subpoena powers. The groups also recommended that the panel not be limited to reviewing “not sustained” complaints, but also be authorized to review IAD’s findings of “unfounded” and “exonerated.” The group requested that the City, BPD, and review panel make information about IAD complaints and appeals accessible to the public in a timely manner and that individuals be allowed to file complaints via organizations and agencies not affiliated with the City or BPD due to past intimidation and misinformation experienced by some complainants. “Menino taps 3 for police review board,” *Boston Globe*, January 23, 2007; “Civilian review board needs more power,” *Bay State Banner*, February 1, 2007.

## Fired Omaha Auditor Protests Dismissal

Omaha’s Public Safety Auditor, Tristan Bonn, was fired by Mayor Mike Fahey in October after she issued a report critical of police traffic stops and

publicly stated that she perceived a lack of support from the mayor. She subsequently filed a claim with the Nebraska Equal Opportunity Commission, with her attorney asserting that state and federal law provides protection for whistle-blowers who expose discriminatory practices and then suffer retaliation. The Mayor claims that Bonn was insubordinate when she released her report without his approval and he claimed she was “unprofessional” in her dealings with reporters.

The report in question found that some Omaha police officers treated citizens rudely during traffic stops, stopped drivers without good reason and more strictly enforced minor traffic violations by minorities. After the report’s release, the Mayor’s Chief of Staff reportedly wrote to Bonn that “in my view, you set out to purposely smear the department.”

Complications for the Auditor in Omaha developed in 2005 when funding for her office was discontinued after the City Council chose to use the money for additional patrol cars and other items. The Mayor then placed her on his personal staff, but did not retain the office’s two employees. Some community members called for Bonn’s reinstatement and noted the need for community trust in the police to fight violent crime more effectively. Failing reinstatement of Bonn, community members are pressing the Mayor and City Council to fill the position.

“Former public safety auditor files complaint about her dismissal,” *Associated Press*, December 11, 2006; “Bonn: City should admit error,” *Omaha World-Herald*, December 13, 2006; “Trust in police vital, forum guests say,” *Omaha World-Herald*, January 12, 2007. The full Omaha Public Safety Auditor report, released in October 2006, can be accessed online at: [http://www.ci.omaha.ne.us/departments/public\\_safety\\_auditor/SpecRptTrafficStopsOct06.pdf](http://www.ci.omaha.ne.us/departments/public_safety_auditor/SpecRptTrafficStopsOct06.pdf)

---

## CONSENT DECREES/ MEMORANDA OF AGREEMENT

### MPD’s Monitor Issues Report

The 19<sup>th</sup> quarterly report has been issued by the Office of the Independent Monitor (OIM)

evaluating District of Columbia and Metropolitan Police Department compliance with their Memorandum of Agreement (MOA) with the U.S. Justice Department. The report notes “significant strides” in addressing problems related to the serious use of force under the “outstanding leadership” of outgoing police chief Charles Ramsey and the expectation that the MPD’s new command leaders will remain dedicated to achieving full compliance with the MOA.

During the quarter examined, from October 1 through December 31, 2006, the OIM focused on four primary areas: review of audits conducted by the Quality Assurance Unit (QAU) and development of the QAU internal audit and monitoring program; non-Force Investigation Team use of force and misconduct investigations; MPD’s community outreach and citizen complaint programs; and ASP baton in-service training. The report also provides an update on compliance status in relation to all of the agreement’s requirements, highlighting areas in need of significant progress that include: the documentation and tracking of disciplinary and corrective actions; the development and implementation of the Personnel Performance Management System; implementing the enhanced Field Training Officer program; and fulfilling the MOA’s requirements in relation to cooperation with the Office of Police Complaints.

The OIM closely reviewed QAU operations, provided technical assistance, and worked with the MPD to develop standard operating procedures to ensure high quality audits. The OIM will focus on helping the QAU in coming months to make sure that the new internal audit and monitoring program is effective because the QAU will “one day assume a central role in assessing MPD’s continued progress in institutionalizing and making permanent the reforms implemented as a result of the MOA.”

In reviewing non-FIT use of force and misconduct cases, the OIM found that 90.1 percent of the investigations reviewed during the quarter were sufficient – just over the numerical substantial compliance standard. The Monitor noted, however, that these investigations did not yet consistently exceed the 90 percent standard but that it was clear that IAD and the chain of command were making significant progress in conducting organized and higher quality investigations.

The OIM also reviewed MPD’s community outreach efforts in presenting information about the citizen complaint process. It attended two such community meetings and found one presentation satisfactory and the other unsatisfactory, also noting that the MPD had not sufficiently provided promotional materials prior to the meetings as required by an MOA provision. The OIM’s review of the MPD’s in-service training regarding the use of the ASP retractable baton found the trainers did a good job, but suggested removing some outdated materials in the slide show presented at the session. <http://www.policemonitor.org/070129report.pdf>

### **Cincinnati Monitor Reports on Compliance Progress**

**T**he latest report issued by Cincinnati’s Independent Monitor described the status of compliance with the Memorandum of Agreement (between the City, Cincinnati Police Department and U.S. Justice Department) and the Collaborative Agreement (between the City of Cincinnati, Plaintiff Class, and Fraternal Order of Police) as both agreements enter their fifth and final year. The Memorandum of Agreement (MOA) focuses on police use of force, citizen complaints, risk management, and training, while the Collaborative Agreement (CA) covers Community Problem-Oriented Policing, mutual accountability and evaluation, bias-free policing, and the establishment of a Citizen Complaint Authority.

In July 2006, the City and U.S. Department of Justice signed an amendment to the MOA to terminate provisions of the agreement where there had been sustained compliance; in October 2006, the Monitor issued a special report describing the provisions where compliance had been achieved and related monitoring ended. With those terminated provisions, the Monitor reports that the parties can now focus on the “unfinished work” under the CA and those provisions of the MOA where sustained substantial compliance has not been achieved. This report provided updates on implementation and level of compliance during the period assessed (May 1 through September 30, 2006, incorporating some activities from the year’s final quarter).

The Monitor’s report focused significant attention on progress made toward full compliance with the CA,

as well as challenges that remain. The Monitor notes that, during this reporting period, the CPD took a significant step when it officially embraced the SARA (Scanning, Analysis, Response, Assessment) problem solving methodology as its “primary process for addressing crime and disorder problems.” Yet, at the same time, the Monitor notes that the CPD’s policing approach during 2006 was saturation patrol/zero tolerance through the Vortex Unit operations, an approach that appears inconsistent with the CA. As RAND Corporation’s recent report (see “Racial Profiling” section) on Cincinnati states, “the City needs to avoid the assumption that effective law enforcement and good community relations are mutually exclusive goals and to work to find policies that can maximize both outcomes.” The Monitor requested that the CPD provide information regarding how Operation Vortex is integrated into the department’s stated problem-solving strategy but had not received a response at the time of the report’s issuance. The full report can be accessed online at: [http://www.gabsnet.com/cincinnati/monitor/Fifteenth\\_Report.pdf](http://www.gabsnet.com/cincinnati/monitor/Fifteenth_Report.pdf).

## **Detroit Monitor Describes Progress, Challenges**

**T**he Office of the Independent Monitor assessing Detroit’s compliance with two Consent Judgments reached in 2003 between the City of Detroit, Detroit Police Department, and the U.S. Department of Justice, has issued its latest report describing the City’s progress. One Consent Judgment concerns Use of Force and Arrest and Witness Protection (UOF CJ), with the other focused on Conditions of Confinement (COC CJ). According to the Monitor, of the total of 177 substantive paragraphs in both agreements, Detroit is in compliance with 40.

During this reporting quarter, ending on November 30, 2006, the Monitor focused on testing implementation of many of the DPD’s new policies disseminated as a result of the Consent Judgments. The Monitor reports that, in the case of the UOF CJ, the DPD’s compliance rates are improving in many areas but that the DPD still faces challenges in implementation in areas including investigation and evaluation of critical firearms discharges and documenting stops and frisks. In regards to the COC CJ, the Monitor reports that the DPD is working to implement fire safety and emergency plans, and notes that the Wayne County Sheriff’s planned expanded

acceptance of detainees and a new criminal justice complex may help address the DPD’s custodial needs.

The Monitor noted positive developments during the examined period relating to arrests and training. The Monitor reported that the DPD had probable cause to effect arrests in all of the incidents reviewed as part of the Monitor’s sample. Furthermore, in more than 90 percent of the arrests examined, supervisory reviews of those arrests occurred and were documented in a timely manner. In a new development, the Monitor reported that the DPD and Wayne County Community College have agreed for the college to take responsibility for new recruit training, allowing the DPD’s Training Academy to focus on in-service training.

The Monitor also highlighted areas of concern. It found that DPD audits are being conducted, but recommendations for improvements stemming from those audits are not being acted upon. The Monitor noted that the Joint Investigative Shooting Team was not investigating all critical firearms incidents and that the DPD’s Board of Review was not evaluating all firearms discharges. The full report can be accessed online at: [http://www.kroll.com/library/detroit/DPD\\_Q13\\_Report\\_1-16-2007.pdf](http://www.kroll.com/library/detroit/DPD_Q13_Report_1-16-2007.pdf)

## **Oakland’s Monitoring Team Releases Report**

**T**he Independent Monitoring Team (IMT) has released its ninth report on the 2003 Settlement Agreement between private plaintiffs, the City of Oakland, and Oakland Police Department. The Settlement Agreement (SA) addresses use-of force reporting and review; internal investigations; civilian complaints, personnel supervision and management; officer training; and community policing. The most recent report, covering the period between May 13 and November 30, 2006, assesses progress on all 51 tasks contained in the SA. Overall, the IMT found that the OPD is making “steady and significant progress” in implementing the terms of the agreement.

According to the IMT, the OPD had made notable progress on the 16 tasks reviewed for actual compliance by the IMT during the examined period. The IMT conducted an extensive assessment of internal investigations, including reviewing hundreds of internal investigation reports, talking to

complainants, and site visits to see if complaint forms were available and noted OPD internal affairs system and investigations. The IMT concluded, “OPD’s system for investigating complaints of misconduct has vastly improved and continues to improve on an almost daily basis.” The IMT also noted improvements in the OPD’s Field Training Officer (FTO) program, including in the way it selects, trains, and evaluates FTOs, and how it incorporates feedback on the FTOs to improve FTO and Academy training. “Other law enforcement agencies now send their officers to OPD to learn how to become successful FTOs,” reports the IMT.

Areas of concern in relation to OPD’s progress toward compliance with the SA were also described. One of the SA’s required tasks is to create a disciplinary process that is fair and consistent. After extensive deliberations, the OPD created a disciplinary matrix in an attempt to ensure transparency and objectivity in the disciplinary process, but the IMT reports that the OPD has deviated from the matrix after deciding that corresponding disciplinary actions would be unduly harsh. The IMT found that OPD’s deviations almost always resulted in lower discipline levels than laid out in the matrix. The OPD responded to this concern by telling the IMT that it was the Chief’s prerogative to apply discipline, that his approach was better than strictly following the disciplinary matrix, and that the matrix would be revised to reflect his disciplinary philosophy. The full report can be accessed online at: <http://www.oaklandpolice.com/agree/9eng.PDF>

### **NJ Debates Post-Decree Oversight; Sergeant Claims Monitor Was Misled**

**P**rof. Samuel Walker recently provided an Expert Opinion to the Attorney General of New Jersey regarding post-consent decree oversight of the New Jersey State Police (NJSP). He submitted his views regarding whether permanent external oversight of the NJSP should be put in place to maintain reforms attained under the federal “pattern or practice” consent decree, and if so, what form that oversight should take. The consent decree stemmed from allegations that the NJ State Police engaged in racial profiling and it required that the NJSP implement enhanced accountability systems, particularly in relation to troopers’ interactions with citizens during traffic stops.

Walker described the options before the Attorney General. The first would be no independent oversight of the NJSP, leaving responsibility for maintaining reforms with the NJSP itself, though bolstered by regular audits conducted by Rutgers University. The second option would be oversight by the Office of State Police Affairs (OSPA) in the Office of the Attorney General. The third option would be to create, through legislation, a new and independent oversight agency. Walker briefly describes post-consent decree experiences of other jurisdictions, but notes that such examples are limited. He describes the problems of sustaining reforms in other jurisdictions, but highlights the successful efforts of the Special Counsel monitoring the Los Angeles County Sheriff’s Department as being independent, consistent, and powerful enough to prevent back-sliding on reforms achieved by that agency.

In Walker’s opinion, the OSPA should assume oversight responsibilities for the NJSP. He suggests that in doing so, the OSPA should follow the example of the Special Counsel in Los Angeles County by not confining its monitoring of the NJSP to the specifics of the consent decree, but to take a broader look at the agency, reviewing and making recommendations on issues of concern. This arrangement, argues Walker, would allow for flexibility in the type of oversight and advice provided.

In a more recent development, a sergeant with the NJSP has alleged that he was instructed by superiors to lie to the consent decree’s compliance monitor so that the monitor’s reports would reflect a higher level of compliance than had actually been achieved. He claimed that he refused to follow those instructions, but that others within the NJSP did manipulate and misrepresent internal affairs data provided to the monitor. His allegations are being investigated and may delay an anticipated termination of the consent decree. The Expert Opinion can be accessed online at: [http://www.state.nj.us/acps/home/hearings/pdf/061121\\_swalker.pdf](http://www.state.nj.us/acps/home/hearings/pdf/061121_swalker.pdf).

“State police panel reviewing claim trooper was told to lie to monitors,” *The Record (Bergen County)*, January 15, 2007; “Do state police still need federal policing?” *The Record (Bergen County)*, January 19, 2007.

---

## COMMUNITY POLICING

### Bush Administration's Budget Calls for Sharp COPS Office Cuts

The Bush Administration's Fiscal Year 2008 proposed budget includes dramatic cuts for the U.S. Justice Department's Office of Community Oriented Policing (COPS). The COPS program's funding had already been reduced during the past several fiscal years, from a high of nearly \$1.5 billion in 1998 to \$533 million in 2006 and \$542 million in 2007. The additional reduction proposed by the administration for the next fiscal year would leave the agency with an annual budget of only \$32 million, with \$4 million of that amount dedicated to public safety and community policing grants. It is reported, however, that Congress is interested in restoring in 2008 a significant portion of the funding that has been cut in the last several years.

<http://www.whitehouse.gov/omb/budget/fy2008/pdf/appendix/jus.pdf>

<http://www.cops.usdoj.gov/Default.asp?Item=240>

<http://www.cops.usdoj.gov/Default.asp?Item=44>

### Consultant to Assist NOPD's Community Policing Efforts

Former Houston Mayor and Police Chief Lee Brown, and his consulting firm, will assist the New Orleans Police Department (NOPD) to revamp its policing approach. Community outrage and anxiety over violent crime, surveys showing community distrust of the police and fear of retaliation by criminals if they cooperate with police, and an already dysfunctional criminal justice system that Hurricane Katrina plunged into crisis, all compelled city leaders to ask Brown for assistance in improving police operations and police-community relations. Brown told reporters, "to be successful in dealing with issues of public safety, it takes everyone — the police, the elements of the city's criminal justice system and, most important, the people."

Brown, who began his six-month consultancy with the city in late January 2007, announced that his team will review police-community interactions by using inspections, audits, and an examination of how

citizens' complaints are handled. After consulting with NOPD leaders, Brown's team will craft a plan of action and will propose a monitoring mechanism to track and ensure implementation of the action plan. Local foundations and organizations are funding his consultancy.

"Ex-Houston chief to advise NOPD," *Times-Picayune*, January 13, 2007; "New Orleans turns to Brown for advice," *Houston Chronicle*, January 19, 2007.

---

## RACIAL PROFILING

### MPD Gets Mixed Review in Racial Profiling Study

A study on racial and ethnic profiling in the District of Columbia provided a mixed assessment. The research, which was conducted by Lamberth Consulting for the Metropolitan Police Department, found no evidence of racial profiling in traffic enforcement, but did indicate disparities in pedestrian stops. The study reviewed pedestrian stop data at five locations and traffic stop data at 20 sites in the city. The year-long study used an "odds ratio," a statistical calculation that compares the likelihood of a particular event occurring between two groups, to determine whether minorities were being disproportionately stopped by MPD officers. According to Lamberth, "the methodology employs what we believe to be the only appropriate benchmark for such an analysis; that is, a direct measure of the transient population (driving populations and pedestrian populations) in specific locations."

The research showed that African-American and Latino pedestrians in or near tourist areas, such as the Georgetown and Adams Morgan neighborhoods, risk being stopped by the MPD at disproportionately high rates. The study found that the odds ratio for African Americans stopped while walking at the Adams Morgan site was 1.8, making African-American pedestrians nearly twice as likely to be stopped as non-African Americans. The odds ratio at the Georgetown site was 5.8, meaning that African-American pedestrians in that area were stopped at a

rate almost six times higher than would be expected in the pedestrian population. The MPD study notes that “an odds ratio of this magnitude is difficult to explain absent targeting of African American pedestrians.”

The study made several recommendations, urging the MPD to: conduct more complete and targeted analysis of stop and search data, including discretionary searches; review operational procedures in pedestrian stops; enhance training; continue work with the Community-Police Task force; and solicit MPD personnel to provide feedback about the Lamberth report’s findings. The full report can be accessed online at: <http://www.lamberthconsulting.com/about-racial-profiling/documents/MPDFinalReportid9926fall2006v2.pdf>. “Study finds 2 hot spots for profiling,” *Washington Post*, February 1, 2007.

### **Roughly Half of Force Complaints in Seattle Filed by Minorities**

Seattle’s Office of Professional Accountability (OPA) recently released statistics and a qualitative review of 268 use-of-force complaints it received from 2003 through 2005. According to the OPA, the purpose of the complaint review was both to identify themes and patterns, as well as to look for opportunities for policy, training, outreach, supervision, and education improvements.

According to the OPA’s report, “perhaps the most striking data to emerge from the review...was the prevalence of complaints from citizens of color.” The OPA cautioned that it was unable to draw “reliable or meaningful” conclusions about the complaint statistics. According to the report, citizens of color filed more than half of the force complaints in 2005; over the three-year period examined, just under half of all complaints were filed by citizens of color. The OPA’s report did not provide a racial breakdown of the complainants within the category of “citizen of color.” According to the 2000 U.S. Census, roughly 70 percent of Seattle’s population was white. The OPA warned about complacency by the City and SPD, noting that the City had still not released information from a study on traffic stops and searches it reportedly initiated in 2002. The OPA recommended that the

SPD urgently discuss and address the issue of race and use of force.

Other major findings stemming from the review included a high number of incidents involving multiple officers, a low rate of substantial force and/or injuries; an increase in the number of citizen force complaints where force was not reported by the involved officer; and continued issues regarding the use of Tasers. OPA recommended that it be dispatched to the scenes of critical incidents with the authority to initiate its own investigations. The full report can be accessed at: [http://www.seattle.gov/police/opa/Docs/UOF\\_2007\\_Report.pdf](http://www.seattle.gov/police/opa/Docs/UOF_2007_Report.pdf). “Racial pattern in police abuse claims,” *Seattle Post-Intelligencer*, January 25, 2007.

### **Stark Racial Disparities in SFPD’s Felony Arrests**

Felony arrest statistics showing that San Francisco’s police arrest African Americans at a much higher rate than officers in California’s other large cities has prompted calls for further study and explanation. According to a *San Francisco Chronicle* analysis of the data measuring the number of African Americans arrested per 1,000 black residents, black people in San Francisco are arrested for felonies at three times the rate in San Jose, Los Angeles, Long Beach, and San Diego, and four times the rate in Oakland.

The city’s mayor and police chief told reporters that they did not believe the SFPD was targeting African Americans in an unfair way, but also said they were consulting experts to try to do “aggressive data analysis” to try to understand the arrest numbers better. One explanation offered by several city officials was that SFPD officers were cracking down on gangs, many of whom have African-American members, in response to related violence. Officials also stated that African-American drug dealers from out of town made up a significant percent of arrestees because those transactions often happen on the street where detection and arrests are more likely. Because they are not city residents, the per capita calculation showing stark disparities is flawed.

Sheriff Michael Hennessey, who runs San Francisco’s jails, said “[T]he disparity is just incredibly dramatic.” According to Hennessey, “[I]f you are an adult white

male, your chances of being in my jail are 1 in 365, and if you are an adult black male, your chances are 1 in 23.” Hennessey added, “I think this is a reflection of institutionalized racism: You are more likely to get arrested for the same act if you’re black, you are more likely to be retained in jail for the same crime if you are black, and society is more likely to care less about your incarceration if you are black.” Others who reviewed the data found SFPD and city officials’ attempts at explanation unhelpful and urged the city to conduct more thorough research to understand the causes of the disparities and corrective actions that should be taken if African Americans are being unfairly targeted.

“High black arrest rate raises call for inquiry,” *San Francisco Chronicle*, December 17, 2006.

---

## RESEARCH

### **RAND Issues Report on Police-Community Relations in Cincinnati**

**T**he RAND Corporation recently issued its second annual report evaluating police-community relations in Cincinnati as part of that city’s Collaborative Agreement (CA). RAND, which was hired to provide five reports to assess progress in achieving the goals of the CA, used a variety of methods in conducting its reviews, including: a survey on citizen satisfaction with the Cincinnati Police Department; a survey of CPD personnel perceptions of community support, working conditions, and other issues indicating job satisfaction and performance; a survey of citizens and officers involved in a sample survey of citizen complaints; analysis of CPD statistical compilations; analysis of various stages of vehicle stops and indications of racial disparities; and analysis of a sample of videotaped encounters between officers and residents during vehicle stops.

Five neighborhoods constituting less than 10 percent of the city’s 53 neighborhoods accounted for more than one third of the CPD’s arrests and nearly one third of Cincinnati’s reported crimes in 2005. The Over-the-Rhine neighborhood saw a 25 percent increase in arrests in 2005 and a 5 percent drop in the number of reported crimes. RAND reported that due

to an increase in enforcement activities in early 2006, Over-the-Rhine is on track for 11,000 arrests in 2006, a 44 percent increase from 2004.

In analyzing the CPD’s vehicle stop data, RAND commended the CPD for improving data compilation that allows for a useful review for patterns of racial disparities at several levels. RAND examined 133 officers to assess whether they were stopping a disproportionate number of black drivers compared to other, similarly situated officers. The review identified five officers who stopped black drivers at substantially higher rates. RAND said it would work with CPD leaders to better identify such officers. In looking at post-stop patterns, RAND found generally equal treatment between black and non-black drivers except when it came to high-discretion weapons searches, in which black drivers were significantly more likely than non-black drivers – and than black drivers in previous years – to be subjected to a search.

RAND also conducted a random review of 325 videotaped traffic stops to identify whether the race of the driver or officer played a role in how the stops occurred and found three key differences as a function of the officers’ and drivers’ race: black drivers experienced more proactive policing, with more questions about drugs and weapons, more searches, and more passenger license checks, all leading to longer stops; several of these differences were greater if the officer was white; and white drivers communicated in a more positive way with officers during stops and were more likely to be apologetic, cooperative, and courteous. RAND notes the limitations on its ability to identify all causes for the patterns it describes, but points out that the longer, more invasive traffic stops that blacks experience no doubt contribute to a more negative attitude in interactions with the CPD, generally. According to RAND, “those differences in traffic stops may be a significant barrier to improved police-community relations.”

By a large majority, officers agreed that community input is vital to developing effective problem-solving approaches, yet half of officers surveyed believed that community members were unwilling participants in this effort. In a further indication of challenges that remain for efforts to implement problem-solving policing in Cincinnati, RAND’s survey of officers found that half of the responding officers did not think that officers should try to solve non-crime-related

problems, believing instead that proactively stopping cars and “checking people out” were components of good police work. RAND concludes that “it is unclear at this point whether the police and community are on the right trajectory for developing a proactive partnership on problem-solving.” The full report can be accessed online at: [http://www.rand.org/pubs/technical\\_reports/2006/RAND\\_TR445.pdf](http://www.rand.org/pubs/technical_reports/2006/RAND_TR445.pdf); <http://www.gabsnet.com/cincinnati/monitor/Response%20to%20Rand's%20Second%20Annual%20Evaluation%20Report.pdf>

---

## FORCE MANAGEMENT

### Newspaper Publishes Investigative Report on HPD's Taser Use

**A** *Houston Chronicle* special report, based on a review of 900 Taser incidents from December 2004 through August 2006, describes unanswered questions about how often and in what circumstances the weapon is used by the Houston Police Department. According to the report, HPD officers have used Tasers more than 1,000 times during the past two years, but in nearly all of the cases, they were not used in situations where suspects wielded weapons and deadly force clearly would have been justified. Tasers were promoted in Houston as a way to reduce police use of deadly force, but since widespread HPD adoption of the stun guns, the number of people shot, wounded and killed by the HPD has remained steady.

According to the *Chronicle's* investigation, more than half of the incidents leading to the use of Tasers escalated from traffic stops, disturbance and nuisance complaints, and reports of suspicious people; in more than 350 incidents in which Tasers were used, no person was charged or the case was later dropped or dismissed. Of the individuals who were shocked and did face charges, those charges were typically misdemeanors or nonviolent felonies, according to the report.

In response to the *Chronicle's* findings, HPD Chief Harold Hurtt said that the type of crime committed

or eventual charges had little bearing on whether the use of a Taser was appropriate. “When people are charged with minor crimes or nonviolent crimes, maybe the reason is because they were stopped before they committed a much more serious offense,” Hurtt told the *Chronicle*. Officials also noted that Tasers instead of firearms were used against 40 armed suspects.

Houston's use of Tasers has received scrutiny in recent months after the HPD acknowledged that the majority of people who have been shocked were African Americans, and following incidents including the use of a Taser on a Houston Texans football player and a videotaped incident in which Tasers were used on musicians and audience members at a loud music club. In response to concerns raised about the HPD's use of Tasers, the mayor and police chief have agreed to an independent study of Houston's Taser use and the stun guns' medical effects. “The Taser Effect,” *Houston Chronicle*, January 14, 2007.

---

## LEGAL AFFAIRS

### Recent Garrity Ruling Could Impact Police Misconduct Investigations

**A** recent California appellate court decision could have ramifications for investigations of police officers accused of misconduct. In *Thomas Spielbauer v. County of Santa Clara*, a judge ruled that Spielbauer's employer could not discipline him for refusing to answer potentially incriminating questions posed as part of a disciplinary investigation. Spielbauer, a public defender, insisted on a formal grant or offer of immunity from a court to protect his rights under the Fifth Amendment in any future criminal case before he would cooperate with the investigation, claiming that the employer's promise that his statements would not be used against him in any subsequent criminal case was insufficient.

Presiding Justice Conrad Rushing of California's 6<sup>th</sup> Appellate District agreed with Spielbauer's right to make such a demand and rejected the County's argument that immunity arises from the fact of compelling an employee's statement as part of the disciplinary investigation and therefore did not require

a court's formal offer of immunity. [*Garrity v. New Jersey* (1967) 385 U.S. 493.] The Court ruled that the employer's promise of immunity was not a guarantee. The opinion cited a case [*Lefkowitz v. Turley* (1973) 414 U.S. 70], in which the court held that "a witness protected by the privilege may rightfully refuse to answer unless and until he is protected at least against the use of his compelled answers and evidence derived therefrom in any subsequent criminal case in which he is a defendant." The Court ruled that Spielbauer's supervisor only offered a remedial protection available to employees facing internal investigations – that Spielbauer's statements would be excluded from any future criminal prosecution – but did not offer a preservative protection allowing him to remain silent unless and until immunity was first granted.

The Court turned to the question of who should grant the immunity necessary before a disciplinary investigation could proceed. The process suggested by the Court was a petition to the local prosecutor to obtain a protective order immunizing the employee. "Requiring a clear grant of immunity provides superior protection to prosecutorial interests precisely because it disables other officials from unilaterally compelling statements that may taint later prosecutions.... To be sure, the employee's assertion of this right may pose impediments to disciplinary investigations, but surely it is not for the courts to solve that problem with a blanket regime of automatic immunity."

Santa Clara County has asked the California Supreme Court to review the intermediate appellate court's ruling. *Thomas Spielbauer v. County of Santa Clara, et al.*, H029345 (Santa Clara County Super. Ct. No. CV031889), 6<sup>th</sup> Appellate District, State of California <http://www.courtinfo.ca.gov/opinions/documents/H029345.DOC>

---

## POLICE ADMINISTRATION

### After Fatal Raid, Atlanta's Chief Reviews "No Knock" Policy

**P**olice Chief Richard Pennington of the Atlanta Police Department announced that he will conduct a review of his department's use of "no

knock" warrants and confidential informants following a police house raid during which an elderly woman, Kathryn Johnston, was killed by police. During the raid, plainclothes officers burst through Johnson's door and she shot at the officers; in the ensuing shootout, three officers were injured and Johnston was killed. Officers involved in the November 2006 raid had obtained a "no knock" warrant by asserting that a confidential informant had purchased drugs at the woman's home, but the informant who allegedly made the drug buy later said he had never done so and that officers later told him to lie in an effort to justify the deadly raid.

According to reports, "no knock" warrants require officers to show special circumstances indicating that, without the element of surprise, evidence would likely be destroyed or weapons in the house would put officers at risk. In practice, however, brief descriptions, non-specific verification of informants, and trusting judges reportedly are all some officers have needed to obtain such warrants. Critics state that a "no knock" warrant is often a shortcut for officers without time to conduct an investigation showing special circumstances that would justify such a warrant. In response to community outrage over officers' actions related to the deadly raid, a state senator announced that he plans to introduce legislation to stiffen "no knock" warrant requirements. In the meantime, Chief Richard Pennington announced that "no-knock" warrant applications "must be reviewed and approved by a major or higher ranking officer, and a search warrant applications and tactical plans must be approved by a lieutenant or above." *The Atlanta Journal-Constitution*, March 28, 2007; "Atlanta tightens rules for drug unit."

Meanwhile, the Fulton County District Attorney is seeking a 17-count indictment including felony murder, false imprisonment, false statements, and other charges against three of the involved officers; he announced that the U.S. Attorney and FBI will pursue a wider-ranging investigation into corruption within the APD.

"Atlanta police to review 'no-knock' policy," *Associated Press*, November 27, 2006; "Fatal shooting under scrutiny," *Atlanta Journal-Constitution*, December 2, 2006; "Feds told officer's lie led to fatal drug bust," *Atlanta Journal-Constitution*, January 11, 2007; "Move

to seek murder charges no snap decision, Howard says," *Atlanta Journal-Constitution*, February 10, 2007.

---

## NEWS BRIEFS

### Data Show Dramatic Rise in NYPD Stops

The NYPD has released new statistics showing that its officers stopped over 500,000 individuals on the city's streets in 2006 – an average of more than 1,300 stops per day – often conducting searches for weapons on those stopped. The last time the department divulged a year's worth of data was in 2002, showing about 97,000 stops. Questions immediately arose regarding the delay in releasing information that, by statute, should be released quarterly, as well as the reason for the dramatic increase in stops and frisks. (Officials reported that searches of subway riders' bags were not considered stops-and-frisks so would not be an explanation for the spike.)

Guidelines to monitor stops-and-frisks were set forth in a 2001 city law and in federal court cases settled in 2004. Both required that the NYPD release to the City Council, on a quarterly basis, basic data about individuals stopped and the reasons for those encounters. But before the latest data were released, it had been a year since the last such report, and it covered only a three-month period in 2003; statistics about the rest of 2003 and all of 2004 and 2005 have not been provided. "Number of people stopped by New York police soars," *New York Times*, February 3, 2007.

### Expert Issues Critical Report on the Chicago PD

In an expert opinion on behalf of plaintiffs suing the Chicago Police Department, a national expert on internal affairs systems asserted that CPD officials have deliberately ignored corruption, making corrupt officers feel confident that they can commit crimes on the job without being caught or punished. The expert reportedly also found that police officials "made a conscious choice to not implement a reasonable system to identify and remediate officers

who exhibit negative performance, behavior and/or attitudinal problems."

The expert, Lou Reiter, is a former deputy chief of the Los Angeles Police Department who has advised nearly 1,000 police departments and has been hired by the City of Chicago as an expert witness in police-brutality lawsuits. Reiter reportedly based his opinion on a review of department policies, depositions of police officials and prosecutors in court cases, complaints alleging officer misconduct, and department reports and records. The civil suit in question is on behalf of a pair of Alcohol, Tobacco, and Firearms (ATF) agents who claim that when they identified a corrupt CPD officer, he influenced internal affairs officers to question the ATF agents' credibility. "Report: Bad cops protected," *Chicago Tribune*, November 29, 2006.

### Cleveland Officers' Use of Non-Deadly Force Always Justified

Cleveland Division of Police (CDP) supervisors reviewed over 4,400 non-deadly force incidents that occurred over a nearly four-year period ending in September 2006. In every case, supervisors who conducted the investigations found the officers justified in their actions.

The U.S. Justice Department has investigated the CDP and, in a 2002 findings letter, questioned the "competency, thoroughness, and impartiality of use of force investigations." The CDP made improvements regarding investigations of deadly force incidents and the Justice Department announced an end to its related inquiry. Non-deadly force investigations, however, were not similarly addressed. The Justice Department had flagged the problem of having the immediate superiors of involved officers investigate because, it warned, such an arrangement creates "a strong potential for conflict of interest." *Plain Dealer* reporting also suggests continued gaps in record-keeping, with indications that some incidents may never have been investigated. Finally, when the *Plain Dealer* reported that the CDP still had not implemented an early warning system, the police chief ordered that such a system be instituted – something that has been promised several times over the past six years.

"Issues still surround use-of-force probes," and "Cleveland police always justify using force," *Plain*

*Dealer*, January 14, 2007; "Perfect police?" *Plain Dealer*, January 20, 2007. [http://www.usdoj.gov/crt/split/documents/cleveland\\_uof.pdf](http://www.usdoj.gov/crt/split/documents/cleveland_uof.pdf)

## IACP Issues Civil Rights Report

The International Association of Chiefs of Police has issued a new report, "Protecting Civil Rights: A Leadership Guide for State, Local, and Tribal Law Enforcement." The guide reviews agencies' experiences in proactively protecting civil rights and examines agencies that have come under federally mandated monitoring resulting from investigations of a pattern or practice of civil rights violations.

The 243-page report covers a broad array of topics, including how to: create and maintain strong community outreach and engagement; develop an early intervention strategy; manage the complaint process; manage use of force; address racial profiling and create a comprehensive commitment to bias-free policing; create and maintain an effective personnel management system; and create and maintain an effective data-management system. Each section includes practical recommendations and suggestions for further reading.

The IACP writes that "by bringing these sources together, the guide provides a comprehensive overview of the civil rights issues and challenges that today's law enforcement leaders face." The report is the product of a long-term project undertaken by the IACP with assistance from the Office of Community Oriented Policing Services in cooperation with the Civil Rights Division's Special Litigation Section and the Community Relations Service of the U.S. Department of Justice. The full report can be accessed online at: [http://iacp.org/documents/index.cfm?fuseaction=document&document\\_id=862](http://iacp.org/documents/index.cfm?fuseaction=document&document_id=862)

## Review of Peña Shooting Faults LAPD Tactics, Supervision

An LAPD standoff with an armed suspect, during which officers shot and killed the suspect and his toddler daughter, was marked by poor supervision and flawed tactics, according to the Los Angeles Police Commission. The Commission's summary of its findings indicated that poor communication and poor leadership as the incident initially unfolded led to

mistakes. The Commission concluded that "because of limits of command and control during this incident, subordinate officers assumed leadership roles, implemented tactics that were not coordinated and ultimately fired into a building where it was known at least one hostage was being held." The Commission reportedly had found that two officers at the scene violated department policy at the start of the incident and that a lieutenant, three sergeants, and 13 officers needed additional training. The Commission cleared SWAT officers who stormed the building at the end of the two-and-a-half hour standoff.

Jose Raul Peña held his daughter, Suzie Peña, as he fired at officers who responded to a radio call of "unknown trouble" in July 2005. Failure to communicate and properly supervise led officers to believe that Peña was firing at officers in some instances when the rounds were really from other officers' bullets that had penetrated the building's walls. One officer who was found to have violated department policy reported that he fired only after seeing Peña shoot at him, but the evidence found that that officer could not have been able to see Peña at that time and that the shots he believed came from Peña were actually fired by fellow officers. The Commission found that another officer could not have seen Peña and that he fired without a target despite knowing one or more hostages were present and that other officers were potentially in his line of fire. A video recording from a security camera system at the automobile repair shop where the encounter took place contradicted the officers' claims.

"LAPD shooting blamed on poor supervision," *Los Angeles Times*, December 6, 2006.

## Videotaped Incidents Lead to LAPD Changes, Officer Charges

After bystanders videotaped incidents showing LAPD officers using force during arrests, the department leaders announced a pilot program to install digital video cameras in most of South Bureau's 300 patrol cars. At a community forum discussing the new cameras, the L.A. Police Commission's Inspector General, Andre Birotte, told community members, "[F]or that small percentage of officers that want to go on a wayward path, we would hope that those videos would help put them back on track...."

For those officers doing the right thing, if they are accused of misconduct and the video shows otherwise, you have it on tape."

In one of the recorded incidents leading to the in-car video pilot project, officers punched a suspect in the face several times during his arrest in Hollywood; another recording showed an officer using pepper spray on a handcuffed suspect. The latter case led to an internal review of LAPD's pepper-spray policies, but police officials determined no changes were required.

Another videotaped incident led to an LAPD officer being arrested on suspicion of assaulting a teenager in Central Division custody. In that case, the officer reportedly was shown using a chokehold on a handcuffed 16-year-old. According to reports, the officer then removed the teen's handcuffs and challenged him to a fight. The encounter was recorded by a hidden camera that had been installed to identify vandals without officers' knowledge. The teenager had been picked up on suspicion of a curfew violation.

"LAPD to install cameras in patrol cars," *Los Angeles Times*, November 21, 2006; "LAPD decides no change to pepper spray policy is needed," *Los Angeles Times*, November 22, 2006; "Officer is held in attack on teen," *Los Angeles Times*, December 8, 2006.

## LAPD's Secrecy in Disciplinary Process Decried

The LAPD's Board of Rights rejected the Los Angeles Police Commission's recommendation that Officer Steven Garcia be punished for his role in the February 2005 shooting death of 13-year-old Devin Brown, instead deciding in secret that the officer's actions were justified and no punishment was warranted. The decision itself, and the secrecy surrounding it, set off a debate about the Commission's lack of disciplinary power and the lack of transparency in LAPD's disciplinary hearings. Police Chief William Bratton and Mayor Antonio Villaraigosa agreed that better transparency and an overhaul of the rules allowing the secret proceedings was required. They called for a new state law to enable open hearings on discipline, though officials immediately acknowledged that changing the law

would be an uphill battle in light of strong police union opposition.

Experts pointed to a recent California Supreme Court ruling (*Copley Press Inc. vs. Superior Court of San Diego*) that held that police personnel records were not public. That ruling led the L.A. City Attorney to advise (incorrectly in the view of some legal experts) the LAPD to keep Board of Rights closed, ending the decades-long practice of public access to the proceedings. Officer Garcia later waived his right to privacy and released transcripts describing the panel's reasoning.

Brown was shot and killed after a brief car chase in South Los Angeles. The involved officers claimed Brown posed a threat by driving slowly toward police, but the Police Commission, in a 4 to 1 vote, determined that the shooting violated department rules because evidence showed Garcia was outside the path of the vehicle and not in danger when he opened fire.

*Los Angeles Times*: "Ruling in teen's killing spurs outcry," January 11, 2007; "Police chief, mayor urge openness," January 12, 2007; "A bad LAPD decision, squared," January 12, 2007; "Officer cleared in shooting releases transcripts," January 13, 2007; "Secrecy again a major issue for the LAPD," January 15, 2007. Board of Rights transcripts provided by Officer Garcia can be found at [http://lapd.axxiomportal.com/custom/10/1082/misc/BF\\_23463\\_RATIONALE.pdf](http://lapd.axxiomportal.com/custom/10/1082/misc/BF_23463_RATIONALE.pdf)

## Recorded Taser Incident at UCLA Leads to Inquiry

University of California-Los Angeles (UCLA) officials announced an independent inquiry after officers at UCLA's library repeatedly shocked a student using a Taser stun gun. Mostafa Tabatabaiejad was confronted by officers who asked to see his student identification card and then tried to make him leave the library when he refused to provide it. A library visitor recorded the November 2006 incident on a cell phone camera and its wide broadcast led to outcries and a lawsuit from Tabatabaiejad.

The university's acting chancellor announced an investigation of the incident would be carried out by the Los Angeles-based Police Assessment Resource

Center, led by its president, Merrick Bobb. According to press reports, police officers at six of 10 UC campuses carry Tasers, but only UCLA expressly allows officers to stun those passively resisting orders. UCLA reportedly purchased Taser stun guns in 2004 in the hopes of reducing injuries and preventing lawsuits.

"Officer in Taser case identified," *Los Angeles Times*, November 21, 2006; "Taser use limited at most UC campuses," *Los Angeles Times*, November 22, 2006; "UCLA student files suit in Taser incident," *Los Angeles Times*, January 18, 2007.

## INTERVIEW

*Dean Esserman has spent his entire career in law enforcement. He currently serves as Chief of the Providence, Rhode Island Police Department. He is a graduate from Dartmouth College (B.A.), and New York University School of Law (J.D.). He is a member of the New York and Massachusetts Bars, and is currently serving as the Senior Law Enforcement Executive-in-Residence at the Roger Williams University Justice System Training and Research Institute.*

*Dean Esserman was appointed in 1998 as Chief of Police in Stamford, Connecticut, where he brought community oriented policing and cut crime by 50 percent. While in Stamford, he introduced many*



*"I think that first off we have become a nation that has accepted the fact that we are burying our young, not that our young is burying us...if you turn on the TV news, chances are pretty good the lead story is going to be about violence; it's going to be a story more than likely of a shooting. The victim is going to be a young man, the assailant is going to be a young man, and more often than not, the weapon in the assailant's hand is going to be an American made gun. And we have come to accept that, that is life in the cities of America."*

*innovations and developed a national reputation as a police leader. He became Chief of Police in Providence in January 2003. He currently serves as a member of the Board of Directors of PERF. Dean Esserman was appointed by the United States District Court to monitor the Wallkill, New York Police Department. PARC served as his staff.*

**PARC:** You stated recently that you had some concerns about the state of American policing today. I was wondering if you could explain what those concerns are.

**Esserman:** I am frustrated. We had a real focus on safety and crime in America in the 1970's and 80's that culminated in it being a political issue for candidates at every level of government, from municipal and gubernatorial elections to even the national elections. There were debates about crime and what to do about it, and the police learned a lot. Today, attention to crime has fallen off the radar screen, resulting in crime unfortunately going back up in almost every community in America. Violent crime in particular is up.

**PARC:** Please give some specifics about the increases in violent crime.

**Esserman:** We lost more than 16,000 Americans last year to murder, 16,000 the year before, and 16,000 the year before that. That's nearly 5 times the number of people killed in the World Trade towers on September 11. Here in Providence, I'm losing citizens in my community every month to murder. Many communities are losing citizens every week or every day to murder. And yet I

don't see the moral outrage that seems to have been aroused on September 11. The government and our

great nation are pivoting away from the threat from within and focusing solely on the threat from abroad.

**PARC:** Why aren't people feeling that moral outrage?

**Esserman:** It's a sense that this is simply a part of life of living in cities across our nation. And we are an urban nation; the majority of us live in cities. In fact, this is the decade that we are becoming an urban globe. It's accepted that part of urban life is living with crime and violence, and in particular murder.

**PARC:** To what extent do you attribute the lack of moral outrage to the rise and proliferation of street gangs where many murders involve one gang member against another?

**Esserman:** I think that's part of the story but I don't think that is all of the story. I think that first off we have become a nation that has accepted the fact that we are burying our young, not that our young is burying us. It doesn't matter where you travel across the country—if you turn on the TV news, chances are pretty good the lead story is going to be about violence; it's going to be a story more than likely of a shooting. The victim is going to be a young man, the assailant is going to be a young man, and more often than not, the weapon in the assailant's hand is going to be an American made gun. And we have come to accept that that is life in the cities of America. I don't feel the passion. I don't feel the sense of this is unacceptable.

I think part of the story is the gangs. But not every young man is a member of a gang, not every shooter is a member of a gang. It seems that we have become a country that accepts violence and accepts violence among our young. And we also lose focus. It seems that America is a great giant, but the giant is a Cyclops with but one eye, and when we pivot to look at something else, we forget what we were looking at before. In the 80's and 90's, we were looking at crime

in America and we brought crime down dramatically. Cities in particular began to be free of some of the fears they have had for a generation.

**PARC:** And at the same time we introduced community based policing.

**Esserman:** Which was a remarkable transformation in American policing. It was self criticism; it was the policing profession— along with scholars and writers and newspaper editors and police chiefs— looking at American policing and asking what we did wrong. We realized that anonymous, distant, 911-driven

*"It seems that our federal government has lost focus on ethics and integrity issues as well. We used to go to conferences hosted by the Attorney General on ethics and policing. Attorney General Reno used the power of the Civil Rights Division to focus on investigation and on monitoring of police departments. Strategies and tools were developed that were working, not without bumps in the road, but were working. And it seems that has all been abandoned."*

policing was n't working. The policing we had done in the past generation had created great distance between us and the community. In fact, the only way to get to know us

was to read the badge number that we were forced to wear on our uniform because we had become anonymous. Community policing was really about building relationships again, building trust. And it was working. It wasn't just better, tougher, tactical policing, but rather it was a new relationship between the police and the community and we were succeeding in building trust and at the same time we were succeeding in bring crime down.

And then this giant Cyclops of a nation pivoted, and we lost focus on what we were looking at. Before September 11, President Bush called himself the education president and looked to make his mark on domestic issues. After September 11, President Bush became the terrorism and war president, and we haven't pivoted since then back to domestic issues.

We are a nation in which crime is now on the increase across almost every community in America for two years in a row. Violent crime is up; murder is up, there are fewer police officers on duty in every community in America today than there were on

September 11. At the same time, we have the enormous incarcerated population in this country and we haven't solved the problems.

**PARC:** One of the things done in the 90's under President Clinton was to add 100,000 police officers to the streets of this country through the activities of the COPS Office and the Department of Justice. Would you advocate increased funding for the COPS Office to add more officers?

**Esserman:** I would emphatically. I think that it is dearly missed. It was an extraordinary event, the 1994 crime bill. The federal government took a look at the problem across the country of crime and the evolution of policing and instead of coming up with a centralized Washington DC approach, the decision was to use tax dollars to hire more officers across the country—not more federal agents, not more federal prosecutors—but to give money back to the communities to hire officers, and it worked. Now it's a sad state of affairs. You look north of us to Boston, which now is suffering from a loss of several hundred officers from where they were a few years ago. South of us is New York City, also suffering from a loss of several thousand officers from where they were a few years ago. In New Haven, Connecticut, where I was Assistant Chief for several years, a department that's only 450 officers is down nearly 90 officers from where it was just a few years ago. Every community across the country is suffering from fewer officers, is suffering with more crime, and it seems that some of the things we did that worked, we have abandoned—like the COPS office. That seemed to make a difference.

**PARC:** In the 90's also there was a focus on integrity and ethics issues by DOJ and an emphasis upon patterns or practices police misconduct investigations by the Justice Department. Have you seen a shift away from those concerns?

**Esserman:** Absolutely, I served as one of those federal monitors for four years in a case brought by now-Governor Spitzer in federal court against a police department in New York State. It seems that our federal government has lost focus on ethics and integrity issues as well. We used to go to conferences hosted by the Attorney General on ethics and policing. Attorney General Reno used the power of the Civil Rights Division to focus on investigation and on monitoring of police departments. Strategies and tools were developed that were working, not without bumps in the road, but were working. And it seems that has all been abandoned.

**PARC:** Now you mentioned your role as a federal monitor, and you managed to turn a troubled department around. PARC served as your staff. Was it difficult to gain the confidence and trust of the police and the town?

*"The ambivalent way that our nation welcomes or responds to immigrants causes real problems. In my hometown of New York City, we have that beautiful Statue of Liberty welcoming immigrants to our nation. Yet we at the same time are issuing conflicting policies and sending some pretty contradictory messages to those who come to our shores."*

**Esserman:** No. And if you ask the Police Chief, or the Town Supervisor, or the Town Board whether their community is in better shape today, after four years of being under monitoring, they would all agree that it is. I think the community benefited, I think the police department benefited. We not only played watch dog for compliance, but we were active in moving that department forward. At the request of the Town Board and Police Chief, we provided advice concerning a new contract for police officers. The Town Board consulted us in the search for the new police chief and in the design and building of a new police headquarters.

**PARC:** Did you have any role models whose work as monitors influenced you?

**Esserman:** I talked at length to colleagues who were monitors at the conference PARC hosted in California a few years ago; it was a great opportunity to talk, share ideas. I saw different styles of monitoring. I was particularly interested in the monitoring in Pittsburgh, Pennsylvania, where the police chief and

monitor came together and worked closely in making change. And I used that as a model, as a good example.

**PARC:** The role of local police in enforcing federal immigration laws and dealing with immigrant populations is a matter of contention. What are your thoughts on that issue and are you more or less concerned today?

**Esserman:** I'm more concerned. The ambivalent way that our nation welcomes or responds to immigrants causes real problems. In my hometown of New York City, we have that beautiful Statue of Liberty welcoming immigrants to our nation. Yet we at the same time are issuing conflicting policies and sending some pretty contradictory messages to those who come to our shores. We seem to forget that we all come from an immigrant family. I see now today, as a police chief, how we are dealing with immigrants who come from south of our border and from Africa and parts of Asia. It seems that we have forgotten Emma Lazarus's words on that beautiful Statue.

[Dean Esserman is referring to the poem in the text box on this page.]

I don't know how welcome immigrants feel today. I don't know how trusting they are of uniformed authority. That the federal government has asked us to get involved in immigration issues, I think has made policing and public safety a harder job to do here.

**PARC:** Let me ask not only about immigrants. You have been particularly sensitive and eloquent

respecting the disparate impact of our criminal justice system and policing on communities of color. Have you become more or less concerned about those issues in recent years and, if so, why?

**Esserman:** We have retreated from that issue. I think about another famous statue standing in the halls of my law school, that of Justice holding the scales, blindfolded. These days, I think she's peeking out from under it and noticing race. My experience is that people of color very often do not feel comfortable with the role of police in their community; that they have had some pretty uncomfortable experiences. It is very hard to really understand what it feels like to be stopped, in a car or on foot, by a uniformed officer on a pretext and then to be frisked or ordered out of the car. A person can't help but surmise that he or she was stopped because of looking "out of place" by virtue of skin color. That experience and pain rarely goes away, even years later.

So what makes it different is when officers become part of the community. They know people, they know their community, they are going to be with their community day in and day out. Too often today, the relationship is between a uniformed officer who is an anonymous figure passing through your street or passing down your highway and some anonymous citizen.

I have run several departments where I sent white officers into all-black communities as neighborhood beat officers, and I have listened to one story after

### *Emma Lazarus' Famous Poem*

#### *The New Colossus*

*Not like the brazen giant of Greek fame,  
With conquering limbs astride from land to land;  
Here at our sea-washed, sunset gates shall stand  
A mighty woman with a torch, whose flame  
Is the imprisoned lightning, and her name  
Mother of Exiles. From her beacon-hand  
Glows world-wide welcome; her mild eyes  
command  
The air-bridged harbor that twin cities frame.  
"Keep ancient lands, your storied pomp!" cries she  
With silent lips. "Give me your tired, your poor,  
Your huddled masses yearning to breathe free,  
The wretched refuse of your teeming shore.  
Send these, the homeless, tempest-tost to me,  
I lift my lamp beside the golden door!"*

another from people coming down to headquarters to see me and saying, “You know, Chief, I don’t particularly like your department and I don’t know if I even like you yet, but I love that cop you put in my neighborhood and don’t you ever take that cop out of my neighborhood. He’s become part of our community.”

**PARC:** Where those relationships have not been forged, do you find people more reluctant to report crime?

**Esserman:** I’ll tell you a story of my son, who is in graduate school in Washington DC. As an honest police chief on a city salary, I couldn’t afford a car when he graduated

college, so I bought him a bicycle. The first month he is down there, he called to say his bicycle was stolen. Now let me ask you a question, who do you think was the first person he called when his bicycle was stolen in Washington DC? It was me. If the son of an American police chief doesn’t call 911, aren’t we in trouble? The reality is that we now know that more than half the crime in this country never gets reported to the police. The point is when you are a victim of a crime, whether it’s personal or property, it’s intimate, it’s frightening. You call who you know, and it’s not the police anymore. So, even the son of an American police chief will call his father from another part of the country before he will pick up the phone to call 911.

**PARC:** Let’s talk about Providence for a second. You came to Providence and into a community that was troubled and where the relationships between the minority communities and the police were already significantly abraded. As I recall when you came in, there were calls for a citizens review board. You seem to have caused the situation to turn around. If that

assessment is correct, what did you do that others have not?

**Esserman:** Well, you know it was a time of traumatic change. The former mayor, who was the longest serving mayor in America, went to jail. He had completely corrupted the police department and its leadership. He was the king and they were forced to be his army. Then a new mayor was elected, who recruited me. Though most police chiefs don’t like to admit it, I believe a police chief is really only as good as a mayor lets him be. Our Mayor, David Cicilline,

is a pretty remarkable man who let us do a good job. He allowed us to return the police department to the people. We became the people’s police department. We reorganized ourselves to become a truly neighborhood

*“I have run several departments where I sent white officers into all black communities as neighborhood beat officers, and I have listened to one story after another from people coming down to headquarters to see me and saying “You know, Chief, I don’t particularly like your department and I don’t know if I even like you yet, but I love that cop you put in my neighborhood and don’t you ever take that cop out of my neighborhood. He’s become part of our community.”*

based police department driven by neighborhood concerns. As such, we began to regain the trust that had been lost so long ago. Along the way we also brought crime down. Four years in a row, so far, Providence is one of the few cities in the country where crime is still going down dramatically. The murder rate has been cut in half. We are burying fewer young people than we have in a generation in this city and the police are becoming trusted allies in every neighborhood, in every community.

**PARC:** As you look to the future of American policing, what do you see?

**Esserman:** I go back to what worries me most. I’m the father of three children. I refuse to pass a world over to my children where fathers and mothers are burying their children and where that seems to be okay. It’s not okay; it’s not okay at all. I have three children of my own, and I also have another 28,000 children. The children of this city are my children. I go to every shooting in this city. I go to every emergency room. I go to every funeral. We’re not going to continue to accept the fact that it’s okay. The

children of my city are not being killed by insurgents from Iraq. They are not being killed by terrorists from Al Qaeda. They are killing each other, and that is happening in every city in this country, and I do not see the moral outrage. I love my country, I'm a patriot. I don't want this country to be defenseless against terrorists, but neither do I want this country to abandon the fight within by just looking across the ocean to find problems. And that is something I think about all the time.

*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](http://www.parc.info), please send us an email at [information@parc.info](mailto:information@parc.info).*

*PARC has revised, improved, and expanded its web site. The web site is replete with information, documents, and links for use by police professionals, the police oversight community, and elected and appointed officials.*

*Please visit [www.parc.info](http://www.parc.info)*

## CALENDAR

### April

**26-28, 2007 Police Executive Research Forum**, Annual Meeting, Chicago, IL  
[http://policeforum.org/event\\_items.asp?month=4&year=2007&item\\_id=4](http://policeforum.org/event_items.asp?month=4&year=2007&item_id=4)

### June

**23-27, 2007 National Sheriffs' Association**, Annual Conference, Salt Lake City, UT  
<http://www.sheriffs.org/home.shtml>

### July

**23-25, 2007 National Institute of Justice**, Annual Conference, Arlington, VA  
[http://www.ojp.usdoj.gov/nij/events/nij\\_conference/welcome.html](http://www.ojp.usdoj.gov/nij/events/nij_conference/welcome.html)

### September

**25-28, 2007 National Association for Civilian Oversight of Law Enforcement** 13<sup>th</sup> Annual Conference, San Jose, CA  
<http://nacole.org/>

### October

**13-17, 2007 International Association of Chiefs of Police**, 113<sup>th</sup> Annual Conference, New Orleans, LA  
<http://www.theiacpconference.org/>

