

# POLICE PRACTICES REVIEW

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## UPDATE FROM PARC

**B**razil's Attorney General, Leonardo Azeredo Bandarra, recently invited PARC President Merrick Bobb to speak at the Civilian Oversight of Police Conference in Brasilia. The conference is sponsored by the Escola Superior do Ministério Público da União, a Brazilian government institution that supports the training of prosecutors, and the Ministério Público do Distrito Federal e Territórios. It will take place in June 2008.

PARC is currently involved in a large number of other interesting assignments. Among these are the following:

- Pursuant to an assignment from the city of Denver, PARC recently distributed a draft report on the Denver Police Department's experience with officer-involved shootings.
- The LAPD engaged PARC as a subcontractor to its grant from the COPS Office to formulate national guidelines for Internal Affairs. PARC recently delivered its draft of those guidelines to the heads of Internal Affairs in 12 of the largest US law enforcement agencies.
- PARC is studying conditions of confinement and provision of medical services to female inmates in the Los Angeles County Jail for the Los Angeles County Board of Supervisors.
- PARC is also conducting a review of in-custody and reentry programs and services for female inmates in the Los Angeles County Jail, to include a survey of that population, for the John Randolph Haynes and Dora Haynes Foundation.
- PARC is studying trends and patterns in judgments and settlements in litigation brought against a large law enforcement agency.
- PARC recently completed a confidential analysis of a controversial use of force involving school

- police at the behest of the General Counsel and Board of the Los Angeles Unified School District.
- PARC completed a report commissioned by UCLA of a Taser incident involving campus police and a UCLA student.
- Chief Bratton of the LAPD has involved us in a Board of Inquiry examining SWAT operations in that department and in a working group for implementations of reforms in the wake of the Rampart scandal. On April 15, 2008, the Executive Summary of the Board of Inquiry Report was presented to the Los Angeles Police Commission. Chief Bratton therein outlined his commitment to implement most of the recommendations of the Board. A copy of the Executive Summary can be accessed on the PARC website at: [http://www.parc.info/client\\_files/4-15%20SWAT\\_exec%20sum.pdf](http://www.parc.info/client_files/4-15%20SWAT_exec%20sum.pdf).

- PARC recently prepared a risk management instrument for Portland, Oregon to use in the analysis of officer-involved shootings.
- PARC is also preparing a report for Portland on the implementation of recommendations from PARC made to the city a few years ago on use of force.
- Chief George Gascón of the Mesa, Arizona Police Department is involving us in a consulting capacity there on revisions to police policies.
- We recently fashioned a proposal for civilian oversight in New Orleans at the behest of a New Orleans City Councilman.
- We also prepared and published a report for the city of Farmington, New Mexico on improving police-community relations.

Through these assignments and others, PARC continues to provide pragmatic advice and evidence-based studies and research to persons and entities involved in American law enforcement. PARC remains a nonprofit that strives to provide unbiased counsel and research on law enforcement issues in service of effective, constitutional, and accountable policing. PARC's clientele consists of state and federal agencies, cities and counties, police departments, police executives, civilian oversight professionals, and others working for better policing and improved community relations.



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

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## **CIVILIAN OVERSIGHT**

### **Special Counsel Reports on LASD's Internal Investigations**

**P**ARC President Merrick Bobb, who serves as Special Counsel to the L.A. County Board of Supervisors, has issued the 24<sup>th</sup> semiannual report on the Los Angeles County Sheriff's Department (LASD). This report describes PARC's year-long look at Internal Affairs Bureau (IAB) investigations of officer-involved shootings and serious force cases. The PARC review looked at a random sample of 49 completed IAB cases (about a quarter of the total) from 2004 and 2005, which included 16 "hit" shootings, nine "non-hit" shootings, one warning shot, and 23 force cases.

PARC found that approximately half of IAB investigations are thorough, but that the other half “could have been better.” PARC noted that LASD’s Executive Force Review Committee’s (EFRC’s) reviews, which are tasked with determining whether a use of force was within policy and identify tactical, strategic or training “lessons learned,” are conducted substantively and procedurally “in a manner that is a credit to the LASD. The questions committee members ask are serious, probing, and successful in making the facts clearer. Tactics are analyzed intelligently and objectively. Dispositions are tailored to the problems that are identified.” PARC commended an EFRC coordinator for creating and implementing the “Force Review Briefing,” a two-page summary and tactical analysis of a recent case to be circulated to supervisors. The report also highlighted the positive influence of the Office of Independent Review (OIR) in encouraging high quality IAB and EFRC reviews.

Along with praise for IAB’s efforts and EFRC reviews, however, the report describes substandard investigations, some featuring leading questions by IAB investigators intended to support a conclusion that a deputy acted within policy. In other instances, IAB investigators accepted Homicide investigators’ findings rather than conducting a thorough administrative investigation. The report also noted that the OIR publishes a review of the quality of investigations and that, of all closed administrative investigations from 2004 and 2005, only half were rated “thorough,” while 48 percent were rated “adequate.” According to PARC, “this is a matter of concern that needs to be addressed by the LASD.”

Among PARC’s other recommendations:

- IAB’s revised policy relating to transcripts should be extended to include the Homicide and IAB interviews of all witnesses whose information is material to the issues raised by that force review.
- IAB investigators should interview all deputies who shoot individuals, even if Homicide investigators have already interviewed the deputies. (The LASD recently adopted this recommendation.)
- The Department and IAB should take steps to improve the timeliness of force reviews.
- The Department should proceed with its hit shooting and in-custody death reviews without

waiting for Homicide investigators and the District Attorney to complete their parallel inquiries.

- EFRC should clarify questions its members need answered and better structure the deliberations and conclusions part of EFRC proceedings and the stable nature of EFRC membership should be maintained by slowly rotating in new members so that the majority will have significant experience on the committee.
- The Department should reopen an incomplete investigation of a case in which a deputy shot and injured a juvenile — who was later sentenced to seven years in the California Youth Authority on charges of assault with a firearm against a police officer — because of the case’s unresolved contradictions. The LASD reportedly rejected the Special Counsel’s recommendation.

The full report may be accessed online at: [http://parc.info/client\\_files/LASD/24th%20Semiannual%20Report.pdf](http://parc.info/client_files/LASD/24th%20Semiannual%20Report.pdf).

“Report faults internal affairs’ shooting probes,” *Los Angeles Times*, December 20, 2007.

## Review praises L.A. County’s Office of Independent Review

In Los Angeles County, a review of the Office of Independent Review (OIR) has found that it is doing a good job, operates in a fair manner, and increases public confidence in the Los Angeles County Sheriff’s Department (LASD). According the report produced by the county’s Chief Executive Officer (CEO), the OIR helps reduce liability to potential lawsuits by urging the department to correct or improve training and disciplinary procedures. “By having the OIR monitor the department’s actions, LASD personnel are more cognizant to follow departmental policy,” according to the CEO.

OIR is a civilian oversight group tasked with monitoring the LASD and providing it with legal advice to ensure officer misconduct is investigated and disciplined in a thorough, fair, and effective way. The review of the OIR was sought by the Los Angeles County Board of Supervisors in response to a request by the union representing sheriff’s deputies.

“Report lauds work of Sheriff’s Department monitor,” *Los Angeles Times*, October 25, 2007.

## Seattle Board Reviews Police Oversight System

The Police Accountability Review Panel has issued its final report on its review of the Seattle Police Department's accountability system. The system features: the Office of Professional Accountability (OPA), which is part of the Seattle Police Department; a civilian OPA Auditor who examines select cases; and an OPA Review Board, made up of three citizens appointed by the city council and tasked with overseeing the way OPA handles citizen complaints. Appointed by Seattle mayor Greg Nickels in June 2007, the 11-member panel was tasked with assessing the OPA's effectiveness, organizational structure, and staffing levels and making suggestions for improvement.

The Panel found that each component of Seattle's police accountability system plays an important role and recommended that its general structure be maintained. However, poor definition of the roles and working relationships has undermined the overall effectiveness and transparency of the oversight system. The Panel recommended that the roles of each agency be clearly defined and that the role of the OPA Auditor be strengthened and expanded to include regular audits of policies and procedures, the results of which should be reported to the public. Other recommendations include the expansion and improvement of the OPA Review Board, increased transparency of the discipline and review process, and strict guidelines for the discipline of dishonest officers.

The Panel, made up of volunteers, was created as critics questioned the police chief's exoneration of two officers accused of serious misconduct and the promotion of another officer who had been involved in a controversial incident. It includes Gary Locke, former Washington state governor, Norm Rice, former Seattle mayor, a former U.S. Attorney, a former public defender, a former judge, an ACLU representative, representatives of civil rights and labor groups, and a dean emeritus of the University of Washington.

Before the Panel issued its findings, the city council voted unanimously in September to have the police chief provide written explanations regarding his disciplinary decisions. Plans were also announced to move the OPA to a building separate from the police department.

The full report may be accessed online at: <http://www.seattle.gov/policeaccountabilityreviewpanel/>.

"Big names on police panel," *Seattle Post-Intelligencer*, June 29, 2007; "Police chief must explain internal affairs decisions, council votes," *Seattle Post-Intelligencer*, September 25, 2007; "Police complaint office will move to a new home," *Seattle Post-Intelligencer*, December 10, 2007.

## San Jose's Mayor Proposes Limits on Police Auditor

San Jose's mayor has proposed new limits on the Independent Police Auditor's (IPA) power to independently review in-custody deaths and internal police investigations into those incidents. The mayor said that the IPA should only review such fatalities if a citizen complaint about the incident is filed. Otherwise, the mayor said the IPA could participate in an evaluation of the incident for policy or training issues as part of a police panel, but could not conduct her own independent review of the administrative investigation of the officer's actions. The mayor said that the IPA "will be looking over the department's shoulder, in somewhat limited circumstances." The proposal required the city council's approval.

The mayor's plan was suggested just as community activists and others expressed increasing concern over several deaths in police custody, including several deaths after officers had used Tasers on those individuals and a report indicating that SJPD officers used force against African-Americans at a higher rate than against members of other ethnic groups. Those activists had called for increased scrutiny of the police for in-custody deaths that are not the result of shootings.

The IPA said that the mayor's interpretation of her powers was not in keeping with the authority granted by the city council. "If we lose this authority it's a big step backward for the city...and the efficacy of this office." She also noted that cases deserving of her office's attention do not always generate citizen complaints. Her report discussed two death cases, one in which an individual died after Tasers had been deployed 20 times. There was no complaint filed and it was deemed by the police department not to be a death in custody as the man died the next day in the hospital.

The mayor's recommendation instead calls for the IPA's inclusion on a training and policy review panel when suspects die after police use certain kinds of force. That option also required city council approval, and an agreement between the city and police unions. In September, the city council directed the city manager to review all death cases that follow the use of force with the "strong recommendation" that the IPA participate in the review, to the same level of review practiced by the IPA in officer-involved shootings, within the limits of the Charter. The IPA's involvement, said the city council, is limited to participation in the officer-involved shooting review panel, or similar panel if created for in-custody deaths, except when a complaint is filed therefore triggering an IPA audit or a full review.

The police chief has stated that it has been "inappropriate" for the IPA to audit in-custody death investigations absent citizen complaints following an IPA report in mid-2007 that was critical of the way the SJPD classified citizen complaints.

"San Jose mayor moves to limit power to probe use-of-force deaths," *San Jose Mercury News*, September 18, 2007; electronic mail communications with the IPA, January 8, 2008. <http://www.sanjoseca.gov/clerk/Agenda/091807/091807s.pdf>.

### **Allegations Against Eugene Police Auditor Unfounded**

**B**y a vote of 5-3, the City Council of Eugene, Oregon has exonerated Police Auditor Cristina Beamud of allegations of violating the City Charter. The complaint, which alleged that Beamud exhibited a bias against police and inappropriately influenced investigations against department members, was brought by Eugene Police Sgt. Ron Swanson, who accused her of doing so for personal gain – her salary.

The Lane County District Attorney earlier found no evidence that Beamud committed the misdemeanor crime of official misconduct, but the City Council decided to open up an administrative investigation into the other charges. While the majority of the Council determined that the complaint was unfounded, based on their review of Swanson's statement and Beamud's written response, three members felt that they could

neither substantiate nor dismiss the allegations, advocating an independent investigation of the facts.

The job of the Police Auditor is to oversee and scrutinize investigations of complaints made against members of the Eugene Police Department. Voters authorized the creation of the office, along with a 5-member civilian review board, in 2005, in the wake of the conviction of two city police officers for abuse of power and sex crimes. Beamud, a former police officer and prosecutor, is the first to serve in the position and has been accepting complaints since October 2007. Eugene mayor Kitty Piercy has called the allegations a product of the "natural tension" between the auditor and a newly monitored police agency.

"Cop alleges police auditor misconduct," *The Register-Guard*, February 16, 2008; "Lane County district attorney says Eugene police auditor broke no laws," *The Register-Guard*, February 20, 2008; "Council exonerates police auditor," *The Register Guard*, March 13, 2008.

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## **CONSENT DECREES/MOAs**

### **Cincinnati Monitor Reports on "Transition Year"**

**T**he Independent Monitor assessing Cincinnati's compliance with its Collaborative Agreement (CA) has issued its 19<sup>th</sup> report. The CA, among the City of Cincinnati, the Plaintiff Class, and the Fraternal Order of Police, calls for the adoption of Community Problem-Oriented Policing (CPOP), mutual accountability and evaluation, bias-free policing and the establishment of the Citizen Complaint Authority. In August 2007, the City and Plaintiffs agreed to extend portions of the CA for an additional "transition" year during which problem solving policing would be fully implemented. The FOP is not a party to the extended agreement but continues to participate in CA implementation efforts.

The Monitor's latest report describes the parties' progress in achieving the CA's requirements and describes the standards the Monitor will use in measuring progress going forward during this

transition period. According to the Monitor, the parties have achieved a number of the goals in the April 2002 Collaborative, but there are still areas of police reform – particularly the shift to problem-oriented policing – where additional effort by the Cincinnati Police Department (CPD) and community would “significantly improve policing and police-community relations.” The Monitor noted that the CPD has now put in place new policies, protocols, and manuals to be used by CPD employees in problem-solving policing along with training on the new procedures. Each district is identifying problem solving projects and the CPD has developed a problem-solving tracking system to record and track CPOP efforts. The monitoring team reiterated its belief that the problem-solving approach will “advance effective, respectful and publicly accountable policing in Cincinnati, and will ensure that the progress made to date is preserved and the forms will be continued into the future.”

The Monitor also released a report responding to the RAND Corporation’s third annual evaluation report regarding police-community relations in Cincinnati. The RAND report emphasizes that further steps need to be taken to improve how officers interact with citizens. As with RAND’s two previous annual reports, its research finds that “Blacks continue to bear a disproportionate share of the impact of policing” and that blacks and whites have very different experiences with policing in Cincinnati. RAND compared stops of 294 officers who made more than 50 reported traffic stops in 2006, comparing racial percentages of stops of each officer to the stops of other officers made in the same neighborhood at similar times. Three of those 294 officers stopped black drivers at substantially higher rates than did other similarly-situated officers, while two stopped white drivers at a disproportionate rate. RAND also reviewed 318 randomly-sampled video recordings of traffic stops and found: black drivers were more likely to be pulled over for registration or equipment violations and were more likely to experience proactive or intensive policing during the stop; that several of these differences identified between and actions during stops of white and black drivers were largely when the officer was white; and that white drivers communicated in a more positive way with officers than black drivers did.

RAND concluded that “there is evidence that these differences in the stops of black and white drivers, when combined with differences in the behavior of white and black officers, may reinforce an appearance of bias.” The Monitor called on the CPD to assess what accounts for the differences shown in the RAND report between white and black officers in their actions in traffic stops and on all CA parties to use the data provided by the RAND evaluations as it works toward the CA’s objectives.

The full 19<sup>th</sup> report of the Independent Monitor may be accessed online at: <http://www.gabsnet.com/cincinnati/monitor/19thReport.pdf>.

The Monitor’s response to the RAND Corporation’s Third Annual Evaluation Report may be accessed at: <http://www.gabsnet.com/cincinnati/monitor/December%202007.pdf>.

## Detroit Monitor Issues Quarterly Report

**T**he Independent Monitor, charged with monitoring the city of Detroit and the Detroit Police Department’s (DPD) compliance with two negotiated Consent Judgment agreements, issued its seventeenth quarterly report, covering the quarter ending November 30, 2007, on January 15, 2008.

For the report, the Independent Monitor considered 83 paragraphs or subparagraphs within the Consent Judgments. The Monitor concluded the city and DPD to be “in compliance” with 24 of the examined provisions and “not yet in compliance” with 54; it “withheld determination of compliance” on three paragraphs or subparagraphs and “did not complete its evaluation” of two more.

The report indicates that DPD is currently “in compliance with most Consent Judgment requirements relative to the DPD’s intake, tracking, investigation, and review of external complaints.” Additional progress was made during the evaluated quarter on a computerized risk management database.

The Monitor reviewed the work of the DPD’s Audit Team. Three reports were determined to be in compliance. One audit (on stop and frisk practice) was found to be an improvement over a similar, previous audit but ultimately not in compliance. Two

others were determined not to be in compliance, with investigations on use of force incidents and complaint investigations determined to have not reviewed a sufficiently large sample of cases. The Monitor withheld determination of compliance for an additional audit (on witness questioning). The report notes that the DPD must still develop a formalized process for following up on “officer-specific audit findings.”

The Monitor noted that the Department “continues to struggle” with investigations and reviews of firearm discharges. It noted that the DPD is not yet in compliance “with requirements related to the review for arrests for probable cause, primarily due to its failure to consistently document supervisory review;” the department has not yet complied with requirements that it better document stops, frisks, interrogations, and interviews.

The DPD was found to have taken positive steps in improving training. They concluded that the department had complied with some, but not all, requirements relating to ensuring that buildings containing holding cells meet fire and safety guidelines.

Overall, at the end of November, the city and DPD were found to be in compliance with 67 of the 205 paragraphs or subparagraphs in the Consent Judgments.

The full report may be accessed online at: [http://www.kroll.com/library/detroit/DPD\\_Q17\\_Report\\_01-15-2008.pdf](http://www.kroll.com/library/detroit/DPD_Q17_Report_01-15-2008.pdf).

## LAPD Monitor Issues Quarterly Report

The Independent Monitor for the City of Los Angeles and Los Angeles Police Department (LAPD) has issued the 26<sup>th</sup> quarterly report assessing City and LAPD’s compliance with the June 2001 consent decree with the U.S. Department of Justice (DOJ). The original term of the consent decree expired in June 2006, but in May 2006, the federal judge in the case ordered an extension of an additional three years that commenced on July 1, 2006. During the extension period, the Monitor is concentrating its monitoring efforts by actively monitoring those paragraphs of the decree with which the City has failed to achieve substantial compliance.

The Monitor’s latest report covered the quarter ending December 31, 2007 and focuses on 35 paragraphs or subparagraphs; of these, the City and LAPD successfully complied with 29, the Monitor withheld a determination on compliance for one, and one had not yet been evaluated. The LAPD was found not to be compliant with the remaining four paragraphs or subparagraphs. Overall, however, the Monitor concluded: “We continue to be generally pleased with the progress being made to achieve substantial compliance with those paragraphs that have not yet achieved that status.”

The Monitor had previously completed an analysis of the testing of the LAPD’s early warning system, TEAMS II, and found that the system now includes the specific items required by the consent decree, links and cross-reference information, and a protocol for using the system to detect patterns indicating at-risk behavior. The Monitor evaluated the implementation of that protocol in the current report and found that the department was not yet in compliance with those provisions requiring regular review and analysis of TEAMS II, largely due to inconsistencies in implementation.

Although the Monitor found that the LAPD was in compliance with the requirement that supervisors consider an officer’s work history, including data from TEAMS II, in formulating their recommendations regarding non-disciplinary action following a Categorical Use of Force (CUOF), managers did not always adequately consider the circumstances surrounding a supervisor’s presence or absence at a CUOF. The Monitor also found the LAPD in non-compliance with provisions requiring that supervisors evaluate incidents resulting in a charge of interference, obstruction, or delay of a police officer; resisting arrest; or assault on an officer; and gang unit arrest packages.

Those paragraphs or subparagraphs with which the LAPD was found to be in compliance include provisions regarding investigative requirements for CUOFs; the receipt, maintenance, investigation, documentation and analysis of public complaints; informant procedures; and Field Training Officer eligibility requirements. The Monitor also assessed audits conducted by the Audit Division and OIG’s reviews of Audit Divisions audits and found them to be in compliance.

Beyond these compliance assessments, the Monitor's report also included a brief discussion of the status of paragraph 132 of the Consent Decree, which requires "financial disclosures by all LAPD officers and other LAPD employees who routinely handle valuable contraband or cash." As a result of the inability of the City and the Police Protective League (PPL) to agree upon the parameters of this disclosure, the Police Commission has put forward a proposed policy, which provides for a two-year grace period for current officers who would be affected by the new policy. The Monitor notes that the implementation of this grace period could result in an extension of the Consent Decree to ensure that the two-year threshold for substantial compliance is met. In the meantime, the PPL, holding that the proposed policy violates California law, has filed suit requesting judicial intervention in its implementation. The Monitor supports the proposed policy, arguing that such disclosure is already requested at other agencies and by the LAPD for new recruits.

The full report may be accessed online at:

[http://www.kroll.com/library/lapd/LAPD\\_Q26\\_Final\\_Report\\_2-15-2008.pdf](http://www.kroll.com/library/lapd/LAPD_Q26_Final_Report_2-15-2008.pdf).

## District of Columbia's Monitor Issues Report

The 23<sup>rd</sup> Quarterly Report of the Office of the Independent Monitor, charged with monitoring ongoing compliance by the District of Columbia and the Metropolitan Police Department (MPD) with the Memorandum of Agreement (MOA) executed with the Department of Justice in 2001, was released in January 2008.

The report noted that, in December 2007, the city, MPD, and Justice Department agreed to a joint modification ("Joint Modification No. 4") of the MOA. It establishes June 13, 2008 as a "bright line" termination date for the MOA as part of a joint modification to the MOA.

The parties agreed that MOA requirements with which the MPD have substantially complied for at least two years can be terminated to allow the department "to concentrate on those areas of the MOA with respect to which significant progress must be made." As a result, 67 of 126 specific provisions of the MOA have been terminated. The report indicated such agreement to be "a major achievement" that signals

"sustained effort and significant progress that the City and MPD have made in implementing the broad range of reforms required."

Overall, the report found the city and department to be in substantial compliance with 77 of the agreement's 126 substantive provisions. The joint modification offers the City and MPD "the opportunity to achieve an expedited termination" of the MOA and monitoring if they achieve substantial compliance with 80 percent of the agreement's provisions. To do so, the report noted that the MPOD must reach substantial compliance with an additional 24 substantive provisions within the first quarter of 2008.

Areas cited in which the MPD must still make progress include improving reception of public complaint about officer conduct, development and implementation of a computerized performance management system, implementation of an enhanced field training office program, and the implementation of revised policies applying to specialized units.

The Office of the Independent Monitor specifically described efforts to improve coordination between MPD and the United States Attorney's Office "on pending investigations of potential criminal misconduct by MPD officers." The report found cooperation and communication between the organizations to be positive.

The full report may be accessed online at: <http://policemonitor.org/080131report.pdf>.

## Monitor Reports on NJ State Police Progress

In the 16<sup>th</sup> Independent Monitors' Report describing New Jersey State Police compliance with a consent decree between the U.S. Justice Department and the State of New Jersey, Division of State Police, and New Jersey Department of Law and Public Safety, finds that "compliance requirements in all areas are now at 100 percent levels. Policy, training, supervision, inspections and audit, and MAPPS [Management Awareness Personal Performance System] processes are fully staffed, fully functioning, and, in the opinion of the monitors, fully capable of self-monitoring and self-adaptation." Concerns about racial profiling by New Jersey's state troopers led to the consent decree in 1999.

*continued on page 10*

## PRESIDENT'S PAGE

### Working Group on National Guidelines for Police Oversight Professionals

By Merrick Bobb, President

The Police Assessment Resource Center (PARC), federal and local law enforcement monitors, and police executives from monitored agencies recently gathered in Denver and Los Angeles to consider national guidelines for police oversight professionals, primarily monitors and auditors. The guidelines project is pursuant to a grant by DOJ's Bureau of Justice Assistance (BJA) to PARC to study the need for national guidelines for monitors and, if such need was found to exist—which it was—to draft them. PARC formed a working group in 2005 to consider topics and initial recommendations for uniform national guidelines for monitors.

Pursuant to the recommendations and suggestions of the working group, PARC prepared an extensive set of proposed guidelines and forwarded them in the spring of 2006 to BJA for review and comment by the Justice Department. BJA subjected the guidelines to peer review as well, and, in the fall of 2007, the proposed guidelines were returned to PARC for revision in light of the peer review and the comments and suggestions from within DOJ.

Shortly before the end of 2007, PARC prepared an initial redraft of the document. That redraft was posted on PARC's website, <http://www.parc.info>, for comment. A few weeks ago, Richard Rosenthal, the Independent Monitor for Denver, hosted a meeting in

Denver of Pierce Murphy, the Ombudsman in Boise, Idaho, Don Casimere, the monitor in Richmond, California, Liana Perez, the independent Auditor for Tucson, Arizona, Andre Birotte, the Inspector General of the Los Angeles Police Department, and PARC to adapt the guidelines to the needs of local monitors. On March 27 and 28, the wider working group met at PARC's offices in Los Angeles to review and debate the proposed guidelines. Set forth below are the names and titles of those attending the Los Angeles meeting. Michael Bromwich, Richard Rosenthal, Detroit Assistant Chief Ralph Godbee, Julio Thompson, Jeff Schlanger, and Former Assistant Sheriff Mike Graham are joining with PARC to finalize the monitoring guidelines. The result will provide guidance to law enforcement agencies subject to monitoring and police oversight professionals working in the field.

These guidelines will cover all facets of the monitoring process from the selection of a monitor, the qualifications and ethical considerations to be considered in the selection process, the formulation of the monitoring plan, and the factors that should be considered in determining whether a given law enforcement agency is in compliance and following best practice.

Los Angeles meeting attendees:

- Andre Birotte, Inspector General, Los Angeles Police Department
- Michael R. Bromwich, Independent Monitor, Metropolitan District of Columbia Police Department
- Don Casimere, Richmond (CA) Police Commission
- Shanetta Y. Cutlar, Civil Rights Division, US Department of Justice
- Steve Edwards, Bureau of Justice Assistance, US Department of Justice
- Kelli M. Evans, Independent Monitoring Team, Oakland Police Department
- Michael Gennaco, Office of Independent Review, Los Angeles Sheriff's Department
- Ralph Godbee, Detroit Police Department
- Mike Graham, Lead Monitor, Los Angeles County Probation Department
- Christy E. Lopez, Independent Monitoring Team, Oakland Police Department
- Maureen O'Connell, Metropolitan District of Columbia Police Department
- Anthony Pacheco, Los Angeles Police Commissioner
- Al Pearsall, COPS Office, US Department of Justice

- Sue Quinn, National Association for the Civilian Oversight of Law Enforcement
- Charles D. Reynolds, former Independent Monitor, Steubenville (OH) Police Department
- Richard Rosenthal, Independent Monitor, Denver Police Department
- Ilana Rosenzweig, Independent Police Review Authority, Chicago Police Department
- Jeff Schlanger, Deputy Monitor, Los Angeles Police Department
- Thomas Sharp, Office Police Complaints, Metropolitan Police Department
- Leslie Stevens, Portland Police Bureau
- Julio Thompson, Office of the Attorney General, State of Vermont

*Merrick Bobb is the founding director of PARC. A lawyer, he was the first person to occupy the role of police monitor and has become a nationally recognized expert on police oversight and reform. Merrick has monitored the Los Angeles County Sheriff's Department since 1992 and has consulted with jurisdictions around the country and with the U.S. Department of Justice. He can be reached by email at [merrickbobb@parc.info](mailto:merrickbobb@parc.info).*

The Independent Monitoring Team's (IMT's) report highlights a "watershed moment" during the last two reporting periods. Trainings provided by outside vendors in early 2006 who were unfamiliar with the consent decree led to a "serious spike" in the number of consent search requests during motor vehicle stops and in the number of resultant problematic procedures observed by the IMT, jumping from about 17 such procedures per reporting period to 84 during the current one. The IMT highlights the Office of State Police Affairs' (OSPA's) quick response to these developments, working with legal advisors to develop corrective processes to address the problems, coupled with management and other reviews aimed at correcting problematic consent requests. The Monitors report that the response to the unapproved training shows an agency that has become "self-monitoring and adaptive" to correct field service delivery problems in real time.

Among the report's findings:

- Compliance with the consent decree's training provisions continued to be maintained during the reporting period.
- Error rates in field supervision "jumped" during the current and previous reporting period. On-scene and first-level supervisors missed procedural errors on the part of field personnel and relied on management and OSPA reviews to catch and correct such in-field errors.
- Full compliance was reattained with the MAPPS information system capabilities as a data system to proactively identify performance problems and solutions. In fact, the IMT reports that the State Police have taken the MAPPS system beyond the

consent decree's requirements by also using it to identify systemic organizational issues and to craft solutions before any identified issues negatively impact the organization. The report describes two examples of how MAPPS identified trends relating to an increase in off-duty misconduct complaints against State Police personnel and the significant increase in consent search requests described above, acting to correct both.

After the latest IMT report was issued, the New Jersey Advisory Committee on Police Standards, tasked with determining if the consent decree should be terminated and how to ensure implemented reforms would be maintained once independent monitoring of the decree ends, issued its report. It recommended that the state join the U.S. Justice Department in a motion to terminate the consent decree. To prevent backsliding on reforms implemented, the committee made recommendations for structural change to the State Police, Office of State Police Affairs, Attorney General, and State Comptroller.

Among the key recommendations:

- The state police should maintain consent decree provisions that are in place and expand upon them in relation to data collection and trend analysis as well as working with the attorney general to periodically assess whether motor vehicle stop and post-stop protocols continue to meet evolving state and federal constitutional standards, and work with the OSPA to assess and reevaluate data collection and analysis efforts and report to the attorney general and legislative leadership on those efforts.

- The attorney general should continue staffing for what is now OSPA at levels sufficient to audit Office of Professional Standards investigations and related tasks, require the superintendent of state police and each troop commander to quarterly certify that the state police has complied with SOPS regarding stop procedures and supervisory protocols, and establish regular forums with members of the public and the superintendent of state police.
- The state should codify policy goals of the consent decree and provide sufficient funding to ensure thorough supervision, mobile video recorders in all patrol cars and their maintenance as well as the maintenance and enhancement of MAPPS and at least minimum training requirements of the consent decree.
- The state comptroller should designate an auditor to perform, within six months of the lifting of the consent decree and then every six months for the next eighteen months – and at least annually thereafter – risk-based auditing of stops, post-stop enforcement activities, internal affairs and discipline, decisions not to refer an individual to internal affairs despite a complaint, and to establish a procedure for reporting to the governor and the public the results of such audits.
- The state should conduct a comprehensive review of the state police's continued efforts at eradicating racial profiling five years from the date of the consent decree's lifting.
- The governor should issue an executive order adopting the panel's recommendations upon the lifting of the consent decree.

The full IMT report may be accessed online at: <http://www.nj.gov/lps/monitors-report-16.pdf>.

The full New Jersey Advisory Committee on Police Standards' report may be accessed online at: <http://www.nj.gov/governor/pdf/dpny-22624470-v1-FinalReport.PDF>.

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## FORCE MANAGEMENT

### Investigation Finds Chicago PD Shooting Inquiries Flawed

An investigative series in the *Chicago Tribune* describes shootings by on- and off-duty Chicago Police Department (CPD) officers and investigations into those shootings, describing a cursory process whereby shootings are determined “justified” often within hours of the incidents. The newspaper's eight-month investigation examined more than 200 police shooting cases in the last decade.

The process for reviewing officer-involved shootings includes a “roundtable,” a meeting held at detective-area headquarters immediately following police shootings and attended by involved officers, police commanders, a union representative, and representatives of the Cook County state's attorney's office and the CPD's police oversight agency. The roundtable proceedings are not officially recorded, witnesses are not sworn, and little or no forensic evidence is examined. Subsequent investigations by detectives and the police oversight agency are often perfunctory, tending to simply confirm the roundtable's determination.

According to the *Tribune*, the process leads to shootings almost always being found justified; even when new evidence emerges later that contradicts officers' accounts, cases are rarely, if ever, reopened. The newspaper reports that Chicago police have shot and killed 100 people during the last decade and shot and injured another 250 during the same period; less than one percent of those shootings were ruled unjustified. Police shootings have resulted in settlements and civil judgments against the city during the same period in the amount of \$59 million.

The reporters also looked at shootings by off-duty officers, which make up about a quarter of police shootings, and found that they benefited from the same cursory investigations by the CPD. Off-duty officers involved in shootings were often treated with the same deference given to officers involved in shootings in the course of duty. In some cases where officers might have been under the influence of alcohol

during a shooting, breath tests were delayed for hours or never administered at all.

The *Tribune* concludes, “Law enforcement officials at all levels, from the detectives who investigate cases to the superintendent, as well as the state’s attorney’s office, have failed to properly police the police.” In response to the articles, Chicago’s mayor noted that the police oversight office has since been revamped; now called the Independent Police Review Authority, it is separate from the CPR and has expanded powers. He said the office would look at the issues raised by the newspaper’s investigation.

“Shielded from the Truth, Tribune Investigation, *Chicago Tribune*, December 5 and 6, 2007; “New leaders will look into police wrongdoing, shootings, Daley says,” *Chicago Tribune*, December 6, 2007; “When cops shoot,” Editorial, *Chicago Tribune*, December 6, 2007. Series available with graphics and case descriptions at: <http://www.chicagotribune.com/news/specials/chi-cops-htmlpage.0.615359.htmlpage>.

### Denver Considers Discipline Matrix for Police

Denver’s Manager of Public Safety, Al LaCabe, has proposed instituting a “discipline matrix” for Denver Police Department officers found responsible for misconduct. As used in other jurisdictions, a discipline matrix spells out the consequences officers would face for specific infractions with the intention of enhancing transparency, clarity, and fairness. Under the system, mitigating and aggravating factors would be taken into consideration.

LaCabe notes that he and the police chief determine discipline for police officers and firefighters limited to considering similar infractions and punishments meted out in previous years. An officer may appeal to the city’s civil service commission and have the discipline overturned, if successful, with such appeals stretching out final determinations for months or years. In late December, the proposal was presented by LaCabe to the city’s Civil Service Commission. The police union has opposed the change as an unwelcome “one size fits all” plan and its representatives said that it would challenge it in court if approved.

“Police ‘Discipline Matrix’ proposed,” *Rocky Mountain News*, September 10, 2007; “Sensible Police Discipline” Editorial, *Rocky Mountain News*, December 20, 2007;

“Panel to decide on officer disciplinary proposal in 2008,” *Rocky Mountain News*, December 21, 2007; “Safety chief makes case for revamped police policy,” *Rocky Mountain News*, February 7, 2008.

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## RACIAL PROFILING

### Study Reviews Stops and Frisks in NYC

According to a study released by the RAND Corporation, whites and members of minority groups in New York City have a roughly equal likelihood of being stopped by police officers, but officers are more likely to frisk, search, arrest, or use force when the stopped individuals are black or Hispanic. The study by the private nonprofit organization was requested by the police commissioner after it was disclosed that roughly 89 percent of the 508,000 pedestrian stops made by NYPD during 2006 were of nonwhites and that, according to the NYCLU, about 90 percent of those stopped were engaged in no unlawful activity.

The 81-page report, “Analysis of Racial Disparities in the New York Police Department’s Stop, Question and Frisk Practices,” concluded that raw statistics distort the magnitude and, at times, existence of racially-biased policing. For example, RAND found that there are some legitimate factors that explain much of the difference between the frisk rate of black suspects (45 percent) and the frisk rate of white suspects (29 percent). Some of those factors include police policies and practices that can legitimately differ by time, place, and reason for the stop. As a result, raw statistics, while easy to compute, often exaggerate racial disparities, said RAND. “Our results using more precise benchmarks do not eliminate the observed racial disparities. However, they do indicate that the disparities are much smaller than the raw statistics would suggest. This result does not absolve the NYPD of the need to monitor the issue, but it implies that a large-scale restructuring of NYPD SQF [Stop, Question, Frisk] policies and procedures is unwarranted,” according to RAND.

RAND found that: slightly more than half of the 508,540 stops last year were made by 2,756 officers, or 7 percent of the force; whites and minorities were

stopped equally but minorities were more likely to be frisked, with the most pronounced difference in Staten Island; and fifteen officers appear to have stopped “substantially more” nonwhites than other officers patrolling the same areas at the same times with the same assignment. While the report did not attempt to explain the racial disparities, it suggested that “missing factors,” such as whether the individual resisted interaction or arrest, might play a part. In describing the higher likelihood of force being used against black individuals, the report speculates that “if black suspects are likelier to flee or resist, the observed difference in rates of use of force may not be due to officer bias.”

The report recommends that the NYPD:

- Require officers to explain to pedestrians why they are being stopped;
- Review the boroughs with the largest racial disparities in stop outcomes;
- Train newly hired officers in stop, question, and frisk documentation policies;
- Revise the stop, question, and frisk form (UF250) to capture data on the use of force;
- Consider modifying internal audits of UF250s; and,
- Identify, flag and investigate officers with out-of-the-ordinary stop patterns.

RAND’s report was strongly criticized by some civil rights leaders and others in New York City, with the NYCLU expressing concern that the report was “hugely flawed” and that its authors were too eager to suggest justifications for racial and other disparities identified. The report’s methodology was also questioned, in part because of its benchmarking criteria and in part because it relied solely on analysis of NYPD data. Another complaint was that its researchers conducted only a handful of interviews with NYPD personnel and did not seek information from members of the public (including those who believe they were stopped or frisked by the police unjustly), civil rights groups, police union officials, or elected leaders.

The full report may be accessed online at: [http://www.rand.org/pubs/technical\\_reports/2007/RAND\\_TR534.pdf](http://www.rand.org/pubs/technical_reports/2007/RAND_TR534.pdf).

“City police stop whites equally but frisk them less, a study finds,” *New York Times*, November 21, 2007;

“Frisk management,” *Village Voice*, December 11, 2007; “Rand report glosses over racial disparities in NYPD’s stop-and-frisk practices,” NYCLU press release, November 20, 2007.

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## LEGAL AFFAIRS

### Former Milwaukee Officers Sentenced in Beating Case

**T**he three former Milwaukee police officers who were found guilty of beating a man at a party in 2004 were each sentenced to more than 15 years in prison. The sentences, according to the federal judge presiding over the case, were warranted because the officers had harmed public trust in the police in addition to injuring the victim in the case, Frank Jude Jr. According to the judge, “civil rights of the people in this community must be respected, even if you carry a gun and badge, even if you are police, even if you believe someone did something wrong.”

The officers were convicted in July 2007 of conspiring to violate the civil rights of Jude and another man, as well as committing the assault while acting as officers. All have said they plan to appeal. The federal prosecutions followed a state jury trial during which the officers were acquitted except on one charge for which the jury could not reach a verdict. Four other officers have been convicted in relation to the case; two have pleaded guilty and were sentenced and two await sentencing.

The incident received widespread attention, in part because the beating victims – one who is biracial and one who is black – said that the white officers had used racial slurs during the attack. The investigation into the beating was initially botched and then stalled when officers refused to cooperate. The incident also led to firings and demotions, and hiring and training revisions. PARC was also hired to identify ways to improve the city’s police accountability systems.

“Ex-officers in Jude beating case get sentences of up to 17 years,” *Milwaukee Journal-Sentinel*, November 29, 2007.

The full PARC report on Milwaukee's Fire and Police Commission may be accessed online at: [http://www.parc.info/client\\_files/Milwaukee/Promoting%20Police%20Accountability%20in%20Milwaukee.pdf](http://www.parc.info/client_files/Milwaukee/Promoting%20Police%20Accountability%20in%20Milwaukee.pdf)

## Chicago to Pay \$20 Million to Men who Alleged Torture

The City of Chicago recently announced it would pay nearly \$20 million in a legal settlement with four men who alleged they were tortured by Chicago Police Department officers. They had been sent to death row following those interrogations and subsequent convictions before being pardoned. The allegations of torture at Chicago's Area Two headquarters began in the early 1970s and continued until 1991. According to the attorney for one of the men, the settlement "speaks volumes about the seriousness of the systematic torture, abuse and cover-up that went on in the city of Chicago for decades." He also noted that others who alleged similar treatment at the hands of the Chicago police remain behind bars as a result of confessions obtained during such interrogations.

"Settlement for torture of 4 men by police," *New York Times*, December 8, 2007.

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## NEWS BRIEFS

### Justice Department Reports on Deaths During Arrest

The Bureau of Justice Statistics (BJS) of the U.S. Department of Justice has issued its first report attempting to measure, nationally, all types of deaths that occur during the process of arrest. During the period examined – 2003 through 2005 – states reported a total of 2,002 such deaths related to arrests by state and local law enforcement agencies. Homicide by law enforcement officers made up 1,095 of the deaths, or roughly 55 percent. Intoxication was reported as the cause of death in roughly 13 percent of cases, with suicide reported as the cause in 12 percent.

Among the report's findings:

- 80 percent of law enforcement homicides involved the use of a weapon by the arrest subject in order "to threaten or assault"; in 17 percent of the homicides, the arrest subject grabbed, hit or fought with the arresting officers.
- 96 percent of law enforcement homicides involved the use of a firearm by officers.
- Half of all homicides involved large departments with at least 500 sworn officers.
- In 62 percent of intoxication deaths, the deceased resisted arrest, in many cases without force or weapons.
- Conducted energy devices (Tasers and similar weapons) were involved in 36 reported arrest-related deaths, and in 17 of those deaths the device was cited as the weapon that caused the death.
- Arrest-related suicides differed sharply from those in police stations or booking stations, with suicides at the scene occurring more frequently involving firearms in jurisdictions with large agencies. Suicides in police stations or booking centers, typically by hanging, occurred more frequently in smaller jurisdictions.

The BJS's Deaths in Custody Reporting Program was mandated by the federal Death in Custody Reporting Act of 2000 (Public Law 106-297) that conditioned federal correctional grants on state participation in the program. Forty-seven states and the District of Columbia provided data (Georgia, Maryland, and Montana did not submit reports). Tallies were based on information from local law enforcement agencies, media accounts, medical examiner offices, and state police, among other sources.

The full report may be accessed online at: <http://www.ojp.gov/bjs/pub/pdf/ardus05.pdf>.

### Stun-Gun-Related Deaths To Be Tracked By Coroners' Database

The National Association of Medical Examiners (NAME) has created a database on Taser-related deaths intended to assist coroners in determining the cause of death when incidents are linked to stun technology. "The goal is to develop guidelines on how to investigate the deaths and how to certify them," according to one of the database's architects "There are so many factors involved in some of these deaths—

usually there is another explanation, but to cast off all doubts doesn't make sense." He said that some coroners were reluctant to rule that the devices were the primary or contributing factor in deaths for fear of lawsuits. "There have been direct statements at our meeting by the manufacturers: 'You put that on the death certificate, and the company will sue you,' " he said. NAME convened a special committee to begin issuing protocols for medical examiners in Taser-related deaths.

"Coroners create national database to track stun gun-related deaths," *Baltimore Examiner*, September 3, 2007.

### Minneapolis Sets Time Limit on Post-Shooting Statements

The Minneapolis Police Department has a new policy that places a 48-hour time limit for obtaining statements following officer-involved shootings. Prior to the change, the department set no time limit for

requiring such officer statements in critical incidents. The police union opposed the change, stating that officers are often traumatized after shootings and should not be required to give statements so soon after an incident. The police chief responded that an officer may request a delay and that the chief would determine if the request was for legitimate reasons.

The change stems in part from the week-long delay in obtaining officer statements after the September 2006 fatal police shooting of a mentally unstable man. That incident and concerns about how it was investigated led to an independent review of the department's internal probe procedures, which recommended the time limit.

"Minneapolis sets 48-hour limit on officer statements," *Minneapolis Star-Tribune*, October 18, 2007.

## CALENDAR

**April 24-26** Annual Meeting, Police Executive Research Forum, Miami, FL. [www.policeforum.org](http://www.policeforum.org)

**May 3-8** Annual Conference, American Jail Association, Sacramento, CA. [www.aja.org/aja/pdf/Overview.pdf](http://www.aja.org/aja/pdf/Overview.pdf)

**June 28 - July 2** Annual Conference, National Sheriff's Association, Indianapolis, IN. [www.sheriff's.org/conferences/ScheduleofEvents.asp](http://www.sheriff's.org/conferences/ScheduleofEvents.asp)

**July 21-23** Annual Conference, National Institute of Justice, Arlington, VA. [www.ojp.usdoj.gov/nij/events/nij\\_conference/welcome.html](http://www.ojp.usdoj.gov/nij/events/nij_conference/welcome.html)

**September 22-24** 19th Annual Problem-Oriented Policing Conference, Bellevue, WA. [www.popcenter.org/conference](http://www.popcenter.org/conference)

**October 26-30** 14th Annual National Association for Civilian Oversight of Law Enforcement Conference, Cincinnati, OH. [www.nacole.org](http://www.nacole.org)

**November 8-12** Annual Conference, International Association of Chiefs of Police, San Diego, CA. [www.theiacpconference.org](http://www.theiacpconference.org)

**November 12-25** Annual Meeting, The American Society of Criminology, St. Louis, MO. [www.asc41.com/annualmeeting.htm](http://www.asc41.com/annualmeeting.htm)



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