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## INTERVIEW

*In January 2003, the Oakland (CA) Police Department (OPD) entered into a Negotiated Settlement Agreement to resolve allegations of police misconduct made by private plaintiffs in the civil lawsuit *Delphine Allen, et al., v. City of Oakland, et al.* The settlement agreement requires the OPD to reform several aspects of its operations, including internal affairs, supervision of officers, use of force, training, personnel practices, and community policing.*

*In August 2003, a four-member team was appointed to monitor compliance with the settlement agreement. Each member of the **Independent Monitoring Team (IMT)** serves as a co-equal partner. The IMT is comprised of:*

- ***Rachel Burgess**, a retired Division Chief with the Los Angeles County Sheriff's Department;*
- ***Kelli Evans, Esq.**, a civil rights attorney in private practice and former senior trial attorney in the Civil Rights Division of the United States Department of Justice;*
- ***Charles Gruber**, Chief of Police of the South Barrington (IL) Police Department, former Chief of Police of the Shreveport (LA) and Elgin (IL) Police Departments, past president of the International Association of Chiefs of Police (IACP), and current chair of the IACP Professional Standards Committee; and*
- ***Christy Lopez, Esq.**, a civil rights attorney in private practice and former senior trial attorney in the Civil Rights Division of the United States Department of Justice.*

***PARC** recently spoke with Rachel Burgess, Charles Gruber, and Christy Lopez about the IMT and the work it performs.*

***PARC:** Why was it decided to use a team of co-equal monitors, as opposed to the more conventional model of a lead monitor plus a support team?*

***CL:** There are a couple of reasons. The first is that we felt it would work better. We've all had experience, either, as in Rachel [Burgess]'s case, of being in a department that is being monitored, and for all of us,*

*of going in to review departments and working with monitors. And we thought it would be good to use a team system where no one person would be the lead, but where every person would be equal, where we would talk about things, and that would ensure that whatever the team said was the result of a collaborative process that reflected the variety of experiences and backgrounds of the team members. It would also minimize the possibility that our findings would be viewed as idiosyncratic, or just the opinion of one individual. I think that, so far, it's really worked out that way.*

*It also reflects who we are. It's not just a platitude to say that we all feel that we have very different, complementary things to bring to this team. It just didn't make sense to have one of us elevated above the others.*

*Police departments are very hierarchical, and initially the department had a difficult time understanding our approach. But once they saw how it works in practice they no longer had an issue with it.*

***CG:** Also, I think it removes from the table the kinds of egos and biases that might come to the table in a traditional monitor's role. We check all those egos and biases. We check each other, and I think that works.*

***PARC:** How was the make-up of the Independent Monitoring Team determined?*

***CL:** We really wanted a team that reflected the variety of perspectives that the stakeholders to an agreement like this have. We looked for people with different professional backgrounds. In addition to reviewing the policies and practices of various law enforcement agencies, Kelli [Evans] and I have worked with a lot of community members and people who have been victims of police abuse. Chuck [Gruber] and Rachel [Burgess] have been on the other side. They've been the ones who've had to go in front of the community after a bad shooting, they've had to fire officers, and have had to implement reforms. We have people from a variety of types of police departments: a big department and a mid-sized department. We definitely wanted some race and gender diversity. There isn't enough diversity in police departments in general, in our view, and it's difficult to speak to that issue if your own team isn't diverse. I also think that it really informs how you monitor. We've already seen,*

on many occasions, that it's invaluable to have that race and gender diversity.

**CG:** There are a lot of three-to-one votes. We work with a nice sense of humor among our team. We are very serious people, but we try and collaborate in every way in the work that we do and are flexible enough to yield. I'm a long-time police chief who doesn't yield on certain issues, but you have to learn how to yield when you're in a collaborative process. We work with other professionals in this capacity, and it's been a great experience.

**RB:** When you're dealing with an agency regarding reform, there's usually a degree of resistance. In some cases, there's a very large degree of resistance. When you're having dialogue with them, it's most likely that they're just not going to agree with you at first. But it's really difficult for them to disagree with four professionals who've had the kinds of experiences that we've had.

**CL:** The other important thing about the make-up of our team is that we looked not only to what would give us credibility with the police department, but also to what would give us credibility with the community. The success of the agreement depends not only on the police department accepting it and recognizing the need for reform, but on the community trusting the monitor when the monitor says that reform is really happening. Also, it is our view that community groups and community members are a very important part of the measurement of whether the settlement agreement is working. We need to let community members know that we will be talking to them throughout the life of the agreement and asking them whether things are different: Are things different in my neighborhood? Am I being treated differently? Are my friends being treated differently? Because of that, it's very important that we have credibility with people in the community. The more diverse you are, the more likely it is that you'll be able to communicate effectively with a broad spectrum of people.

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**RB:** That's true. And in a community as large as this one is, in order to make the contacts as frequently as we do, we can't all be there at one time. But there are enough of us to go out and represent the team, not as subordinates, but as members of the team. I think community groups have a real appreciation for that. No matter which one of us shows up, no community group feels slighted.

**CG:** They're getting a monitor every time we show up. Sometimes they get two of us. In fact, what we try to do as part of our collaborative process is to always have a lawyer and a police officer looking at every piece of work that we do. That has worked out very well. The lawyers bring a different perspective to it than Rachel and I do. I often call Rachel and ask her, "What do you think about this?" And she does the same to me. We bounce things off each other. It's a fully collaborative process.

**CL:** Kelli and I work in the same office, and we bounce things off each other all day. Frequently we say, "We've got to call Chuck and Rachel and find out what they think about this." It's rare, if ever, that we would say anything to OPD before we've had both the police perspective and the civil rights perspective and made sure that our

assessment makes sense from both of those perspectives.

**PARC:** *How effective has the team approach proved itself to be?*

**CL:** So far we've been really happy with it. It wasn't the conventional approach and we weren't sure whether it would work. Based upon our experience with other monitors, we knew it was something we wanted to try. I tend to be a pretty hierarchical person: I think consensus is overrated sometimes, I hate committees. So it's not as if this was some New Age or utopian view of how things should work. It's just based on what we saw and what we thought might work, and it seems to be working really well.

**RB:** I would agree with that. I think that all of our personalities are the same. We've been in positions where we have had to make decisions and where we haven't really counted on a lot of input from other people. Having four people like that, you would think, may not work. But it has really worked well for us.

**CG:** I think that, so far, we're happy with what we've seen. But I think that the proof is still going to depend upon whether it works: Did we constructively assist in building capacity in the police department? Are the reforms implemented the way they're supposed to be implemented? Are the citizens better served by the process? Are the parties to the agreement satisfied with the work we do? These are all questions that are open as the work is still unfinished. It will be some years down the road before we will realize a full appreciation of whether our experiment worked. I think it has all kinds of potential positives. I haven't seen a downside to what we've done, yet. Not one. Our budget's right on track. The work that we've done is tracking. The delegation of work amongst all of us is tracking. All the things that we thought would happen are happening. And the things we didn't anticipate aren't things that we couldn't deal with.

**PARC:** *How would you characterize the relationship between the IMT and the OPD, and how has the IMT developed and managed that relationship?*

**CL:** I think we have a very healthy working relationship. I think there have been disagreements, sometimes heated. But I think they know two things about us that are critical: They know that we are going to hold them to their word, and they know that we want them to succeed more than anything. We're in this because we love this kind of work, and because we want to see the settlement agreement work. Everybody will win: the police officers, the management, the community. Everything we do is focused on "What can we do to bring them into compliance?" I hope that really shows through in our work. I think we have a surprisingly good relationship, given that we're here critiquing them constantly.

**RB:** And in addition to that, I don't think we've had a meeting with anybody, not from the line officers to the chief, where we haven't offered something constructive. We are constantly offering suggestions or recommendations. We have promised them from the beginning that we would offer technical assistance wherever we could, and we do that. So it's not as if we come in and hold their feet to the fire about things that we haven't offered them some recommendation for changing.

**CL:** I would also add that we really do try to make sure that there are no surprises. Not only in the reports, but in policy reviews and other tasks, we make sure that they know where we stand every step of the way. I think that, more often than not, if we find that something isn't in compliance they shake their heads and say "We know, we know. You told us it wasn't going to be and it's not, but we're going to get there." I think that helps them know that we aren't just trying to catch them.

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**CG:** I would add that reform is change, and change is hard in most institutions. I think it's hardest in the

church and in government. The most visible portion of government is the police. So, reforming police is an extremely difficult task, and that's why the time required to effect change is as long as it is. Five years is a long time. We see it as a process. The relationships between people within that process is strained at times, collegial at other times, intellectual at times, and sometimes just down right contentious. It's a lot of things, but reform is difficult. Some people will never embrace it, some people will. The objective is to build capacity, to put enough people together who embrace the vision of what you're trying to achieve, and to make sure they do what they said they were going to do. And hopefully, when you come back five years after you walked away from it, you find that they're still doing the right things for the right reasons.

**PARC:** *How does the IMT engage with Oakland's communities?*

**CL:** We meet with community groups all the time—both with those that are explicitly and directly

involved in policing issues, and those who have policing as one issue among many. We do this because, as far as we're concerned, they're the whole reason for the settlement agreement. They're also essential to our monitoring, because they're such a measure of the settlement agreement's success. One of the most difficult things to measure with an agreement is the actual impact of the changes in practice on the street, and I don't know how you could do that if you don't have extensive contact with the community. It's crazy to think that, at the end of a five year agreement, you could just go and talk with these people who you don't have any relationship with and expect them to give you any helpful information.

**RB:** In addition to meeting with community members, we communicate by e-mail and telephone with them. They ship us all kinds of data. They send us letters. They let us know about meetings and other events that are going to take place. We have good communications with a lot of community groups.

**CG:** We attend a lot of community forums and meetings. We try to get a real sense of what the community is all about. Ultimately, we're going to be asking them whether things are better.

**CL:** Of course, we communicate with individuals as well as with community groups.

**PARC:** *How does the IMT engage with Oakland's police union?*

**CL:** We meet with them frequently.

**CG:** I meet with the Oakland Police Officers' Association all the time. I meet with them to listen to their concerns. I've met with the president several times and try to meet with them at least every other time I visit Oakland. Of course, I spend a lot of time with the officers in general. I'm very sensitive to unions. I listen. I've worked with unions a lot over the years, on both sides of the table. I think I know and understand their perspective, and what it is that they're trying to achieve for their membership. I'm very sensitive to their issues. But, I also know and understand management very well, and I strive to achieve a balance. I've raised some union issues at our monthly meetings. I've engaged them at our meetings to get their opinion, to make sure that we understand and remain sensitive to the importance

of the role that the union plays in this settlement agreement in an effort to help make this agreement work for the membership of the Oakland Police Department.

**CL:** That's right. I think we've realized that it's important to respect the union as a party to the agreement, to respect the role they have in the police department, and not to assume that you know what their intentions are or what their outlook is on any particular issue. It's important to talk with them and engage with them on a frequent basis so you don't have disputes that could have been avoided.

**CG:** I think that the Oakland Police Officers' Association, its leadership and its lawyers, have been very forthcoming. They have sat down with us and talked to us. They have listened, participated, and watched what we've done. I hope that we have created a strong line of communication with them that allows them to freely express whatever concerns, ideas or issues they have. I fully expect that they would, and do, express themselves to us, where necessary. They are a fully participating partner. Like the other stakeholders, they are responsible for the implementation of the settlement agreement.

**PARC:** *What is the biggest obstacle you have faced in carrying out your monitoring duties?*

**CL:** We've been really fortunate. We haven't had that many obstacles to our monitoring. We've been given access to documents and individuals when we've needed them. There's been good communication among the parties. Everybody's been accessible to us. I think the police department has faced some obstacles to their implementation of the agreement, but as far as our monitoring responsibilities go, I think we've been really lucky.

**RB:** I agree. I haven't found anything that was distasteful or unnerving. It's been very exciting and a good experience.

**CL:** There have been some little issues. Some old technology, and the office space we were given was less than perfect. But I think people have really tried their best.

**CG:** The City is facing resource problems. The department is facing manpower issues. Those obstacles are not necessarily issues for us, but they do present

obstacles for the settlement agreement. If we're talking about those kinds of obstacles, they exist. But for us it's been a pretty smooth ride at 30,000 feet.

**PARC:** *What has surprised you most as you have monitored the OPD?*

**CL:** We've been surprised that there haven't been more issues. We expected our team to work. We expected our backgrounds to be useful. I don't think we anticipated that the synergies would be as positive as they have been. For example, I knew that it would be helpful that I'd worked at DOJ, that I had some idea about reforms and police departments, and that I had seen different monitors. I don't think I really predicted how much it would help us to anticipate and avoid a number of pitfalls and problems. There have been so many times I've spoken with Chuck and Rachel and they've said "If we do that, this is what will happen," or "If they do that, this is what will happen." It happens all the time, and you see that they're completely right. And you know that if we hadn't all been through this before we would have gone down those paths and would now be trying to find our way out. So it's been surprising just how well our experiences have served us.

**RB:** And we read the PARC newsletter, so we know what problems other people are having!

**CG:** It's a goal of ours to not repeat others' errors. One thing I've seen is the police department's naiveté, if you will, about its capacity to engage this big elephant. They think they can get their arms around it, but once they start getting into the issues they find out that it's much bigger than they thought. I don't know if monitors in other communities are finding that, but that's something that I find rather surprising.

**CL:** I think it's true that the department has been surprised at how difficult it is to do some things. For example, some of the timelines they've set for themselves to develop policies have been very ambitious. They would have no way of knowing that

they couldn't meet those deadlines, but having worked with other monitors and other agreements we weren't surprised.

**CG:** I would encourage other organizations as they go into one of these agreements to consider the time, energy and resources needed, and whether they have that internal capacity. For example, OPD is currently seeking outside technical assistance in relation to part of the settlement agreement. They tried originally to develop this themselves, but it didn't work and they realized they had to go outside to get technical assistance to make it work. If a department is grounded, it will have an idea of what its internal capacity is, and what it can accomplish. It's a tough task. Rachel's been through it on a day-to-day basis. I don't know how often they had to reach out for external assistance. There's a certain strut that goes on in police departments about their capacity to

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handle anything that comes along. Then you find something they don't have the capacity to do.

**RB:** That describes what I would call a lack of experience.

We were fortunate in the Los Angeles County Sheriff's Department to have a huge talent pool. We could pull together a group of people who could develop and write in a hurry. They had the education and the experience to do it. When you get into a smaller department, where people have not had the kind of exposure that officers and managers would have in a large agency, they are often in a quandary as to how to do things. They're constantly looking for other resources to help them and give them ideas. Actually, they have some very bright people who, given just a little time, can come up with some really good ideas. There are some things that they could probably have accomplished earlier if the right people had been in the right positions. But they didn't have those people. Now, as they rotate people through positions, they're discovering that they have very bright people who can do these things. But now they're behind, so they have to go out and get some help. That's where I see them having a little bit of a problem.

**CG:** There are a lot of talented people in OPD. I don't think there's any question about that. But they're also trying to do their regular work while they're doing this. They're multi-tasking, and they don't have the ability to get it all done. It's just a tough situation. We look at it as a Navy ship trying to fight the war at the same time as the crew is trying to fix the ship. It's just a tough thing to do. And it doesn't turn easily in the water, because some of the shipmates don't want to go. The captain's pointing one direction, and part of the ship doesn't want to go in that direction — that's the kind of mess you've got. It's a real challenge for them. And I think we would all say that, to their credit, they have tried valiantly, and continue to try valiantly. And we see progress. Sometimes the progress is good, though sometimes it's not enough to get the job done by the end of the day. So that's the task right now: to get the progress far enough along so that, at the end of the day, the department is where it and the community want and deserve for it to be.

***PARC:** What factors will determine whether the agreement will prove effective in reforming the OPD?*

**CL:** Leadership and accountability. Everything else flows from that. We focus on that in everything that we do.

**RB:** That's our continuing theme.

**CG:** I don't think there's anything else to say. We believe that that's what it's all about: Leadership and accountability.