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CIVILIAN OVERSIGHT

Special Counsel Issues Report on LASD

PARC President Merrick Bobb, who serves as Special Counsel to the L.A. County Board of Supervisors, has issued the 23rd semiannual report on the Los Angeles County Sheriff's Department (LASD). This report focuses on supervisory inquiries and unit level investigations, with the next report to cover investigations by the Internal Affairs Bureau. This report also describes Special Counsel's concerns regarding the LASD's discipline and grievance system stemming from unit level investigations.

Special Counsel found that, in general, supervisory inquiries stemming from citizens' complaints were thorough, documentation was complete, and their dispositions or outcomes were reasonable. Nearly all citizens' complaints are handled as supervisory inquiries by a lieutenant at the relevant patrol station; such inquiries cannot result in formal discipline. Of the six stations in three Field Operations Regions examined, Century Station was lauded for marked improvements in its handling of complaints since the station was last reviewed, but two other stations examined were identified as conducting inquiries of poorer quality. Special Counsel expressed concern that 42 percent of complaints classified as service complaints, rather than a complaint linked to specific LASD personnel, should have been classified as personnel complaints. "A 42 percent error rate is disturbing and undermines the effectiveness of the PPI, the LASD's principal tool for managing the risk of police misconduct," wrote the Special Counsel.

Unit level investigations are formal investigations led by a lieutenant at the station or unit. They are initiated either by an internal complaint (85 percent) or from a Watch Commander's Service Comment Report

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stemming from a citizen’s complaint; they can result in discipline. Special Counsel found the quality of these investigations to be high and greatly improved since examinations in prior years. The review found much less overt bias in favor of deputies and no detected difference in the thoroughness and fairness of investigations deriving from a citizen’s complaint as contrasted to those resulting from internally-generated complaints.

In contrast to an otherwise positive appraisal of inquiries and investigations reviewed to date, Special Counsel raised serious concerns regarding the LASD’s disciplinary system. In reviewing discipline stemming from founded unit level investigations, Special Counsel found the process weighted in favor of any employee seeking to reduce or avoid discipline. According to the report, the department reduced or “held in abeyance” (only imposed if the deputy committed a new offense during a specified period of time) 84 percent of discipline initially recommended in which a suspension was to be imposed. Special Counsel found that “an employee has everything to gain and nothing to lose by grieving discipline. Special Counsel warned that no matter how well an investigation is conducted and how reasoned its outcome, the disciplinary system is a failure if it does not result in “evenhanded, predictable, uniform, and fair punishment.” Among its recommendations, Special Counsel urges the LASD to: reduce incentives and increase disincentives for deputies to grieve discipline; not change founded adjudications to “unfounded” or “unresolved” even if the case merits less than formal discipline absent a change in facts or evidence; require supervisors to provide reasons for changing unit level investigations’ adjudications as a result of a grievance; and disallow resignation in lieu of discipline or, barring that, fully disclose the facts and circumstances of the resignation to subsequent employers.

The full report may be accessed online at www.parc.info.

“Study faults some deputy probes; L.A. County sheriff’s response to complaints is found to be improved but inconsistent,” *Los Angeles Times*, May 17, 2007.



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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PARC Reviews Farmington (NM) Oversight System

PARC was retained by the City of Farmington (located in the “Four Corners” region of New Mexico) to evaluate the structure, procedures and practices of the Citizen Police Advisory Committee (CPAC). The City also asked PARC, working with Richard Jerome, PC, to review a sample of the Farmington Police Department’s (FPD’s) files on investigations of citizen complaints and its reports on uses of force. PARC commended City officials for initiating the review, which was spurred in large part by troubled relations between the police and Native-American community, including the June 2006 fatal shooting of a Navajo man by an FPD officer.

Farmington’s CPAC was created in 1995 to improve relations between the police and community and to provide citizen involvement in police oversight. PARC concluded that in order to fulfill that role, “significant changes in CPAC’s operations and resources must be made. Only then will CPAC have an impact on improving police accountability, reducing incidents of police misconduct, and increasing community trust in the FPD.”

PARC’s major findings, based in part on its meetings with a broad range of community members, several Navajo groups and leaders, and an open meeting, include:

- CPAC’s review of FPD citizen complaint investigations needs major improvement, and its guidelines and procedures regarding its responsibilities need clarification. Since CPAC’s creation, CPAC had not issued findings disagreeing with the FPD when a complainant was dissatisfied with an Internal Affairs investigation and had not referred an investigation back to the FPD for further investigation;
- CPAC lacks public visibility, with most Farmington residents and others unfamiliar with its existence and function. CPAC has never issued a public report and does not appear on any City agency’s web site;
- CPAC rarely reviews police policies and practices; and,

- CPAC’s deficiencies are due, in significant part, to a lack of staff resources.

After reviewing FPD investigation files and meeting with personnel, PARC reported that:

- in too many instances Internal Affairs investigations, including of citizen complaints, are not conducted with sufficient thoroughness, fairness, competence, and diligence;
- in approximately half of the cases reviewed, the investigation “did not demonstrate a serious effort to determine whether the allegations could be proven;”
- discipline is not always imposed when officers are found to have violated policy and when imposed, may sometimes be unduly lenient;
- use-of-force reporting in general is sufficiently detailed, but does not always occur when required; and,
- the early identification system needs to be substantially revamped, most particularly in upgrading the quality of supervisory input, which is sometimes excellent but often perfunctory.

PARC said that FPD management responded to PARC’s findings and recommendations in a constructive and open manner, taking some immediate steps to correct problems. It reported that even though it identified problems with the existing oversight systems, there are solutions that are “realistic and attainable.” The PARC report also praised the FPD for some of its practices and policies. For example, it noted that the department is “among the vanguard of departments nationwide that routinely conduct an internal affairs investigation when the municipality receives a claim or lawsuit that alleges wrongdoing by a member of its police department.” It also wrote that the FPD’s use-of-force reports provide more detailed information about the use of force employed and precipitating circumstances than is true for many departments around the country.

The report contains 20 recommendations to improve CPAC’s operations and 29 suggestions to improve the FPD’s investigations and related management policies and procedures. A key recommendation to improve the CPAC is to hire a full-time staff member (with a

suggested title of “Executive Director”) to provide meaningful oversight of the FPD’s handling of citizen complaint investigations. The Executive Director would give the CPAC the enhanced ability to exercise its responsibility in reviewing and recommending improvements in FPD policies, practices, training, and tactics.

In response to the PARC report, Police Chief Jim Runnels told reporters that the FPD was moving to make the suggested changes. “I can assure the public that we’re going to take these recommendations and move forward with them to restore that confidence that’s been evidently lost,” he said. For example, the FPD reported it had already initiated additional training on how to conduct an internal affairs investigation. A city councilor summed up PARC’s review: “What they said in a very diplomatic way was, in some cases, you’re doing OK, but in other cases things need to be fixed.”

The full report may be accessed online at: http://parc.info/client_files/Farmington/Farmington%20report.pdf

“Study reveals police concerns,” *Farmington Daily Times*, July 1, 2007.

Eugene Names Committee Members; Union Objects to Auditor Work

The Eugene (OR) City Council has named five members to the city’s first police oversight committee. The committee will work with the new police auditor to review investigations of misconduct allegations made against Eugene police officers to ensure that the inquiries were handled in a fair and thorough manner. The new committee members include a director of nursing, a former member of the police commission, a municipal court judge, a property management consultant, and an attorney.

The Eugene Police Employees’ Association (EPEA), meanwhile, has filed a grievance about the new Auditor’s work. The EPEA contends that the Auditor should not accept complaints about the police until the EPEA provides its views regarding the office’s operation, given a 2005 memorandum of understanding that the union believes gives it the right to weigh in on aspects of the Auditor’s work before it begins. The Auditor and some in the city government,

however, note that the Auditor is simply receiving complaints and passing them to the police department and is not yet auditing the department. A meeting was scheduled with involved parties to discuss the union’s concerns.

“Council approves police oversight panel,” *The Register-Guard*, April 10, 2007.

“Police union files labor grievance over auditor work,” *The Register-Guard*, June 11, 2007.

Salt Lake City’s Review Board in Turmoil

Salt Lake City’s Police Civilian Review Board has undergone a shakeup during the past several months, with resignations of four board members, including the chairman and vice-chairwoman, a debate over whether all of the board’s reports and recommendations should be made public, and a city-led investigation into the disclosure of one of the board’s investigative findings. As it is, the 14-member board automatically reviews complaints alleging excessive force and, if requested by a complainant, reviews other complaints lodged against the police. It then makes recommendations to the police chief. If the chief concurs, the board’s findings are made public, but if the chief does not accept the board’s recommendation, the reports are not disclosed.

A combination of factors led to the board members’ resignations. Some reportedly were frustrated by what they viewed as a lack of cooperation from the department and the chief’s refusal to accept some board recommendations. Those frustrations boiled over when the city launched an investigation to find out how a newspaper reporter learned of the Board’s sustained findings in a prominent case. One board member, upon her resignation, wrote that the board had “...been rendered ineffective in its important job of monitoring police irregularities. To remain under these circumstances would be to perpetuate the illusion that we still can function.”

A board member who has not resigned, Scott McCoy, said that the resignations should be viewed as protests over the “leak” investigation and the way it was carried out. There was a threat of prosecution for the offender and the private investigator hired by the city requested at least one Board member’s personal phone records. “No one from the board leaked anything to anyone,

yet everyone seemed to be pointing fingers at us and impugning our professionalism and our integrity," McCoy said. The probe failed to find the source of the leak. The latest resignations, combined with pre-existing vacancies, left the board with only five voting members as of mid-May.

"Police laundry: Review board's reports should be aired," (Editorial), *Salt Lake Tribune*, April 5, 2007; "Resignations attributed to discord with SLC leaders raise questions about board's credibility," *Salt Lake Tribune*, May 19, 2007; "Full disclosure will plug leaks," *Salt Lake Tribune*, May 21, 2007; "Tribune failed residents, harmed Civilian Review Board," (Op-Ed by Salt Lake City Mayor Rocky Anderson), *Salt Lake Tribune*, May 28, 2007.

See also <http://www.slcgov.com/police/community/crb.htm>

Survey: Denver PD More Satisfied with Complaint Process

A survey conducted for Denver's Office of the Independent Monitor (OIM) has found that Denver police officers are more satisfied with the department's complaint and disciplinary process than they were nearly two years ago. The survey, conducted by researchers from Ohio University and the University of Delaware, established a "baseline" in the fall of 2005 as the OIM was beginning to function (August 2005) and then conducted the second, "post-implementation" survey in September 2006.

According to the survey, 70 percent of officers surveyed were generally satisfied or neutral about the complaint process; in the similar 2005 survey, 36 percent of officers surveyed held those views. Officer morale also improved during the same period, with 57 percent in the current survey reporting that their morale was either average or high, compared to 40 percent in 2005. The researchers conducting the survey also noted a correlation between officer morale and job satisfaction with the complaint process. Those with high morale or job satisfaction were substantially more likely than those with low morale or job satisfaction to be satisfied with the complaint process.

Nearly 38 percent of respondents believed the Office of Independent Monitor was an improvement over its civilian-review predecessor, the Public Safety

Review Commission. The survey also showed an increase between 2005 and 2006 in satisfaction with the overall complaint process among officers who have been the subject of citizen complaints, increasing from 12 percent to 35 percent.

During both survey periods, however, officers expressed concern about bias in favor of residents when it comes to citizen complaints and with roughly half of respondents expressing concern about Internal Affairs' bias against certain officers. The full report can be accessed online at: <http://www.denvergov.org/Portals/374/documents/OIM%202005-2006%20DPD%Officer%20Satisfaction%20Report-Final.pdf>

"Complaint process gets officers' nod," *Rocky Mountain News*, May 25, 2007.

International Police Oversight Group Meets

The first Steering Group meeting of the International Network for Independent Oversight of Policing (INIOP) was recently held in Brussels. The fundamental goals of the new network are to champion the principle of effective, independent oversight of policing and to create opportunities for existing oversight organizations to share knowledge. According to the new network, "an international network has a key role to play in promoting international cooperation and the sharing of learning and best practices between those involved in oversight of policing."

The meeting, hosted by the Chairman of Belgium's Standing Police Monitoring Committee, was attended in person and via videoconference by some of its members representing Australia, the European Union, the United States, Ireland, Canada, England and Wales. Attendees discussed and approved a number of administrative items related to the emerging network's mission and function. The Steering Group also discussed outreach efforts and plans to participate in the upcoming National Association for Civilian Oversight of Law Enforcement conference in San Jose, CA and the Canadian Association for Civilian Oversight of Law Enforcement conference in Halifax, Nova Scotia.

"Report on the International Network for Independent Oversight of Policing Steering Group Meeting," as

circulated by Eduardo I. Diaz, Executive Director, Miami-Dade County Independent Review Panel, April 11, 2007.

For more information, see: http://www.ipcc.gov.uk/index/about_ipcc/international/iniop.htm

Dispute Erupts Between San Jose PD and Police Auditor

The San Jose Police Department's (SJPD's) police chief and the Independent Police Auditor (IPA) have been engaged in a rare, public dispute over the IPA's call for departmental reforms and additional IPA oversight powers. The dispute arose after the IPA issued its annual report that, among other issues, raised concerns about how some citizen complaints were being classified and investigated. In response, the police chief held a news conference at which he criticized the Auditor's findings and recommendations, and the City Manager hired an outside auditor to review the IPA report's contents.

The IPA expressed concern that a rising number of citizen complaints against SJPD officers – including some alleging racial discrimination and excessive force – were classified as “inquiries” and minimally investigated. The Auditor reported that inquiries made up more than half of the 444 complaints filed during the year and that prospective complainants may have agreed to inquiries, thus forgoing a formal investigation, without understanding the implications of that choice. The Auditor contended that her office should have additional powers to help classify and investigate allegations to make sure that they are thoroughly, objectively and fairly handled. The Auditor also called on the SJPD to conduct thorough administrative reviews of all critical incidents (including deaths or serious injuries in custody, following high-speed pursuits, or following Taser use), similar to reviews now conducted in officer-involved shooting incidents; such administrative reviews would focus on policies, procedures, tactics, and supervision and would be examined by the IPA.

The San Jose City Council considered the IPA's recommendations and SJPD's response and arrived at a compromise. It called on the SJPD to work with the IPA to review and make any needed changes to the department's classification system. It called for improved public outreach materials to better describe

the investigative process and complainants' options. It also called on the City Attorney to determine whether there were any compelling legal reasons not to accept the IPA's recommendation that the SJPD conduct thorough administrative reviews of all critical incidents. The City Council did not support the Auditor's suggestion that the IPA become more directly involved in classifying complaints and investigating allegations the SJPD does not pursue.

The IPA's full report may be accessed online at: <http://www.sanjoseca.gov/ipa/06ye.pdf>

“Report critical of S.J. police,” *San Jose Mercury News*, June 9, 2007; “San Jose police challenge auditor's report,” *San Jose Mercury News*, June 12, 2007; “San Jose police auditor seeks more oversight over department,” *San Jose Mercury News*, June 19, 2007; “San Jose mayor's recommendations,” *San Jose Mercury News*, June 20, 2007; “San Jose council must resolve police, auditor dispute,” (Editorial) *San Jose Mercury News*, June 20, 2007; “Council agrees to give auditor role in police oversight,” *San Jose Mercury News*, June 21, 2007.

CONSENT DECREES/MOAs

Cincinnati's MOA Expires, Monitoring of Collaborative Continues

The monitoring term for Cincinnati's Memorandum of Agreement (MOA) between the City, Cincinnati Police Department (CPD), and U.S. Justice Department ended on April 12, 2007. In its letter of termination to the City and CPD, the U.S. Department of Justice wrote:

We congratulate the City on its progress and have closed this matter. This accomplishment demonstrates the City's commitment to constitutional policing and fairness for all who travel through its jurisdiction.

The Justice Department asked the Monitor to provide a report before April 12 that summarized Cincinnati's progress on the MOA, which did not allow for an analysis of up-to-date information regarding compliance. In reviewing the last available quarter's

data (through September 30, 2006), the Monitor reported that 93 percent of the MOA's operating provisions were in compliance. The areas where only partial compliance was achieved as of the MOA's termination included: complete documentation of use-of-force incident investigations; consistently thorough investigations of citizen complaints by the CPD's Internal Investigations Section and the Citizen Complaint Authority; and the appropriate management use of the CPD's risk management system, the Employee Tracking System.

The Monitor's April 10 summary report concluded that, "significant accomplishments in police reforms have taken place in the City of Cincinnati during the past five years. These reforms are a strong foundation for sustained and continued improvement in policing in Cincinnati." An editorial in the *Cincinnati Enquirer* summarized the end of the MOA: "We are now into the most important phase of our oversight, and that is self-monitoring. The parent figures of the Justice Department and monitor Saul Green have receded, and now it is up to us - community, police, officials - to gauge feelings on the street, evaluate police actions, monitor communication and see if the community holds up its end as well."

In its latest report, issued on May 1, 2007, the Monitor turned its focus exclusively to efforts by the City, Plaintiffs, and the Fraternal Order of Police to achieve compliance with the Collaborative Agreement. The Monitor reported that the Parties were in compliance with eight of 17 CA provisions relating to the CPOP (Community Problem Oriented Policing), in partial compliance with eight, and out of compliance with one. The Monitor reiterated concerns regarding the CPD's Operation Vortex, a "zero-tolerance" effort to address violent crime, stating that the policing approach is inconsistent with the CA's objectives and that it imposes a "very heavy burden" on the African-American community, as described in RAND's recent report. The Monitor urged the parties to address these issues directly to reconcile commitment to CPOP with the zero-tolerance Operation Vortex approach.

The Monitor notes that "pieces that remain undone, such as effective performance evaluations, a continuous learning organization, a community dialogue plan, and suitable job descriptions for CPD members, are at the heart of full implementation of the CA." Since February 1, Parties and the Monitor

have been meeting under the guidance and supervision of U.S. District Court Judge Susan Dlott and U.S. Magistrate Judge Michael Merz. In June it was announced that the Parties had agreed to extend the CA for an additional year, called a "transition period," until August 2008.

The latest full report on CA progress can be accessed online at: <http://www.gabsnet.com/cincinnati/monitor/17th%20Report.pdf>

The Independent Monitor's April 10, 2007, final MOA determination report can be accessed online at: <http://www.gabsnet.com/cincinnati/monitor/SixteenthReport.pdf>

"Police reforms – end or beginning?" (Editorial) *Cincinnati Enquirer*, April 15, 2007; "Collaborative is extended another year," *Cincinnati Enquirer*, June 7, 2007.

Detroit Monitor Issues New Report

The Office of the Independent Monitor assessing Detroit's compliance with two Consent Judgments reached in 2003 between the City of Detroit, Detroit Police Department (DPD), 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 48, including the vast majority of the policy components. The DPD has been in overall compliance for two quarters with 14 substantive paragraphs or subparagraphs of the CJs.

During this reporting quarter, ending on February 28, 2007, the Monitor initiated an examination of a total of 86 paragraphs or subparagraphs, finding the City in compliance with 14 and not in compliance with 49; the Monitor did not complete its evaluation of 22 paragraphs or subparagraphs and withheld its determination on one paragraph.

The Monitor commends the DPD for: implementing a systemic process for arrestee warrant requests and arraignments; improvements regarding court orders prior to taking material witnesses into custody;

submitting audits that were due (though two of three examined were non-compliant); following guidelines established in the Disciplinary Matrix; and continued efforts to develop its Management Awareness System. Areas of concern noted in the report include the development of lesson plans and delivery of Consent Judgment training, the completion of various forms and logs to provide documentation, and the retrofitting of the buildings containing holding cells. The Monitor also notes the need for progress on the installation, review, and survey of in-car video cameras and tapes.

After this report was issued, the City of Detroit petitioned the court to interpret certain consent judgment paragraphs as requiring only development, adoption, or amendment of policies but not implementation if the paragraphs do not explicitly require implementation. The City asked “should an implementation requirement be read into each of those paragraphs?” The City also says that it has every intention of implementing each policy adopted and does not require a court to motivate it to do so. A city councilwoman told reporters that the City and DPD’s position was cynical and “preposterous public policy.” The judge is awaiting a Magistrate judge’s recommendation before ruling on the City’s motion.

In June 2007, the City filed a motion to extend both Consent Judgments until July 2011. The City believes that the parties underestimated the amount of time required to reach and maintain substantial compliance, in spite of what it describes as the City’s good faith efforts. The City also notes a downturn in revenues that may slow physical plant renovations required in the Conditions of Confinement CJ.

The full report can be accessed online at: http://www.kroll.com/library/detroit/DPD_Q14_Report_4-16-2007.pdf

“Cop say federal oversight too strict,” *Detroit News*, May 17, 2007; “Police Want Better Count of Reforms,” (Op-Ed by Detroit Police Chief Ella Bully-Cummings) *Detroit News*, June 1, 2007.

LAPD Monitor Issues Quarterly Report

In its 23rd quarterly report, the Independent Monitor for the City of Los Angeles and Los Angeles Police Department (LAPD) said it was

generally pleased with the LAPD’s progress, the department’s use of force during the May 1 immigrants’ rights rally raised new concerns. The Monitor assesses the 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 May 1 immigrants’ rights demonstration, the Metropolitan Division of the LAPD was deployed in response to a reportedly small group of demonstrators who threw objects at police. Officers used batons and shot foam rubber projectiles to disperse the crowd, leading to injuries, complaints, lawsuits, and investigations at the local and federal level. The Monitor states that “the questions of command, control, strategy and tactics at the scene, as well as deviation from Departmental policies and procedures relative to permissible uses of force, must be fully examined....questions relative to the composition, training and readiness of the Metropolitan Division must be answered.” The Monitor also writes, “[T]hose events transpired in full view of cameras recording the incident for all the world to see. The larger question has been asked by some: to what extent is force, outside the view of cameras, being utilized inappropriately.”

Beyond the May 1 crowd control incident, the Monitor’s latest report covers the period from January 1 through March 31, 2007, and focuses on 33 paragraphs or subparagraphs of the consent decree actively monitored where substantial compliance has not been achieved. The Monitor found that the City and LAPD had successfully complied with 19 provisions and had failed to achieve compliance with 10, with determinations on four provisions withheld.

For the first time, the Monitor assessed the City and department’s compliance with consent decree requirements related to the LAPD’s early warning system, TEAMS II. The department was found in compliance with consent decree requirements regarding data analysis capabilities of the system and access to the system by investigators; the Monitor also found that access to the system by the Police Commission, Inspector General, and Chief of Police complied with consent decree provisions but withheld

a compliance determination pending review and approval of required policy outlining requirements for access.

The Monitor also assessed compliance with the consent decree's provisions relative to supervisory review of search warrants and the use of a search warrant tracking log and found continued problems with search warrant packages' documentation requirements. In its assessment of the department's compliance with several requirements related to complaint receipt, maintenance, and investigation, the department was in compliance with almost all requirements. In reviewing gang unit management provisions that should ensure proper control over these units, the Monitor found the department had not yet achieved compliance. The Monitor also evaluated three audits submitted by the LAPD's Audit Division and found two – one concerning Complaint Form 1.28 investigations and one concerning motor vehicle and pedestrian stops – in compliance, but found the third concerning warrant applications and supporting affidavits was not. Finally, the Monitor noted the Office of the Inspector General's "exceptional oversight," reporting that the OIG's reviews of LAPD audits were quality reviews, as were OIG's reviews of all Categorical Use of Force investigations.

The full report can be accessed online at: http://kroll.com/library/lapd/LAPD_Q23_Final_Report_05-15-2007.pdf

MPD's Monitor Issues Report as Fifth Year Ends

The Office of the Independent Monitor (OIM) issued its 20th quarterly report evaluating District of Columbia and Metropolitan Police Department (MPD) compliance with their Memorandum of Agreement (MOA) with the U.S. Justice Department. The report covers the period from January 1 through March 31, 2007, completing the Monitor's fifth year of monitoring the MPD's compliance with the requirements of the MOA. Under the terms of the agreement, the MPD and City must maintain substantial compliance for two years before the agreement will be terminated. The OIM notes that in all of the areas where substantial compliance has not yet been achieved, the required two-year maintenance period has not yet begun.

According to the Monitor, the new police chief, Cathy Lanier, has discussed strategies with the OIM and Justice Department to accelerate MPD's progress in achieving substantial compliance. The Monitor writes that "MPD and the City have substantially complied with many of the central provisions of the MOA but that "it is equally clear, however, that MPD and the City continue to fall short in certain important areas of MOA compliance." Areas in need of attention include: reporting of use of force incidents, failing to notify community of outreach meetings so that the outreach program is undermined, improving the Personnel Performance Management System (PPMS), implementing an enhanced FTO program, and introducing revised policies related to specialized units.

During the quarter examined, the OIM focused on five areas:

- Review of audits performed by the Quality Assurance Unit (QAU) and related technical assistance. The OIM found that the QAU's auditing methodology used to assess use of force reporting requirements was flawed because it did not include all relevant reports containing information about uses of force.
- Officer attendance at mandatory in-service training. The OIM found significant improvement in attendance and record-keeping, concluding that the MPD "has implemented an effective program for training its officers in the department's revised use of force-related policies and curriculum.
- Use of force investigations performed by the Force Investigation Team (FIT). The OIM found that the already high quality of FIT I investigations (of the most serious uses of force) continues to improve. FIT II investigations (uses of force such as kicks, canines, OC spray, hand controls, and chokeholds) were not as impressive, with 82 percent of investigations closed in 2006 determined "complete" and 95 percent determined "adequate."
- Non-FIT use of force and misconduct investigations. The OIM reported that the MPD has taken steps to improve the quality and timeliness of these internal investigations, but that

progress had “reached a plateau” with about 85 percent of investigations deemed “complete.” The OIM also expressed concern regarding the extended “pending” status of several investigations.

- Promotion of MPD’s community outreach programs. The OIM toured patrol station areas to determine whether promotional materials for community meetings were distributed and found current community meeting materials at just two of 32 locations. The OIM writes, “MPD’s consistent and prolonged failure to promote its community outreach efforts...is disappointing....”

The report provides an update on compliance status in relation to all of the agreement’s requirements, highlighting areas in need of significant progress. The full report can be accessed online at: <http://policemonitor.org/070510report.pdf>

PG County Monitor Issues Quarterly Report

The Independent Monitor Team assessing Prince George’s County’s compliance with its January 2004 Memorandum of Agreement (MOA) with the U.S. Justice Department has released its 11th quarterly report. The Justice Department began an investigation of the Prince George’s Police Department (PGPD) in 2000 for an alleged pattern or practice of excessive force. The agreement, initially set to terminate after three years, focused on use-of-force reporting, investigation, and review; officer training and supervision; and personnel management.

The Alexandria Group-Independent Monitoring Team’s (AG-IMT’s) latest quarterly report, issued on March 28, 2007, covers the quarter ending December 31, 2006 and focuses on five areas of concern: the uses of force being reported by the department; the implementation schedule for the Early Intervention System; the response to incidents involving mentally ill persons; the status of completed Office of Professional Responsibility (OPR, formerly Bureau of Professional Responsibility) investigations; and use of mobile video cameras. The Monitor provided a mixed report regarding progress in these areas. Two consistent problems were highlighted: the Early Intervention System’s (EIS’s) full implementation, and thus usefulness as a management tool, continued to

lag and OPR investigations took too long, with just one of 21 reviewed investigations completed within 90 days as required by the MOA.

The Monitor has divided compliance into two phases: Phase 1 where an appropriate policy is in place and Phase 2 where effective implementation has been achieved. As of this quarterly report, the Monitor reports that appropriate policies were in place for all 67 provisions of the MOA. Effective implementation, or Phase 2, had been achieved for 45 provisions, with pending compliance (where substantial progress has been noted) for nine, and non-compliance for 13. Areas of non-compliance included supervisors’ performance reviews following uses of force, timely use-of-force investigations, failure to explain why activities were not recorded by mobile cameras, and many provisions related to the EIS system. Substantial compliance must be maintained for two years before the MOA is to be terminated.

The full report can be accessed online at: <http://www.goprincegeorgescounty.com/Government/PublicSafety/Police/pdfs/11th%20Quarterly%20Report%2003-26-07.pdf>

COMMUNITY POLICING

Vera Report Addresses Police-Community Language Barriers

A new report issued by the Vera Institute of Justice offers practical suggestions for law enforcement officials faced with language barriers in the communities they serve. “Overcoming Language Barriers; Solutions for Law Enforcement” describes a range of tools agencies can use to improve communication with limited English proficiency (LEP) individuals within their jurisdictions. It draws on “lessons learned” from the Vera Institute’s work with law enforcement agencies in Anaheim (CA), Clark County (NV), and Clark County (OH).

The report notes that in recent years the United States has seen the biggest wave of immigration since the early 20th century, with the number of U.S. residents born in a different country increasing by 57 percent between 1990 and 2000. Immigrants are no longer

remaining in gateway cities like New York and Los Angeles and instead settling in suburbs, small towns, and rural areas, creating a language access challenge for law enforcement agencies around the country. Those challenges exist in day-to-day encounters, ranging from the mundane to an incident in which, as described by the Clark County (OH) Sheriff, “a language barrier could cost someone his life.”

Vera describes cost-effective steps that agencies can take, tailoring them to meet their needs and capacities. Among the strategies to ensure “language access” (defined as an agency or organization’s efforts to make its programs and services accessible to LEP individuals), the Vera Institute recommends that agencies:

- Determine the languages spoken in your jurisdiction by collecting demographic data from local and federal sources;
- Undergo a planning process to develop a language access policy and protocol guidance;
- Educate all agency personnel about language access and how to utilize agency language assistance services;
- Recruit bilingual personnel and offer a base pay increase for staff who pass a proficiency exam and provide bilingual personnel with police interpreter training;
- Train staff on how to effectively work with “ad hoc,” volunteer, and professional interpreters during an interaction with an LEP individual;
- Translate signage and documents that communicate vital information to the public into the most prevalent language spoken by LEP community members;
- Notify the public about your agency’s language access policy and language assistance resources;
- Pool resources and leverage assets with other agencies and services in your city or county.

The Vera report also provides information about additional resources available to law enforcement agencies seeking to ensure language access. This report is part of the Vera Institute’s “Translating Justice” technical assistance project, intended to respond to the need among criminal justice practitioners for strategies that can bridge the language gap between police and LEP persons.

The full report can be accessed online at: http://vera.org/publication_pdf/382_735.pdf

Information about the Vera Institute of Justice’s “Translating Justice” project can be accessed online at: http://vera.org/project/project1_1.asp?section_id=4&project_id=81

RACIAL PROFILING

BJS Study Shows Racial Disparities in Searches, Arrests, and Force

The U.S. Justice Department’s Bureau of Justice Statistics (BJS) has issued a report showing that African-American and Hispanic drivers are much more likely to be searched and arrested during traffic stops than white drivers. All groups were equally likely to be pulled over by police, but African-American drivers were more than twice as likely as whites to be arrested during a vehicle stop.

The BJS study reviewing police-public contacts during 2005 also found that police are much more likely to use or threaten to use force against African Americans and Hispanics than against whites during any encounter. According to the study, force was used by the police in all police-public contacts 1.6 percent of the time. Officers used or threatened to use force against African Americans in 4.4 percent of contacts, against Hispanics in 2.3 percent of contacts, and against whites in 1.2 percent. Of all individuals against whom force was used, roughly 83 percent believed the force used was excessive.

The study also showed differences in views regarding the legitimacy of vehicle stops by police. Ninety-two percent of white drivers stopped for a “records check” believed the stop was legitimate whereas 72 percent of black drivers thought the stop was legitimate. Seventy-seven percent of whites believed traffic light/stop sign violation stops were legitimate, but 57 percent of African Americans did.

As with previous BJS police-public contact reports, the authors cautioned that racial disparities “do not constitute proof that police treat people differently along demographic lines” because differences could

be explained by circumstances not analyzed by the study. Civil rights groups expressed concerns about the reported disparities and said that the Justice Department needed to conduct more complete data collection and analysis.

The full report can be accessed online at: <http://www.ojp.usdoj.gov/bjs/pub/pdf/cpp05.pdf>

“Race gap cited in traffic searches,” *Washington Post*, April 30, 2007.

Profiling Expert Recommends SFPD Changes

A new report suggests changes San Francisco and its police force should implement in order to avoid racial profiling or the perception of it. The report’s author, Dr. Lorie Fridell, was retained by the city after the *San Francisco Chronicle* published articles raising questions about the high arrest rate for African Americans in San Francisco compared with other major cities in California. She was asked to conduct community and police briefings about fair and impartial policing, review and comment on the *Chronicle’s* information, and to carry out a preliminary review of the SFPD’s efforts to promote bias-free policing.

The expert noted that the SFPD had already taken important steps to promote and facilitate fair and impartial policing, including a solid anti-biased policing program, POST training for recruits, a police chief dedicated to impartial policing, impressive diversity within the SFPD, a commitment to community policing principles, and the collection of vehicle stop data since 2001.

The report provides background on the issue of biased policing in San Francisco, a framework for discussing fair and impartial policing, a look at African Americans and arrest disparities, and the issue of compliance in relation to SFPD vehicle stop data. It cautions that the city’s police and residents should focus on reforms rather than focusing too much on statistics that might show racial or ethnic disparities in terms of arrests. She also writes that while the SFPD must deal with racist officers who act on those beliefs, the greater challenge is to address “unconscious” or “implicit” bias among well-meaning officers who may not be cognizant of how their “reactive rather than reasoned” actions are perceived.

The report recommends that San Francisco:

- Revamp police training to include material to help officers be aware of unconscious biases.
- Develop new training for sergeants, lieutenants and field-training officers to give them tools to promote fair and impartial policing by those they supervise.
- Expand background checks of police applicants to include exploration of the candidates’ attitudes toward and interactions with members of other racial or cultural groups.
- Arrange department-conducted focus groups around the city “with resident stakeholders” to discuss topics of mutual concern, including racially biased policing and perceptions of how it is practiced.
- Create an advisory board to help the police chief implement the reforms, hire a consultant to help push needed changes, and have the chief regularly report to the Police Commission on the progress of the reforms.

Mayor Gavin Newsom endorsed the report’s findings and proposed plan, vowing that the city would “aggressively implement the recommendations.”

The full report can be accessed online at: http://www.sfgov.org/site/uploadedfiles/police/commission/Racially%20Biased%20Policing_Fridell_2.pdf

“Expert: Changes needed at SFPD to avoid profiling,” *San Francisco Chronicle*, April 3, 2007.

FORCE MANAGEMENT

San Jose PD Releases Report on its Use of Force

The San Jose Police Department (SJPD) has conducted a review regarding its officers’ use of force during 2006. Among other findings, the study revealed that SJPD officers are more likely to use force against blacks and Latinos than against criminal suspects from other racial or ethnic groups. African Americans made up 10 percent of those arrested but 17 percent of those subjected to force. Latinos made

up nearly 55 percent of those subjected to force and just over 52 percent of those arrested. White arrestees made up 19 percent of those arrested and 18 percent of those subjected to some kind of force.

The review – the first of its kind in recent history providing statistics regarding officers' use of force – found that of 34,000 arrests last year, less than 5 percent involved officers using some kind of force. Uses of force included use of hands and feet, pepper spray, baton, Tasers, and firearms. Hands and feet were reported as used most frequently by officers and firearms were used least often. Pain compliance/takedown uses of force combined to make up 63 percent of uses of force. In 68 percent of reported force responses, officers reported the individual showed "signs of chemical influence," and in 16 percent of reported force incidents, officers reported "signs of mental illness."

In response to concerns expressed about the report's findings and incidents of alleged SJPD mistreatment of Latinos protested by community groups and the Mexican consulate's consul general, San Jose Police Chief Rob Davis announced that the department would enhance cultural sensitivity programs, meeting with Latino leaders regularly, and conduct a survey about how complaints are processed in 17 other jurisdictions to determine whether San Jose's procedures should incorporate procedures used by other agencies. Chief Davis vowed that the department would release an annual "use of force" report. Some observers called on the department to release information more frequently to allow for identification of force pattern and more information about force incident locations and whether certain officers had used force more than others.

The full report can be accessed online at: <http://www.sjpd.org/Force%20Response%20Report%20%20Jan%2006%20-%20Dec%2006%20REVISED%203-5-07.pdf>

"San Jose police more likely to use force against blacks, Latinos," *San Jose Mercury News*, March 21, 2007; "How police treat Latinos a hot topic," *San Jose Mercury News*, March 24, 2007; San Jose police taking steps to ease Latino leaders' concerns," *San Jose Mercury News*, March 30, 2007.

Report Reviews Force Incidents in San Diego County

A new audit report examines deputy-involved shootings and other critical incidents involving San Diego County sheriff's deputies. The study, covering incidents that occurred between January 2003 and December 2005, was conducted by the OIR Group (made up of three attorneys from the Los Angeles County Office of Independent Review). The Sheriff called for the review after three fatal deputy-involved shootings of Latino men in Vista during a five-day period in the summer of 2005. The audit reviewed 25 "hit" deputy-involved shootings, homicide investigation protocols, incident reviews, and other use-of-force issues; it includes 35 recommendations for improvements.

The OIR Group gave the department generally high marks in relation to the areas and incidents examined, saying at a news conference releasing the report: "This is not a rogue law enforcement agency. It is an agency that follows its guidelines. It follows the rules of the Constitution and the rules of the law." The Auditors found:

- the department, via its Training Division, is "preparing its people as effectively as possible;"
- the Homicide Bureau's investigations appeared generally "professional, well-organized, thorough, and in some respects, exemplary;"
- discipline imposed for serious incidents appeared generally appropriate; and,
- the department was making progress in enhancing community outreach, as with the new "Sheriff's Advisory Committee" in the Vista patrol area.

Nevertheless, the Auditors also found areas where improvements could be made. For example, the audit identified practices, procedures, and related issues the department may wish to revise or reexamine in relation to homicide investigations. The audit found that deputy witnesses to shooting incidents were not formally interviewed. It also found that language barriers between the department and the community were impeding investigations and that respect for witnesses' and other residents' rights were not always sufficiently considered.

The Auditors recommended that the department revise its policy concerning shooting at vehicles and

create a comprehensive foot pursuit policy. Regarding shooting at vehicles, the Auditors urged the department's policy to provide more guidance to deputies regarding the decision to shoot and to address related tactical decisions, such as the "advisability and effectiveness of moving into the real or potential path of a moving vehicle." The Auditors urged a foot pursuit policy that instructs officers to: broadcast the pursuit and location as soon as possible, reassess the pursuit if a suspect enters a structure, desist in pursuing if the deputy loses sight of the suspect, and not split from partners.

The OIR Group found that reviews to address issues of tactics, training, supervision, and other issues warranted more rigorous attention from the department. The Critical Incident Review Board (CIRB) relied extensively on Homicide investigations, but the scope of those investigations is too narrow, the audit found, concluding that CIRB outcomes "did not fully exploit the potential of the process as a review mechanism." The Auditors' recommendations to revamp the CIRB included: the creation of a separate team of investigators outside of the Homicide Bureau to roll to officer-involving shooting scenes and be responsible for a comprehensive investigation of the event; appointment of a small panel of Commanders to review investigative reports, hear a presentation by the administrative shooting review investigators, and make decisions on each case as advised by legal counsel, training, and the relevant unit commander; and expansion of CIRB jurisdiction to address additional matters that warrant heightened scrutiny including deaths incident to arrest, non-hit shootings, a selection of serious force incidents, and bites by the department's K-9 unit.

The OIR Group also looked at the department's early intervention, disciplinary, and risk management systems. The department's efforts to implement an Early Intervention System were admirable, said the audit, but it should prioritize the system's implementation because it has been in the design stage for some time. The OIR Group also reviewed the department's disciplinary system and urged improved consistency by the use of formal guidelines, or a "matrix" to determine appropriate actions in a given case. Finally, the Auditors wrote that the department's manual calls for a rigorous Risk Management Unit to "enhance professionalism, prevent/reduce liability costs, and increase operational efficiency..." but that

actual practices "fell well short of the ambitious and detailed vision" in the manual.

In its written response to the report, the department said that it had already, or planned to, fully implement 26 of the recommendations and partially implement seven; it said it rejected two of the recommendations – calling the recommendation to create a separate "force package" reporting protocol unnecessary and describing a recommendation to remove an advisory requiring complainants to acknowledge it is a crime to make a false statement against a peace officer as unwarranted.

The full report and Sheriff's response can be accessed online at: <http://www.sdsheiff.net/audit/index.html>

"Sheriff's department gets laundry list of suggested improvements," *San Diego Union-Tribune*, June 25, 2007; "Sheriff embraces reviewers' appraisal," *San Diego Union-Tribune*, June 26, 2007.

LAPD Criticized for Immigration Rally Actions

The Los Angeles Police Department (LAPD) is facing criticism and calls for reforms after its officers used force against demonstrators at an immigrants' rights rally on May 1. Police struck individuals with batons and fired scores of projectiles, including foam rubber bullets, at demonstrators gathered at MacArthur Park. City officials and community activists called the videotaped melee a serious step backward in police-community relations that raised questions about reforms the LAPD has implemented under its consent decree with the U.S. Justice Department. After the incident, Chief William Bratton vowed to hold those responsible accountable and told reporters that he had viewed videotapes of the incident and that he was "not going to defend the indefensible."

The LAPD presented a "slide show" after-action preliminary report to the Los Angeles Police Commission that showed how the events unfolded from the department's point of view. That account described that members of the elite Metropolitan Division were deployed to help respond to a group of up to 40 "agitators" who threw objects at officers at the end of otherwise peaceful marches. Videotape recordings and photographs taken by rally participants and the media showed officers pushing

people, using batons to strike individuals, and firing projectiles – more than 200, according to estimates – at the crowds.

The confrontation led to injuries, scores of complaints lodged by the media and protesters, lawsuits filed, and investigations launched by the LAPD, the Office of the Inspector General, and the Federal Bureau of Investigation. Chief Bratton announced the demotion of a lieutenant chief and the reassignment to a position of less authority of a commander, both of whom were part of the command staff at the park; he also said that up to 60 members of the Metropolitan Division were taken off the streets pending investigation, and predicted that some would face career-ending disciplinary actions.

Observers pointed out that a 2002 settlement, reached after LAPD officers used force to break up a rally during the 2000 Democratic National Convention, should have guided the LAPD's actions during the May 1 demonstration. In the 2002 settlement, the LAPD agreed to: issue clear dispersal orders and allow time for dispersal; create and respect a "safe zone" for the media; and to use less-than-lethal projectiles and batons against non-combative demonstrators. Experts also questioned why officers were not able to separate and control a relatively small number of instigators at the park instead of using force against the entire crowd. The investigations underway will seek, among other issues, to understand why the 2002 settlement's protocols were not heeded and whether the force used was indiscriminate.

"Protest gives LAPD image another beating," *Los Angeles Times*, May 6, 2007; "LAPD again didn't heed protocols, critics say," *Los Angeles Times*, May 5, 2007; "L.A. police department moves quickly to discipline officers," *National Public Radio*, May 8, 2007. See also LAPD's "Preliminary Status Report on the Investigation of the Events Occurring at MacArthur Park on May 1, 2007; Chief William J. Bratton, May Day MacArthur Park After-Action Task Force at: http://www.lapdonline.org/macarthur_report/macarthur_report_files/frame.htm

Study Examines Racial Bias in Shooting Decisions

A new study published in the *Journal of Personality and Social Psychology* finds that police training

reduces the influence of racial bias in decisions about whether to shoot at a potentially armed suspect. The researchers compared decision-making by officers and non-officers using video simulations of encounters with armed and unarmed individuals. According to the lead author of the study, Joshua Correll, a psychologist at the University of Chicago, "we don't mean to suggest that this is conclusive evidence that there is no racial bias in police officers' decisions to shoot...but we've run these tests with thousands of people now, and we've never seen this ability to restrain behavior in any group other than police officers." Dr. Correll said the findings were unexpected.

The research involved a racially diverse group of 157 officers from the Denver Police Department, 113 officers from other departments around the country, and 245 adults from the Denver area. The experiments included one featuring a video screen and a series of 50 images of men, half of them black, half white, each shown once armed and once holding an item such as a cell phone or can of soda. Participants then pushed a button to shoot or hold fire for each image projected.

Researchers analyzed the findings by looking at the time it took participants to decide whether to shoot in each instance, finding that civilians and officers took longer to make a decision when it involved an unarmed black man or an armed white man compared to other images, something the researchers said showed cultural expectations. But officers were better at ignoring those biases, said the researchers, shooting at about 13 percent of unarmed black and white men. Civilians shot at about 35 percent of unarmed black men and 29 percent of unarmed white men. They ran the trial again and concluded that officers had a "less trigger-happy orientation." Experts cautioned that conditions in a research experiment are not the same as on-the-street decision-making, but also said that the study seemed to indicate that proper firearms training could help reduce inclusion of racial bias in the decision to use deadly force.

Correll, Joshua; Park, Bernadette; Judd, Charles M.; Wittenbrink, Bernd; Sadler, Melody S.; Keese, Tracie, "Across the thin blue line; police officers and racial bias in the decision to shoot," *Journal of Personality and Social Psychology*, June 2007, Vol. 92(6), 1006-1023 at: <http://content2.apa.org/journals/psp/92/6/>

[1006.html](#). "Study finds police training plays key role in shootings," *New York Times*, June 2, 2007.

Program Seeks to Reduce Stun Gun Health Risks

Miami-Dade County emergency responders are treating people shot by police with stun guns with sedatives and cooling solutions to try to prevent deaths that have accompanied the use of the weapons. The Miami-Dade pilot project is believed to be the first program of its kind. The U.S. Justice Department is reviewing about 200 deaths that occurred after individuals were subdued by stun guns or similar devices to determine the safety of the weapons.

Miami-Dade County Fire Rescue's emergency medical services chief said that its "electronic control device protocol" treats the effects of drug-induced "excited delirium," that include very high body temperatures. He said people were not being treated for the effects of stun guns themselves but for their conditions that may have led to a stun gun being used, such as agitation or drug effects. Medical personnel spray a fast-acting sedative into the noses of those who remain unruly after being stunned, and then inject iced saline solution to lower body temperature and sodium bicarbonate to reduce muscle tension. Since October 2006, Miami-Dade officers have been instructed to call emergency medical assistance whenever stun guns have been used. "Stungun Program in Miami Cuts Risk," *USA Today*, May 18, 2007.

LEGAL AFFAIRS

In Two Rulings, Supreme Court Sides with Police

In two recent U.S. Supreme Court opinions concerning police practices – one involving a police raid at the wrong home and another deciding on liability for high-speed chase outcomes – the U.S. Supreme Court ruled in favor of the police.

In *Los Angeles County, et al. v. Max Rettele, et al.* the home of a couple living in Lancaster, California, was entered by sheriff's deputies looking for several black

suspects; the couple living there was white. The suspects were wanted in an identity-theft probe and one was believed to have a gun. The deputies ordered the naked couple out of bed and held them at gunpoint. They filed a lawsuit, claiming that their Fourth Amendment rights, protecting them against unlawful searches and seizures, had been violated.

The Supreme Court rejected the U.S. 9th Circuit Court of Appeals' ruling that a jury should hear the case, instead siding with the original federal judge who had refused the couple's claim. The appellate court judge had written that "after taking one look at [the couple], the deputies should have realized that [they] were not the subjects of the search warrant and did not pose a threat to the deputies' safety." A jury might conclude the search was "unnecessarily painful, degrading or prolonged," he wrote.

The Supreme Court's majority, without hearing arguments in the case, opined that mistakes happen in the course of police activities. Police obtain warrants based on probable evidence, not absolute certainty, they contended. The Court wrote that the "frustration, embarrassment and humiliation may be real....when officers execute a valid warrant and act in a reasonable manner to protect themselves from harm, however, the Fourth Amendment is not violated."

In an 8 to 1 ruling, the Supreme Court ruled in favor of sheriff's deputies in Coweta County, Georgia. In *Scott v. Harris*, the driver (Victor Harris) had a suspended license and refused to pull over, leading police on a high-speed chase. Deputies rammed his car, resulting in a crash that left the teenage driver a quadriplegic. The driver sued the deputy involved and sheriff's office, arguing that his Fourth Amendment rights were violated by the deputies' actions.

The Supreme Court reversed lower courts that ruled the lawsuit could proceed, ruling that the police deserve protection from lawsuits resulting from such chases. Justice Antonin Scalia wrote, "A police officer's attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death." The motorist's attorney argued that the deputies had the vehicle's license plate number and could have

ended the chase and located the driver later. Justice Scalia contended that such a response would give a “perverse incentive” to fleeing motorists who could escape police by driving recklessly, instead blaming the motorist who “intentionally placed himself and the public in danger.” The justices relied, in part, on a videotape of the incident to find that the police use of force was reasonable and posted the videotape on the Court’s website, reportedly a first.

Justice John Paul Stevens dissented, referring to other Justices as “my colleagues on the jury,” and wrote that the Court had “usurped the jury’s fact-finding function...whether a person’s actions have risen to a level warranting deadly force is a question of fact best reserved for a jury.” Justice Stevens said the justices were unduly influenced by the videotape and that officers could have used less dramatic measures to avoid such a “tragic result.”

The opinion in *Los Angeles County v. Rettele* No. 06-605 (May 21, 2007), can be accessed online at: <http://supremecourtus.gov/opinions/06slipopinion.html>. “Justices throw out lawsuit in search of couple’s home,” *Los Angeles Times*, May 22, 2007.

The opinion and related videotape in *Scott v. Harris*, No. 05-1631 (April 30, 2007), can be accessed online at: <http://supremecourtus.gov/opinions/06slipopinion.html>. “Court: High-speed chase suspects can’t sue police,” *CNN*, April 30, 2007; “Court backs police officers in chase that hurt driver,” *New York Times*, May 1, 2007.

NEWS BRIEFS

Chicago Oversight Changes Underway

Police oversight changes are under consideration in Chicago on the heels of videotaped incidents showing apparent beatings carried out by off-duty Chicago police officers and criticisms of the Chicago Police Department’s (CPD) handling of the episodes. Investigations, criminal charges, lawsuits, and the resignation of Police Superintendent Philip Cline followed. On July 19, 2007, the City Council approved Mayor Richard Daley’s recommended changes for the Office of Professional Standards (OPS), which is

responsible for investigating allegations of police misconduct.

They include:

- having the OPS report directly to the mayor as part of a separate city department, rather than reporting to the police superintendent as it does now;
- granting the OPS subpoena power and making its quarterly summary reports public;
- requiring the OPS to complete investigations within six months;
- mandating that the police superintendent act within 90 days of receiving a disciplinary recommendation from the OPS and, if the superintendent does not follow the OPS recommendation, that he or she explain why, in writing. If the superintendent fails to act within 90 days, the OPS recommendation would take effect without his approval;
- giving the new Director of OPS a four year term.

In announcing his proposed changes, Mayor Daley said, “Fairly or unfairly, many Chicagoans believe that the OPS is too close to the department and that its decisions may be affected as a result...the new organization should eliminate that concern.” Some community activists said that the proposed reforms were welcome, but that city leaders should have removed disciplinary powers from the police superintendent.

<http://egov.cityofchicago.org/city/webportal/home.do> (Mayor Daley, May 3, 2007 press statement); “Chicago mayor seeks police oversight,” *Associated Press*, May 10, 2007; “3 officers are charged in taped beating at bar,” *Chicago Tribune*, May 16, 2007; “Official: Plan to fix OPS is good as is,” *Chicago Tribune*, June 22, 2007.

Ilana Rosenzweig appointed Director of OPS by Chicago Mayor Daley

Ilana Rosenzweig was appointed on July 19, 2007, by Mayor Richard Daley as head of Chicago’s revamped Office of Professional Standards (OPS). For the past six years, Ms. Rosenzweig has been one of six lawyers in Los Angeles County’s Office of Independent Review (OIR), which reviews for fairness, completeness, and integrity all internal investigations

conducted by the Los Angeles County Sheriff's Department's Internal Affairs Bureau. In that capacity, she has reviewed hundreds of investigations of alleged police misconduct.

Prior to OIR, Ms. Rosenzweig was in private practice at Munger, Tolles & Olson LLP in Los Angeles, focusing on civil litigation and government initiated investigations. During the 1998-1999 academic year, Ms. Rosenzweig took a leave of absence from private practice to teach at the UCLA School of Law.

While at the law firm, "Ms. Rosenzweig also served, pro bono, on the staff of Merrick J. Bobb, Special Counsel to the County of Los Angeles. As a staff member, she contributed to semiannual reports regarding the Los Angeles County Sheriff's Department. Her contributions focused on the implementation of recommendations made by the Kolts Commission and Gender Equity Committee; the investigation, resolution, or litigation of gender discrimination, sexual harassment, and use of force complaints; and departmental programs to promote gender equity.

Ms. Rosenzweig received her B.A. degree, with honors, from the College of William and Mary in Williamsburg, Virginia, where she was elected to Phi Beta Kappa. She received her J.D. degree, magna cum laude, from the University of Michigan Law School in Ann Arbor, Michigan, where she was elected to the Order of the Coif. After graduation from law school, she served as a law clerk to the Hon. John G. Davies of the United States District Court for the Central District of California."

Office of Independent Review First Report, p. 64, October 2002.; "Outsider running the show," Chicago Sun-Times, July 20, 2007; "Los Angeles lawyer to police Chicago police," Los Angeles Times, July 20, 2007.

FBI Probes Atlanta PD Misconduct

Federal officials are now looking at broader corruption and misconduct problems within Atlanta's police force. The FBI and U.S. Attorney's plans were revealed during the announcement of guilty pleas by two Atlanta police officers involved in the November 2006 "no knock" drug raid on the wrong home that resulted in the killing of an elderly woman, Kathryn Johnston, living there. The two

officers pleaded guilty to voluntary manslaughter and federal charges of conspiracy to violate a person's civil rights ending in death. The probe revealed that officers often falsified information to obtain warrants, reportedly to increase arrest numbers due to pressure from superiors. Narcotics officers also reportedly admitted planting marijuana in the elderly woman's house after her death and submitting cocaine that they claimed, falsely, had been purchased there.

According to the U.S. Attorney for the Northern District of Georgia, "[B]eyond holding the officers responsible for their crimes, however, Ms. Johnston's family has made clear that they want some good to come out of her death. We are committed to working with the FBI to find out just how wide the culture of misconduct that led to this tragedy extends within APD and to bring any other officers who have violated the law to justice."

In a related development, Atlanta's police chief made more than 140 personnel changes in the police department, including replacing the entire narcotics unit that had been involved in the botched drug raid at Kathryn Johnson's home. New training standards and leadership for the unit were also announced. Chief Pennington said, "with new initiatives on the way to help restore confidence in the unit, we felt it important to start anew." <http://atlanta.fbi.gov/dojpressrel/pressrel07/fatalshooting042607.htm>

"Feds: Atlanta police often lie to obtain search warrants," *Atlanta Journal-Constitution*, April 26, 2007; "Prosecutors say corruption in Atlanta police dept. is widespread," *New York Times*, April 27, 2007; "Atlanta chief replaces entire narcotics unit," *Associated Press*, May 23, 2007.

Small L.A. Area City Called Misfit Cop Haven

A *Los Angeles Times* investigation contends that officers who have been forced out of other law enforcement agencies after engaging in criminal acts or serious misconduct have found jobs with a small police department south of Los Angeles. Maywood's police force, with fewer than 40 officers, reportedly has become known as the department of "second chances." Investigations of the Maywood department and its personnel regarding allegations of wrongdoing or criminal acts are now being carried out by the Los Angeles County district attorney, the California

attorney general and the Federal Bureau of Investigation.

Maywood's police force reportedly includes an officer involved in beating jail inmates, another who had been rejected by 25 other police departments because he had admitted stealing from a previous employer, and another who was hired even though he was under criminal investigation (and later convicted) for beating a gang member as part of the Rampart scandal in the LAPD. While with the Maywood force, one officer was accused of trying to run over the president of the Maywood Police Commission in the City Hall parking lot, another allegedly impregnated a teenage police explorer, and officers were accused of covering up facts surrounding a fatal policing shooting that resulted in a \$2.3 million settlement. In all, at least a third of the officers on the force have either left other police jobs under a cloud or have had brushes with the law while employed in Maywood's police department; several have been convicted during recent years.

As various accusations accumulated last fall, the police chief stopped going to work and the officer he named to help clean up the department resigned when his on-duty liaison with a female doughnut shop owner was captured on videotape (something he claimed was part of a plot to blackmail him to curtail his work). Beyond personnel standards, the department has apparently failed to meet minimum policing standards in relation to handling of citizen complaints, appropriate equipment, and ethical behavior in the community. After the *Times* article appeared describing myriad problems in Maywood, the acting chief promised reforms, including improvement in background checks of potential hires and reforming police misconduct investigation procedures.

"Maywood employs police officers with a history of trouble," *Los Angeles Times*, April 1, 2007; "Maywood police reforms promised," *Los Angeles Times*, April 2, 2007.

Portland Police will Change Force Policy

A task force examining the Portland Police Bureau's (PPB) use-of-force policies found that the policies only meet the minimal constitutional requirements and should be tightened. The task force, formed in response to the death of James P. Chasse, Jr., a schizophrenic who was killed after PPB officers tackled

him, included members of the Independent Police Review Division and PPB.

PPB Chief Rosie Sizer accepted the report's 16 recommendations and said she had already begun an overhaul of the use-of-force policy, with a new one to be in place by early 2008. She pledged to provide more training for officers to learn how to de-escalate situations so that force is not required. She also agreed that better data collection and analysis should be implemented to more closely track how often officers use force and to identify those outside the norm.

Among the task force's findings after reviewing more than 4,700 Use of Force Reports (covering the period from August 2004 through September 2006):

- The PPB did not sustain any citizen complaint alleging excessive force during the period examined.
- The PPB made a determination of "exonerated" in 62 percent of force allegations, a rate more than double the national average.
- The most frequently reported force type used is physical control, making up 83 percent of force incidents. Tasers were used in 19 percent of reported force incidents and blunt impact strikes were used in 17 percent (more than one type of force can be used in any single incident).

As the first analysis of the PPB's use-of-force data from a new reporting system, the authors expressed some concerns and issues, including: anecdotal evidence that there is widespread misunderstanding within the PPB about what is reportable and by whom; that use-of-force forms are not used as a narrative report even though there is a section for narratives provided; officer assignment codes were too detailed and inconsistent to allow for meaningful analysis of use of force patterns by assignment below the precinct level; and the IPR's complaint tracking system does not currently distinguish between force complaints filed by the person against whom force was used or by an independent eyewitness to the event.

The full report may be accessed online at: <http://www.portlandonline.com/shared/cfm/image.cfm?id=154308>. "Police will overhaul use-of-force guidelines," *The Oregonian*, April 25, 2007.

Sharp Drop in FBI Civil Rights Probes since 2001

The *Seattle Post-Intelligencer* conducted a review of the Federal Bureau of Investigation's (FBI) civil rights enforcement since 2001. It found two-thirds fewer investigations of allegations of abusive police officers and of hate crimes between 2001 and 2005, with the downward trend beginning in 1999 and accelerating after September 11, 2001. The newspaper's analysis found a major drop in police-abuse cases handled by the FBI – down 66 percent from 2000 to 2005 nationwide, with an indication of a rebound in such investigations in 2006. The FBI analyzed the data differently in determining the drop and found that it was a 42 percent decrease.

The FBI and Justice Department civil rights officials had adopted “tighter-case opening criteria” that leads to only the most serious cases being pursued, according to a former FBI official quoted in the article but who asked not to be named. The official, who retired in 2006, said that if there was a huge impact or cry for investigation the bureau would open cases, but would not open routine police shooting investigation as they had in the past. Some within the Bureau, he said, thought that the Justice Department's prosecution of less than 10 percent of the cases the FBI opened made agents feel like these types of investigations were futile, though recognized the calming impact on a community by opening the cases.

Some experts interviewed by the reporters expressed concern about the trend, emphasized the duty of the Justice Department to pursue credible cases without setting the bar too high, and worried about the signal it would send to members of the community who believed they have nowhere to turn on the local level for redress. Others interviewed said that federal prosecutions of law enforcement officials were rare enough even before this decrease so that the change would not have a great impact.

“FBI opening far fewer civil rights inquiries,” *Seattle Post-Intelligencer*, April 26, 2007.

CALENDAR

September

24-26 18th Annual Problem-Oriented Policing Conference, Madison, WI,
<http://www.popcenter.org/about-conference-07.htm>

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

October

10-12 Canadian Association for Civilian Oversight of Law Enforcement Conference 2007, Halifax, Nova Scotia
<http://www.cacole.ca/CACOLE%20English%20Cover%20Page/Cacole%20English%20Page.htm>

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



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