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PRESIDENT'S MESSAGE

PARC has begun to devote increasing time and attention to the growing role of local police and sheriff's departments in the enforcement of the nation's immigration laws. Arizona has been ground zero for these issues. In this edition of the *Police Practices Review*, we interview George Gascón, the Police Chief in Mesa, Arizona, the state's third largest city with an estimated population of 460,000, located in Maricopa County near Phoenix, who is a thoughtful and incisive voice on immigration policy and the role of local police. On July 31 of last year, Chief Gascón published an [op-ed piece](#) in the *New York Times* that sparked a national conversation on the topic.

In that article, the Chief states:

Immigration issues are tearing apart communities. Demagoguery and misinformation are shaping public opinion and in some cases public policy. In the absence of a clear federal policy on immigration, states and cities are enacting draconian and constitutionally questionable laws.

This patchwork of conflicting local immigration laws is creating an untenable situation for police officials who face demands to crack down on immigrants—demands that contradict policing practices that have led to significant declines in crime.

George Gascón aptly describes conflicting local immigration laws as a patchwork. Recently, two articles from the *Washington Post*, [here](#) and [here](#), detailed those conflicting laws at the state and local

level in various communities surrounding Washington, DC.

Those articles demonstrate how differently an undocumented person will be dealt with depending upon the happenstance of the city or county in which he or she is picked up. As the article shows, the enforcement of federal immigration laws is far from uniform and is essentially dictated at the local level. In addition, there have been recent articles in the national press showing that while the original intent of ICE may have been to enlist local police and jailers in the identification of undocumented persons who have committed serious crimes after an illegal entry, the persons actually caught are much more often otherwise law-abiding persons whose only illegal act was crossing the border, as noted in a recent *New York Times* editorial board website [blog](#).



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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Immigration policy divides this country into at least two camps:

- those who believe that crossing the border without authorization, or overstaying a visa, or working without documentation are illegal acts for which few, if any, concessions or exceptions to deportation should be allowed; and
- those who argue that an unauthorized entry or stay should be decriminalized and a path created for permanent residence and eventual citizenship for otherwise law-abiding individuals.

Regarding the role of local police, some persons argue that immigration is a federal issue that should be handled exclusively by federal law enforcement. Others contend that any meaningful or effective program to find and deport undocumented persons must involve local law enforcement.

Chief Gascón describes in his op-ed some of the dangers we may encounter if local law enforcement becomes overly enmeshed in immigration enforcement:

If we become a nation in which the local police are the default enforcers of a failing federal immigration policy, the years of trust that police departments have built up in immigrant communities will vanish. Some minority groups may once again view police officers as armed instruments of government oppression.

A wink and a nod will no longer suffice as an immigration policy. Effective border control is a critical step. But so is ensuring that otherwise law-abiding undocumented immigrants have the same protections as everyone else in a modern, free society.

If one agrees with Chief Gascón, the question remains who should be considered “otherwise law-abiding.” If, for example, a suspect is caught drinking in public, with no additional charge, does that mean that this

person is not otherwise law-abiding? Should the line be drawn between misdemeanors and felonies? Between infractions and misdemeanors? Regardless of where the line is drawn, the question then becomes who decides? Federal immigration authorities or mayors and city councils or the local police?

These issues and others are explored in the interview of Chief Gascón in this edition of the *PPR*.

Chief Gascón's Op-Ed can be found online at: <http://www.nytimes.com/2008/07/31/opinion/31gascon.html?r=1&scp=1&sq=Gasc%C3%B3n&st=cse>.

The *Washington Post* articles referenced here can be found at: http://www.washingtonpost.com/wp-dyn/content/article/2009/02/09/AR2009020903534_pf.html and http://www.washingtonpost.com/wp-dyn/content/article/2009/02/09/AR2009020903550_pf.html.

The *New York Times* editorial referenced here can be found at: <http://www.nytimes.com/2009/02/06/opinion/06fri2.html?th&emc=th#secondParagraph#secondParagraph>.

CIVILIAN OVERSIGHT

PARC Releases Third Follow-Up to Portland Report

The Police Assessment Resource Center (PARC) has released its third follow-up report on officer-involved shootings and in-custody deaths within the Portland Police Bureau (PPB) for the Independent Police Review Division (IPR) of the Office of the Portland City Auditor. PARC initially examined the Bureau in 2002 and issued its original report in 2003. IPR has retained PARC in the years since to consider the Bureau's response to the 89 recommendations that PARC made in the original report.

In the Third Follow-Up report, PARC considered how the PPB has responded to 36 of the original recommendations not explored in detail in a follow-up report in concert with review of 12 officer-involved shootings (with one occurring in 2002, one in late 2003, four in 2004, and six in 2005).

The report “conclude[d] that the PPB has made substantial progress since we first looked at it in 2002 and 2003.” It found the Bureau “in a progressive mode, with an increased capacity for self-critical identification of issues and formulation of solutions.” It praised Portland Police Chief Rosie Sizer and her Bureau for having proactively initiated changes, in March 2008, to the Bureau's use of force policy that now dictates that officers “use only the force reasonably necessary under the totality of circumstances.”

The report specifically addressed prior PARC recommendations about field supervision. It praised the PPB for creating a specifically designated and trained cadre of seasoned leaders to act as Incident Commanders in critical incidents where SERT (Portland's SWAT team) and hostage negotiations are called. The report recommended that the PPB expand the spirit of that policy such that a unified system of command can be identified at all stages of a critical incident, including prior to SERT or hostage negotiators being called. It advocated that the Bureau adopt a single definition of “critical incident” that compels a single officer to be identified as a unified incident commander as early as possible. The report recounted one particular officer-involved shooting that underscored the importance of emphasizing explicitly in policy the importance of rendering aid at the earliest possible juncture so long as the circumstances do not unreasonably endanger the officers or the medical personnel.

The Third-Follow-Up report considered an array of officer field tactics and found the PPB to have, in many cases, been responsive to PARC's previous recommendations relating to high-risk vehicle stops, vehicle pursuits, consideration of crossfire and backdrop in shooting situations, bystander endangerment, and accidental discharges. PARC identified instances in which the Bureau could still more systematically and rigorously consider officer use of cover and splitting with partners in the midst of foot pursuits. The report made recommendations about the use of less lethal force options.

The report also praised the Bureau for marked increases in the quality and rigor of the Bureau's investigations and administrative reviews of officer-involved shootings. Homicide investigations were found to be more thoroughly documented and more

objective than in the past. PARC recommended that the Bureau continue to emphasize the importance of exhaustive, independent Internal Affairs review of those Homicide investigations and ensure systematic review by the Training Division.

The full report can be accessed online at: http://parc.info/client_files/Portland/3rd%20Follow-up/PARC%20Portland%20Report%202-2009.pdf.

DOJ Civil Rights Division Issues Austin Review Findings

The Civil Rights Division of the Department of Justice (“Department”), in December 2008, issued the findings of a review of the Austin Police Department (“APD”) initiated in May 2007 in a letter to Austin’s city manager. The letter was released in January 2009. The report offers numerous recommendations.

The report urges the APD to “revise its use of force policies and adopt an appropriate use of force continuum.” Finding the APD’s use of force policy to lack necessary specificity, it indicates that the APD should revise its use of force policy “to permit force only when the force used is objectively reasonable because it is *necessary* to overcome resistance offered in a lawful police action to compel an unwilling subject’s compliance with an officer’s lawful exercise of police authority” (emphasis in original). The letter advocates a detailed use of force continuum that links a suspect’s level of resistance to an appropriate officer use of force in response. The Department also urges the APD to establish specific policies for the use of each less lethal weapon. The Department recommends that all uses of force be uniformly and consistently reported, documented, tracked, reviewed individually by the chain of command, and analyzed in aggregate for trends.

The letter indicates that the APD “should implement a formal, structured, and consistent system for receiving and handling complaints of officer misconduct,” noting that “an effective complaint process” – one that does not discourage the taking of a complaint, makes the taking of complaints as simple as possible, classifies complaints appropriately for investigation, and investigates all complaints equally thoroughly – “should allow unfettered access for

citizens (or others) to make complaints, and should reinforce the public trust in the integrity of the process.”

Among other recommendations offered, the Department supports the development of a discipline matrix, and it urges that the APD develop and take advantage of an early warning system to examine and review officer conduct. It urged the APD to codify specific policies on internal affairs investigations and staffing.

The full report can be accessed online at: http://www.usdoj.gov/crt/split/documents/AustinPD_tletter_12-23-08.pdf.

“Feds give recommendations to Austin police,” *Austin American-Statesman*, January 5, 2009.

Review Commission Issues Report on RNC Policing

The Republican National Convention Public Safety Planning and Implementation Review Commission (“the Commission”) has released its report on the actions of the Saint Paul Police Department during the 2008 Republican National Convention (RNC) in Minnesota. The Commission was assembled by the city in the wake of complaints about heavy police presence and the arrests of more than 800 people during the convention, including around 40 journalists. It was then tasked with reviewing the planning, coordination, and implementation of the four-day event.

The report identified several areas of concern about the way that the SPPD presented itself to the community, and questioned some of the tactics used to respond to allegedly disruptive or dangerous “violent anarchists.” Among the major areas of criticism by the Commission was the apparent use of force that did not comport with department policy—such as the offensive use of pepper spray—and the failure to develop a comprehensive and cohesive media plan, the lack of which resulted in significant numbers of reporters being caught up in arrests of protesters. Nonetheless, the Commission ultimately determined that, overall, the department’s conduct and tactics were both effective and “justified” by the

threat posed by anarchists determined to disrupt the event.

The report made some effort to distinguish peaceful, lawful protesters from the group identified as “anarchists” and acknowledged that some of the former group may have been caught up in action against the latter. Of special concern was an apparent mass arrest of 350 people, reportedly a mix of both groups as well as journalists, who had been herded by police under a bridge before being arrested en masse. The Commission recommended further examination of this event. The report also acknowledged citizens’ complaints about their perception of a “police state” environment and their reports of excessive force by law enforcement, faulting the department for not better preparing the community for a potentially heavy police presence or for clashes on the streets. Nonetheless, the report concluded that the “anarchists” posed a very real threat to the convention and the community and that the policing of the convention was an overall success, in that any threat to the visitors or events was averted.

According to the *Minnesota Independent*, the Commission’s presentation of the report was met with a great deal of vocal criticism from observers who “were unimpressed with the process” and the findings. Other critics believe that the Commission did not adequately work to distinguish peaceful protesters from those who were, in fact, dangerous, or to carefully weigh the trade-off between security and civil liberties. The report does not mark the end of the debate on this issue, however; other reports on policing at the convention are forthcoming, including one by the Minneapolis Police Department and another by the Police Executive Research Forum.

On Thursday, February 26, several lawsuits were filed by protesters in federal court, alleging police misconduct at the event. More lawsuits are expected.

The Commission’s full report can be found online at: <http://www.stpaul.gov/index.asp?NID=2901>.

“Seven RNC lawsuits filed against police,” *Star Tribune*, February 26, 2009, “What a riot: Outside panel presents mild critique of RNC policing,” *Minnesota Independent*, January 14, 2009, “Report Says security at RNC was a success,” *Star Tribune*, January

15, 2009, “Why the RNC Commission Report Won’t Help Future Planners of National Security Events,” Coleen Rowley, *Huffington Post*, February 23, 2009.

CONSENT DECREES/MOAs

Monitoring Team in Oakland Releases Status Report

The Independent Monitoring Team (IMT) for purposes of monitoring the Oakland Police Department (OPD) issued its twelfth status report on December 19, 2008.

The report finds the OPD to be in full or partial actual practice compliance with a total of 41 tasks set forth in the 2003 settlement agreement, with the department in full compliance with 19 and in partial compliance with 22. The department has been in “full policy compliance with [the settlement agreement] since the tenth reporting period,” and it has successfully reached “training compliance,” by instructing officers and employees on those new policies, across all of the settlement agreement tasks.

The monitoring team “assessed the timeliness of the 252 [Internal Affairs] investigations resulting in formal findings” for a given time period and found acceptable compliance—generally the completion of the investigation with 180 days—in less serious investigations and improvement, though not full compliance to standards, in more serious investigations. The monitoring team concludes that, “over time, we have seen the professionalism and high standards embodied in the Settlement Agreement start to take hold in the Oakland Police Department,” with the department making steady progress in implementing settlement agreement tasks.

While the department was found to be “not yet in compliance” with tasks relating to the acceptance and handling of citizen complaints, the monitoring team “saw substantial improvement compared to past practice.” In particular, the department was found to have made significant strides in expanding, and having available, the diversity of methods available to citizens to make complaints.

The report documents significant and expanding commitment to adhering to a forward-thinking community policing plan, with the IMT commending the department for its efforts.

The team found the department not to be in compliance with the agreement's requirement that specific categories of arrests always and systematically "include documentation of the identity of available witnesses or documentation when there are no witnesses," despite the departments "numerous self-assessments."

The department was also found to have not yet achieved compliance with the settlement agreement's requirement that the department's Executive Force Review Board convene "within 30 days of the completion of the administrative investigation conducted by Internal Affairs of certain officer-involved shootings," with delays in "board review...compounded by already significant delays in completing...investigations."

The report reviews the implementation of an early intervention system. It notes that, though "OPD commanders and managers have a positive view" of the database, the Department is "underutilizing the system for assessing and managing at-risk behavior," with the Department still yet to regularly and uniformly harness the system to identify all members in need of intervention. The report is also critical of the OPD's hiring of "a number of new field training officers who did not appear to meet" previous, more rigorous standards.

The full report can be accessed online at: <http://www.oaklandpolice.com/agree/agree.html>.

Prince George's County Consent Decree Closed

The Justice Department announced on February 10, 2009 that it would terminate oversight of the Prince George's County Police Department. The department had been operating under a consent decree since 2004.

In a letter to county officials, Shanetta Cutler, the chief of the Special Litigation Section of the Department of Justice's Civil Rights Division, said that Prince George's

has "developed a system of accountability" and a "commitment to constitutional policing and fairness for all those who travel through its jurisdiction." She noted that the department had failed to reach compliance with just one of the consent decree's requirements, with some internal investigations continuing to take longer than 90 days to complete.

A separate consent decree, covering the department's canine unit, was terminated in 2007.

"Justice Closes Prince George's Police Review," *The Washington Post*, February 11, 2009.

Detroit Monitor Issues Report

Sheryl Robinson Wood, the independent monitor for purposes of measuring the Detroit Police Department's (DPD) implementation of and compliance with two Consent Judgments entered into with the Department of Justice in 2003, issued her twenty-first report on February 2, 2009, covering the quarter ending in November 2008.

The report specifically examines 90 of the 203 total paragraphs and subparagraphs among the judgments. Of those examined, the city is currently in compliance with 18, in partial compliance with two, and not yet in compliance with 30, with evaluation of the remaining 30 not complete as of the release of the report.

The DPD is not in substantial compliance with "the majority of" the judgments' use of force investigation requirements, according to the report. Generally, the monitor found that "command investigations were not thorough and complete," with significant deficiencies related to the interviewing of witnesses, documentation of injuries, documentation of officer statements, complete evaluation of the whole of an officer's force, and other areas.

Similarly, the monitor found the DPD to continue "to struggle with carrying out the...requirements in the critical firearm discharge investigative protocol," with a review board failing, counter to DOJ requirements, to convene for 11 firearm discharges reviewed by the monitor.

The monitor commended the DPD for its successful implementation of its early intervention system, the Management Awareness System (MAS).

The monitor also reviewed five internal audits, as called for by the judgments. Two audits were found to be in compliance. Another, related to use of force investigations, was in partial compliance, with the audit not adequately exploring the issues of investigators considering the whole of officer tactics, and not just the force used, in use of force incidents. The monitor located quantitative and qualitative deficiencies in two others, including one on detainee safety.

Overall, the report concludes that the department is in compliance with 66, and in partial compliance with another 4, of the judgments' 203 total paragraphs and subparagraphs. While the monitor notes that the department "continues to face challenges to compliance," both "the City and executive leadership have demonstrated that they have demonstrated that they are committed to achieving substantial compliance."

The full report can be accessed online at: http://www.kroll.com/library/detroit/DPD_Q21_Report_02-02-2009.pdf.

LAPD Monitor Releases Thirtieth Quarterly Report

Kroll, the monitor for purposes of measuring compliance with the consent decree entered into by the Los Angeles Police Department (LAPD) and the Department of Justice in June 2001, released its latest report, for the quarter ending December 31, 2008, on February 17, 2009.

The monitor specifically considered compliance with 26 paragraphs and subparagraphs, finding "withheld a determination of compliance with six paragraphs."

The monitor evaluated the TEAMS II early intervention computerized database system. The monitor found that the LAPD was conducting regular review and analysis of data culled from the system and that at-risk behavior set the occasion for a "more intensive review of the officer's performance." The monitor reported noncompliance relating to sufficient

and timely documentation of "actions taken as a result of review of TEAMS II information." The monitor withheld final determination on compliance with the consent decree provision requiring annual personnel performance evaluations for all LAPD officers, noting the Department is currently implementing a "Standards Based Assessment" program that emphasizes managers "utilizing documentation rather than...subjective assessments."

The monitor determined the LAPD to be in compliance with requirements relating to the broad availability of means for citizens to make complaints. The monitor also reviewed 77 complaint investigations that included an allegation of racial profiling, occurring between November 2006 and April 2008. Fifty-five were found to be "sufficient," 14 "contained minor issues with the quality of the investigations," and 8 "contained significant issues with the quality of the investigations," with such issues generally specific to the nature of the complaint or investigation rather than suggesting any systemic issues.

From the initial execution of the consent decree in 2001, the Department has complied with 172 of the 201 paragraphs contained within it.

The full report can be accessed online at: http://www.kroll.com/library/lapd/LAPD_Q30_Final_Report_02-17-2009.pdf.

LEGAL AFFAIRS

Los Angeles Reaches May Day Settlement

The City of Los Angeles has settled several lawsuits stemming from the controversial May Day melee in MacArthur Park for \$12.85 million. The settlement, which involved a class-action case as well as several individual lawsuits, is expected to resolve a majority of claims alleging injury or mistreatment at the hands of the Los Angeles Police Department (LAPD) during an immigration protest at the park on May 1, 2007. In an effort to respond to a reportedly small group of agitators at the edge of the rally, officers at the scene apparently drove that group into the larger rally and attempted to forcefully disperse the entire crowd,

resulting in 246 complaints of injury by the department.

An LAPD review of the incident identified a number of deficiencies—including poor planning; tactical errors, including an inappropriate use of force; breakdowns in command and control; “diminished situational awareness;” inadequate training in crowd control and media management; and poor judgment or inappropriate behavior on the part of individual officers—that ultimately resulted in the use of batons and rubber bullets to disperse an largely peaceful rally in the park. Among other mistakes, officers at the scene allegedly failed to adhere to media guidelines imposed by an earlier settlement, to properly communicate direction to the large crowd and provide an opportunity to comply, and to abide by policies regulating the use of batons and less-lethal weapons.

The confrontation was captured on videotape, which was widely broadcast and showed police officers apparently knocking down, beating, or firing rubber bullets upon members of the media, food vendors, demonstrators, and bystanders. Following the incident, LAPD Police Chief moved quickly to remove two command-level staff, initiate investigations into potential misconduct, and create the Critical Incident Management Bureau, tasked with overseeing large scale events and demonstrations.

Along with the substantial financial payments to be made to plaintiffs, the settlement also implements ongoing court oversight of the department’s crowd control policies as well as new policies in that area. According to the *Los Angeles Times*, the new guidelines allows baton to be “used to push — but not strike— protesters who refuse a police order to disperse,” while less-lethal munitions, “such as rubber bullets and bean bags, can’t be used on a peaceful crowd that’s retreating, and police helicopters must not disrupt speeches and marches by flying too low.”

Several additional lawsuits arising from the incident continue to work their way through federal and state courts.

The full report by the LAPD to the Board of Police Commissioners can be found online at: http://www.lapdonline.org/assets/pdf/Final_Report.pdf.

“Los Angeles to pay \$13 million to settle May Day melee lawsuits,” *Los Angeles Times*, February 5, 2009, “Macarthur Park Melee: Report Assigns Blame,” *Los Angeles Times*, October 10, 2007.

Supreme Court Limits the Use of the Exclusionary Rule

The Supreme Court of the United States has held that the exclusionary rule, which is used to suppress evidence found as a result of an illegal search, does not apply in cases “where police mistakes leading to an unlawful search are the result of isolated negligence attenuated from the search, rather than systemic error or reckless disregard of constitutional requirement.” In the relevant case, *Herring v. United States*, the petitioner was arrested pursuant to a warrant that had been recalled several months before, but was not removed from the database. A resulting search uncovered drugs and a gun in his vehicle; following his indictment on federal charges, Herring moved to suppress the evidence due to the fact that the arrest that led to the search was illegal. In a 5-4 decision, the Court found that, because the police mistake was isolated and removed from the arrest, it did not trigger the exclusionary rule, which requires that “police conduct must be sufficiently deliberate that exclusion can meaningfully deter it, and sufficiently culpable that such deterrence is worth the price paid by the justice system.”

The longstanding exclusionary rule, applied to state courts since *Mapp v. United States*, 367 U. S. 643 (1961), is meant to protect citizens from prosecutions resulting from violations of the Fourth Amendment prohibition against “unreasonable search and seizure.” It has been argued that the rule acts as a concrete deterrent against police misconduct, as officers will avoid making warrantless searches and arrests if they know that doing so could negatively impact prosecution of the suspect. Because the goal is deterrence, however, application of the rule is not automatic: in *United States v. Leon*, 468 U. S. 897 (1984), the Court held that the rule did not apply when “police acted ‘in objectively reasonable reliance’ on the subsequently invalidated search warrant,” known as “good faith.” According to that decision, exclusion in such a case would have limited deterrent value.

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PARC INTERVIEW

George Gascón was born in Cuba and came to Los Angeles at age 13. After a distinguished military career, he joined the LAPD in 1978 and was promoted to Assistant Chief by William Bratton. In November 2003, Assistant Chief Gascón was selected by Chief Bratton to oversee all of the Department's patrol and detective functions. In this capacity, George Gascón implemented a variety of new initiatives designed to enhance the Department's ability to reduce crime and gang violence.

In August 2006, George Gascón was selected as Police Chief of Mesa, Arizona, the third-largest city in that state with a population of approximately 460,000. As Chief, he has achieved a substantial reduction in the crime rate and a significant rise in clearance rates for homicides and other crimes, initiated a forward thinking immigration policy, implemented a successful gang intervention strategy with the Mesa school district, and put in place a novel domestic violence program focusing upon the whole family.



Chief Gascón has been an active participant at the State and national level in police training, including the development of racial profiling training, a national model for police human relations training, and management training in the area of accountability (COMPSTAT). He taught community policing techniques to Central American Police Departments in El Salvador, participated as a one-time Advisory Board Member to the New York Regional Community Police Institute, and consulted on the development of training on respect for the rule of law and a culture of lawfulness for the Colombian National Police. PARC interviewed Chief Gascón in late January 2009.

PARC: You have brought about a significant crime reduction in Mesa. Would you describe the specific results and reductions?

Chief Gascón: Yes, absolutely. During the two years 2007-08, we achieved a 21% reduction in Part I crimes—an 11% reduction in 2008, and a 10% reduction for 2007. We had a 26% reduction in homicides for the same period. We had a significant reduction in traffic collisions. Our clearance rate has gone up tremendously, specifically our Homicide clearance rate. We closed 2008 with more than a 90% clearance rate in homicides. We were at 55% previously. And I'm talking about clearances by arrest—not exceptional clearances, but rather homicides where a suspect has been successfully identified and has been or will be prosecuted. I attribute that significant jump in the clearance rate to my program of decentralizing some detectives, and having all detectives work more closely with the patrol officers. To summarize, we have achieved significant reductions in crime, in traffic collisions, and substantial improvements in clearance rates. I think that if you determine success based on results in dealing with our primary mission as a municipal law enforcement agency, which is to reduce crime and the fear of crime, the reduction of crime in the city of Mesa is very significant. In fact, we looked this year at our crime per 1,000 residents, and the last time that we had similarly low rates was in 1967. We're being very successful.

PARC: When you first came to the Mesa Police Department, what was the state of the Department how did it impact upon your crime-fighting mission?

George Gascón: Well, when I got to Mesa, I noticed that there were multiple problems internally—morale problems with the officers and systems that were not working very well. Frankly, we were not following national standards in reporting crime in many areas.

And then, externally, we had significant problems with some communities, especially the minority communities. There was total disconnect. I came in right after a series of officer-involved shootings that had created problems, specifically in the Hispanic community. Although the officers' uses of force were legal and consistent with the training that they had been given, the perception of those shootings in the Hispanic community was very unfavorable.

I recognized that I needed to do a great deal of training internally; as well, I needed to motivate the officers to go out there and fight crime and do so intelligently. And, at the same time, I needed to make sure that we were going to have community support for that mission.

As a first priority, we started to clean up our reporting systems internally to make sure that we had a reliable measure of the crime that was actually occurring so that we could set up appropriate benchmarks. I brought the COMPSTAT model to Mesa, which is one that I worked with in LA with [Los Angeles Police Chief] Bill Bratton. I learned a great deal from Bill, so, with the help of the Los Angeles Police Department and my own experiences as the Chief of Operations in the LAPD, we started a COMPSTAT unit. The goal here was to develop a system where we could have access to timely and accurate crime information to help deploy police personnel effectively.

At the same time, we started to analyze our detective work. We had a heavily centralized detective function, resulting in a tremendous disconnect between patrol and detectives. That disconnect was impeding information sharing and depriving front-end officers in patrol of the tools they needed to understand what the crime picture was. Just as importantly, the back-end investigations were terribly delayed. So decentralizing detectives was important. It caused our clearance rates to climb.

The community piece was also very critical, so I set up a series of community forums. The people attending those forums became advisors to us about crime problems and about police structure at the city wide level. We also took each of our police stations—we have four stations or districts in Mesa—and created community police advisory boards at the station level. The goal there was to take local neighborhood leaders and in essence embed them in police operations to help identify priorities at the local neighborhood level and enhance the communication between the local police and that community. So we had the community forums take, if you will, a 30,000 feet, above-the-ground look at the city overall and then the community police advisory board looked at policing at the neighborhood level. At the same time, I was working very closely with the employee unions and employee groups in order to try to reengineer our internal process.

PARC: What was your strategy with respect to Part I crimes in general?

George Gascón: Well, there were several things. First of all, I have to give credit where credit is due, and the men and women of the Mesa Police Department have really done incredible work. They responded very well to the challenge. We would have never achieved the crime reduction levels we have without the hard work and commitment of the men and women of the Mesa Police Department. Our men and women have worked both hard and smartly.

For instance, they started to look at the nexus between calls for service and the likelihood of a Part I crime coming to pass at a later time involving the same victim or location. We started to peel the onion and go beyond the obvious. This approach has given us a powerful tool to prevent crime in a very proactive way.

For instance, we started to look at calls for noisy neighbors or loud parties or trespassing or other public nuisance types of things. We plotted them graphically and then figured out the degree to which those calls

were related to Part I crimes. It's a work in progress, but we are increasingly able to predict the likelihood of Part I crimes before they occur by looking at all those other indicators.

The other thing that we've done extremely well—and, in fact, it's one of our major focuses in '09— is preventing future crime by intervention with the victims of current crimes. We brought down our property crime significantly, especially burglaries and auto theft. However, we noted that in Mesa, as it occurs elsewhere, many crimes are facilitated by victim behavior—leaving doors unlocked, garage doors open, vehicles with property or valuables visible. Therefore, we assigned our crime prevention specialists to spend a lot of time in the various communities, educating people how to harden their own targets. We got to the point, where officers in their downtime, drive through neighborhoods and when they see a garage door open, they actually stop, go to the home, knock on the door, identify themselves, and provide crime prevention information. In some of the neighborhoods where we did that, our residential burglaries went down—in some cases, by as much as 20 or 30 percent. We also started to work more aggressively to intervene with kids that were at the threshold of becoming involved in gang activity.

PARC: Does Mesa have a significant gang problem?

George Gascón: We do. Not only does Mesa have a significant gang problem, it has a very diverse gang problem. Mesa has Hispanic gangs, and, within those gangs, you have the multigenerational gangs as well as younger gangs. We also have white supremacist gangs, motorcycle gangs, some African American gangs and Native American gangs. Additionally, we have seen the influence of prison gangs on some of our street gangs.

We also noticed that gang activity is transcending the traditional ethnic groups, meaning that, at the higher levels of the gang structures, you have white supremacist gangs actually working with Hispanic gangs. This cross ethnic gang cooperation is concerning because it illustrates how some street gangs are evolving into better organized crime syndicates.

Therefore, in dealing with gangs, we took a two-pronged approach. With respect to the hardcore gangs engaged in serious criminal behavior, we undertook an aggressive, intelligence-driven regional enforcement effort. We worked with other police departments in the area, as well as our Federal partners in the ATF, DEA, FBI and the US Marshal's Office to ensure we maximize our crime fighting efforts.

At the same time, in some parts of the city, we have younger gangs. With those gangs we are starting to do meaningful intervention work. In partnership with the school district, we set up a pilot program called the MESA program, which stands for Making Every Student Accountable, to work with at-risk youth. It is an eight week program where we work with the family and the kids through the school district. The MESA program is composed of a series of modules aimed at teaching at-risk youth how to cope with pressures in the school and improve academic performance. We also included a physical fitness module, and parenting classes. We've had excellent results.

Our kids' behavior really turned around in most cases. Their school attendance went up significantly. Many of these kids were failing all their classes. Now they were getting passing grades. We actually had some that did more than passing, we have had some kids who started to get B's and A's in their classes. We now have a model that works. We've been doing it for two years. There have been more than 100 at-risk kids in the program, more than 90 percent of whom have pretty much turned around. So we are trying to become better at both the prevention and the intervention sides because it's so critically important. We cannot arrest ourselves out of this problem. We really have to figure out other ways to deal with crime. Unfortunately, the biggest challenge to the MESA program is funding. Even though we have a great partnership

with the school district, we both lack sufficient resources to get it to the next level, which is significantly increasing the number of kids involved.

PARC: You also made significant progress in the area of domestic violence. How was that accomplished?

George Gascón: That's another very interesting area where we have done some exciting work. We know that domestic violence not only impacts the victim and the assailant but it also impacts the family unit as a whole. We wanted to do something about this reality, that children who are raised in an environment or home where domestic violence is a problem themselves tend to become either victims or abusers as they become adults.

Last year we started a program where, after we did the initial police response, we send our victim services people to work with the victim and the suspect to make sure that the victim was going to avail herself (I say herself, because it's mostly women on the victim side) of the medical services and all the other available intervention services and that the suspect was handled appropriately. One of the things we know is that when patrol responds on the evening of the incident and the victim is really upset she wants to prosecute, but, by the next day or the following day, reality sets in. Intimidation or economic reasons may cause the victim to change her mind and not follow through with the process. So getting our services around the victim to help her is very important. We are also now starting to get our arms around the suspect, recognizing that the suspect generally is going to come back to that home and that it is really necessary that they also avail themselves of the services designed to help modify suspect behavior.

Finally, our goal for '09 is to start working also with the kids with the help of the schools. We want teachers and principals to recognize how domestic violence impacts the children. We want teachers to take notice and respond positively and affirmatively when these kids are acting differently because trauma: If the kid's grades are going down, or attendance becomes spotty, or the child's behavior worsens, we want teachers to realize that they need to provide help and work with the kids. In Mesa, we're fortunate to have a very forward-looking school district, and that's the other piece of the equation. So in the domestic violence arena, our goal is to put our arms around each impacted member of the family as opposed to simply getting in there and arresting the suspect.

PARC: You have been linking together otherwise autonomous police departments with the information needed to attack crime regionally. Would you please describe that?

George Gascón: I'm a strong believer in gathering quality actionable information and collaboration. I think that the next generation of crime fighters will be better able to predict crime before it occurs and actually intervene. We're more successful when the crime doesn't occur at all than when we have to go out and solve a crime that has already occurred.

As to the regional approach, we created a regional gang and crime information fusion center in Mesa currently staffed by Mesa personnel and individuals from other police departments in the region. We track regional crime on a daily basis, almost on a real-time basis, and we have been able to garner the support of federal agencies in the region as well.

We now have the ability to identify serious offenders very quickly and be able to arrest them much more rapidly than we would have otherwise. When information is not being shared, one police department may have the impression that certain individuals are working independently, maybe committing one or two crimes each. You don't get to see the total picture, which may be that the suspects are working together and committing crimes in multiple places. So bringing law enforcement together, sharing information, and enhancing our analytical tools have significantly multiplied our effectiveness on a regional basis.

PARC: *The Mesa Police Department has recently adopted and circulated a new policy on immigration enforcement. To set the picture, Arizona is a state in which there has been a significant amount of illegal immigration. It is also a state in which there is a strong, anti-immigrant sentiment. What is Mesa's new immigration policy?*

George Gascón: The policy was the result of over a year of collaborating with people inside the police department as well as those in the community. We worked not only with the Hispanic community and other minority communities, but also with the legal community—specifically, those who deal with immigration issues. I wanted to make sure that the policy we developed was something that was going to be, if not embraced by everyone, at least understood by everyone.

One of the things I've learned about local policing and undocumented immigration is that you're always walking a very fine line. The effectiveness of local policing is predicated on having a good and trusting relationship with the communities that you serve. It's very difficult to fight crime if a substantial part of your community feels so apart from the police that they're unwilling to share information with you and to assist you with crime prevention efforts.

So I wanted to make sure, especially when we're talking about the Hispanic community—because illegal immigration in Arizona really is primarily a Hispanic issue—that we had the trust of the Hispanic community. We wanted people to understand that the Mesa Police Department would not be a threat to people who are law-abiding, apart from an unauthorized border crossing. We wanted those individuals to feel comfortable working with the police, reporting crimes, and helping us with crime prevention programs, without the fear of being deported or finding themselves the subject of retaliation. That was very important to me because unattended crime problems eventually hurt the entire community, not just those here illegally. So we created a policy that very clearly talks about our obligation to fight crime but to do so thoughtfully and constitutionally and in a way that makes sense for local policing. Primary immigration enforcement on the streets should be handled by federal authorities, not the local police.

We adopted a policy not to inquire about the immigration status of people that were seeking help, such as the victim in domestic violence incidents. Also, we would not check immigration status if you were reporting a crime. Likewise, we would not check the immigration status of minors that were involved in low-grade misdemeanors or civil violations, or people in general involved in civil violations, such as traffic infractions. We clearly informed the community about all these areas where we were not going to be seeking to determine the immigration status of the person. On the other hand we have made it very clear that if we were arresting you for a criminal offense, or found out that there was a warrant outstanding against you, we would check whether you were here without authority and contact ICE [Immigration and Customs Enforcement, the successor agency to INS], if you are an undocumented immigrant.

PARC: *What would happen if, for example, an individual was caught drinking in public?*

George Gascón: It would depend on the totality of the circumstances. If the encounter leads to an arrest, our procedures require that we assess the immigration status of all those we arrest and process through our jail. If during that process we determine a person to be an unauthorized immigrant ICE is contacted.

PARC: *Have you found, as some have argued, that undocumented persons commit proportionally more crimes?*

George Gascón: No. When I first arrived in Mesa, one of the things that I quickly understood is that we needed to do was to have an honest discussion concerning crime and illegal immigration. Because of inflammatory and inaccurate rhetoric, in some quarters, people wrongly believe that 90 percent, or at least a very substantial amount of crime, is being committed by those who are here illegally. However, having worked my entire career in LA, I knew that probably wasn't the case, because, generally speaking, the vast

majority of people who cross the border come here to work, and that's all they do—they work and do not want to call a lot of attention to themselves. Mostly, they are law-abiding people, and in my opinion, that's the proper context to help guide policy making efforts on immigration enforcement for local police.

We spent a lot of time researching and assessing the criminality rate of people who are here illegally. We learned that in 2008, approximately 9 percent of all of our arrests included undocumented persons. About 10 percent of the Arizona's population is undocumented—approximately 500,000 to 600,000 people. Given these numbers I believe it is reasonable to assume that the criminality among people who are here without authority is roughly proportionate to their percentage of the population. Therefore, policy discussions concerning the allocation of local police resources to this problem should be made in light of these facts instead of misinformation.

PARC: Has the policy been in place long enough to see how it's working out?

George Gascón: The written policy is perhaps too new to really say how it is working. It was implemented in January 2009. During '08, we did extensive training of all of our people, as well as the media. We brought in the media because we wanted to educate the public and we wanted to be very transparent. We gave the media the same class that we gave our officers. And that provided some really good results for us, because, again, it clarified what we are doing and what we are not doing.

PARC: You have commented publicly about the high cost of law enforcement and the need to think of ways to civilianize various positions and functions within policing in order to bring down the costs. Can you develop those ideas a little bit more and tell us about your thinking in that regard?

George Gascón: First, there's a high cost to crime, and we have to recognize that. While I was in Los Angeles, I was an early proponent of trying to quantify the cost of crime. Based on various studies, a murder, for instance, costs the economy anywhere from \$4 to \$11 million. The cost of a rape is somewhere around a quarter of a million dollars. So, I think it's important, first of all, to recognize the tremendous economic impact of crime. However, it's important also to recognize that policing is very expensive. And, in some areas, we may be pricing ourselves out of the ability of a local community to afford policing as we currently do it.

Policing is an investment as well as a cost. It's important for people to realize a reasonable return on that investment. If there are ways that we can achieve similar results at a lower cost we should do so as long as it does not negatively affect our professionalism. In Mesa we're exploring what would be the right ratio of sworn vs. civilian personnel. There are two primary reasons for this effort. First, if we can free up our sworn officers to dedicate more time to work with the community on problem solving and other community policing efforts, we have a better chance of improving the community's quality of life and reducing crime. Second, if we can train civilians to handle many investigations where the suspect is not present and to complete the required reports, collect evidence including fingerprints, DNA, photos, etc., and do so with more efficiency because we can incorporate both the preliminary investigation traditionally completed by sworn officers and the lab-scientific work traditionally conducted by civilians into one seamless process, we can reduce our operational cost.

Finally, I am not an advocate of lowering the salary of police officers or lowering their pensions to reduce cost. I think it's important, in order to maintain the high level of professionalization, that you compensate people well. Although you don't go into policing to become rich, it's important to be able to attract the right kind of people. Therefore, in my opinion, the best way to improve the affordability of policing is to balance the work force and create a situation where well trained, well compensated sworn police officers concentrate in those areas that require a police officer's attention, and allow para-professional civilians to handle the rest.

PARC: Thank you very much, Chief Gascón, for a very stimulating interview.

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In her dissent in this case, Justice Ginsburg argued that, to the contrary, applying the exclusionary rule in this case would create an incentive for administrative supervisors to ensure that such clerical errors, which can have the same result as deliberate police misconduct, do not occur, and that the exclusionary rule provides the only effective remedy for a violation of constitutional rights. Justice Breyer agreed with this argument in his dissent, adding that decisions in other cases involving the good-faith rule have made an important distinction between “police errors and errors made by others, such as judicial officers or legislatures,” which should be preserved.

Some observers have speculated that this decision may be first step in elimination of the exclusionary rule. The majority opinion was written by Justice Roberts, who once wrote a memorandum referencing “the campaign to amend or abolish the exclusionary rule” while working for the Reagan administration and, according to the *New York Times*, some legal scholars believe that there are now at least four votes on the Court in favor of its elimination. The exclusionary rule is often blamed for criminals getting off “on a technicality” and for the supposed phenomenon of police officers “testilying” on the stand to ensure that their evidence does not get thrown out of court. Others, however, argue that the rule is an important safeguard of Fourth Amendment rights and has played an important role in the increased “professionalism” of police agencies.

It is not yet clear how broadly the decision will be applied to the lower courts.

The Court’s opinions can be found at: <http://www.supremecourtus.gov/opinions/08pdf/07-513.pdf>.

“Justices Step Closer to Repeal of Evidence Ruling, *New York Times*, January 30, 2009. “Legal System Struggles With How to React When Police Officers Lie,” *Washington Post*, January 29, 2009.

FORCE MANAGEMENT

RCMP Revises Taser Policy

The Royal Canadian Mounted Police (RCMP) has revised its taser (Conducted Energy Weapon or CEW) policy to in the wake of recommendations by the Commission for Public Complaints Against the RCMP (CPC) and the controversial death of a man who was tasered by RCMP officers at the Vancouver Airport in 2007. The policy, which formerly allowed for the use of tasers against resistant suspects, now states that the device may only be used “in response to a threat to officer or public safety.” Also significant is the addition of a note that “[a]cutely agitated or delirious persons may be at a high risk of death” and should receive immediate attention. In presenting the new policy, RCMP Commissioner William Elliot said that that it “underscores that there are risks associated with the deployment of the device and emphasizes that those risks include the risk of death, particularly for agitated individuals.” This represents a significant shift away from the belief that many agitated subjects who die following the deployment of a taser are victims of a purported condition, known as “excited delirium,” which is assertedly unrelated to the application of the device.

The changes follow a major report, released in June 2008, by the CPC that recommended changes both in the taser policy itself and in how it was interpreted. Specifically, the Commission recommended that the level of resistance under which the use of the device would be justified be upgraded from “resistant” to “combative.” The report also expressed concern, based on an audit of usage data, that many uses of the taser did not meet even that threshold and that officers did not always accurately evaluate the level of resistance or risk. Another significant recommendation dealt with the agency’s training on excited delirium. According to the report:

RCMP training teaches that “excited delirium” is a medical emergency where gaining control of the individual for the purpose of treatment is paramount and

where the CEW is viewed as the best option to gain that control. The Commission disagrees with this perspective because the obligation of RCMP members is to enforce public safety. The majority of members are certified only in standard first aid and are not qualified to make medical diagnoses and decisions at the scene. The CEW is not a medical device and may not be the best alternative for a variety of at-risk groups. Decision making around appropriate intervention techniques must rest with the medical community, which has been conspicuously absent during this debate.

The report also recommended that data tracking of taser usage become more rigorous.

According to Paul Kennedy, Complaints Commissioner, the force's latest revisions are a good step, but the description of criteria for use may still be too "broad and vague" to prevent inappropriate deployment.

TASER International, maker of the device, and the Canadian Police Association and the Canadian Association of Chiefs of Police have come out in defense of the taser's safety.

The RCMP's revised policy can be found online at: <http://www.rcmp-grc.gc.ca/ccaps-spcca/cew-ai/operations-17-7-eng.htm>. The CPC's final report is here: http://www.cpc-cpp.gc.ca/prr/inv/cew-ai/cew_fin_rp-eng.aspx.

"Police admit Tasers have been misused," *Canadian Press*, February 25, 2009, "RCMP tightens the rules on Tasers," *Toronto Star*, February 13, 2009. "New Canadian police policy restricts stun gun use," *Associated Press*, February 12, 2009.

CORRECTIONAL OVERSIGHT

Study: The Treatment of Women in Immigration Detention in Arizona

A study by the Southwest Institute of Research on Women and the James E. Rogers College of Law at the University of Arizona reports that women in

immigration detention in Arizona experience long delays before receiving the medical care they have requested. According to the researchers, several detainees said that they waited days or even weeks to be seen, or, that when they were seen, they were subjected to poor or humiliating treatment. Some complained of a lack of sensitivity or responsiveness to female reproductive health issues, such as pregnancy or miscarriage, including a failure to provide timely prenatal care or to quickly respond to urgent issues.

The report also details several other areas of concern in terms of conditions of confinement, including allegedly inadequate mental health treatment and poor access to telephones, recreation, and legal materials. The study was based on 40 interviews with current and former detainees, attorneys, and service providers; almost half of these were current detainees at two of three contracted facilities housing detainees in Arizona.

The authors estimate that, nationwide, there are about 3,000 women in the custody of Immigration and Customs Enforcement (ICE) as a result of their involvement in deportation proceedings. Because they make up only about 10 percent of all detainees, however, many women are housed in mixed-gender facilities that are not, according to the study, necessarily set up to meet their specific needs. In particular, the study points to reportedly unsympathetic treatment of and a lack of leniency toward women who are pregnant, ill, or separated from their families. According to the report, female detainees in Arizona—even those who are pregnant—may be shackled or subject to strip search. They may only visit with their families through a video-conferencing system, and many complain of not being able to get access to the phones to call their families. The authors also criticize the immigration detention system generally for being overly punitive toward female detainees, who, aside from the fact that they are being held for administrative, not criminal violations, are less likely to have been involved with violent crime than are men.

The report makes several detailed recommendations for improvement of the treatment of the women in immigration detention. Some of these would require a change in policy at the federal level, while others simply specify that detainees should be treated

according to current applicable standards. Representatives of ICE have generally denied the allegations contained in the report, claiming that the sample size was too narrow and lacked objectivity, and that some of the claims were unsubstantiated. They say that all standards are strictly enforced and that allegations of abuse or neglect are taken seriously. According to the *New York Times*, the agency has already been under some pressure to improve conditions following critical reports from the General Accountability Office and the Inspector General at the Department of Homeland Security.

PARC has recently completed its own study of women in the custody of the Los Angeles Sheriff's Department, including a survey of more than 300 female inmates in the LA County Jail. That report is forthcoming.

The full University of Arizona report can be found online at: <http://sirow.arizona.edu/files/UnseenPrisoners.pdf>.

"Report Faults Treatment of Women Held at Immigration Centers," *The New York Times*, January 20, 2009.

The Effectiveness of Intermediate Sanctions in Multnomah County

A study by the Vera Institute of Justice of people under the supervision of the Multnomah County, Oregon, Department of Community Justice (DCJ) has found that those who received intermediate sanctions were 44 percent more likely to have their supervision status revoked than were those who received no sanctions, while those who received jail-based sanctions were 76 percent more likely to have their status revoked.

The Vera study examined sanctions and outcomes for a sample of 3,642 people who were released from probation or post-prison supervision in 2005, and found that the majority—70 percent—were never given any sanctions while on supervision. The large majority were also neither rearrested nor reconvicted following their discharge from supervision. Of those who did receive some type of intermediate sanction, however, the researchers found that jail was the most common form of sanction, with 92 percent having received jail time at least once. As mentioned, those

that did receive jail-based sanctions were significantly more likely to recidivate than those who did not. Recognizing that there might be some inherent differences between those who receive jail sanctions and those who do not, however, these subjects were also compared to those who did not receive any sanctions using propensity score matching. Even then, the sanctions group was 20 percent more likely to be re-arrested than the matched group, and 15 percent more likely to be re-convicted. As such, the report recommended that the Department re-examine its range of sanctions to determine the availability of sanctions that might be more effective in preventing recidivism than simple jail time, and that it work to increase the use of those options. The report also recommended increased training of probation and parole officers and ongoing evaluation of the program.

As a result of these findings and the institute's accompanying recommendations, DCJ has implemented the Effective Sanctioning Practices Project, a project focused on increasing access to community services and to alternatives to jail, such as electronic monitoring and day reporting centers. It is also taking a look at the role that jail terms play in the agency's intermediate sanctions scheme and to what extent it should be modified. As a result, the department has already reduced the length of jail-based sanctions, decreasing overall demand for beds by 100. According to Scott Taylor, Director of the DCJ, "the Vera research raises the question of whether a jail sanction—alone—can help change people's behavior. This research reinforces our practice of using the most effective sanctions to reduce re-offending."

The full report and summary can be found online at: <http://www.vera.org/csc/csc-pubs.html>.

"Research Drives Policy Change at DCJ—Reduced Use of Jail by 100 Beds: Vera Institute of Justice Research Helps DCJ use More Effective Sanctions," Press Release, Department of Community Justice, Multnomah County Oregon, August 19, 2008.

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