

Our focus groups with community residents confirmed this generally positive but nevertheless mixed picture. Older residents who attend community meetings and know the police in their neighborhoods spoke in overwhelmingly positive terms in the groups, describing changes in recent years that brought crime down and their respect for the police up. One resident in East Los Angeles mentioned the consent decree explicitly, saying that it had been necessary a few years earlier, but was no longer needed. In the group, no one disputed this claim. After this particular focus group, however, we were approached by one resident who described himself as the father of a former gang member and who relayed an experience when a police officer came to his house in the early morning hours, asked permission to look around, and then walked through the house with his hand on his gun. He told us he had been extremely uncomfortable although nothing else happened. His point, he said, was that the positive stories are true, but they are not the whole story.

At a "community forum" organized and attended by LAPD officers from the community relations division, we were not surprised when attendees expressed positive feelings about the LAPD. Several participants claimed there had been "a change in the organizational culture" of the LAPD, exemplified by the willingness of leaders to "listen to criticism," "admit mistakes," and participate in sometimes "painful dialogue" with communities. "It's no longer all about just crime statistics," said one person. Most participants also could cite a concrete example of such change -- the rapid and rigorous response to problems at MacArthur Park, joint planning with community organizations to prevent retaliatory violence at funerals, officers reading books to children at school, the reform of the Rampart division, the promotion of minorities to responsible positions, the use of gang intervention officers, and the renunciation of the tactics used in a notorious project of "mapping of Muslim communities" with the FBI. Two participants, both Latino, reported quite negative personal experiences (officers hauling away parked autos in a predominantly immigrant neighborhood, or glaring at drivers of dilapidated pick-up trucks), but still seemed to have a positive appreciation of the LAPD. The general sentiment was that the LAPD "has come a long way." "The old LAPD ruled by fear," said one person, "but that is no longer the way the police work."

Even in these gatherings of people friendly to the LAPD, there were concerns. For example, many were unsure how deep into the LAPD the cultural change had penetrated. One person said: "we are hopeful, but fearful" that changes will last. Another sensed "resistance to change from below" and several thought that changes might not withstand the departure of Chief Bratton or the flare-up of a new social conflict. Alluding to tensions over cross-racial homicides, one person said ominously: "our community is full of 'dry brush.'" Another person said: "That's why we need random check-ups -- to prevent the Department from looking all bad when a tragedy occurs."

Among the members of the community forum were some religious leaders. One African-American church leader told us that he is most impressed by the strategic use of gang intervention officers by the LAPD and the extensive, laborious collaboration between gang enforcement division officers and community leaders in the management of funerals

of gang members. He believes the decline in homicides over the past few years in LA is the result of a reduction in "retaliatory killings" which he says frequently follow, and sometimes occur at, funerals of gang members. He thought this joint work to improve public safety had left positive impressions on both the police and community. "The gang members exchange information with the cops, and are astounded at their sensibility. The cops also show a humorous, humane side, saying 'yes, we've got some knuckle heads in our organization, too,'" he told us.

Our focus groups with older teenagers and young adults were understandably dominated by complaints about police officers, reflecting trends nationwide that show young people especially discontent in their experiences with police. Even if some of the young people had had positive encounters with police on some occasions, formal focus groups are designed to reveal what is, and is not, acceptable to talk about in a group setting, and we did not expect that the culture among these young people would encourage positive statements about the police. It seemed significant, therefore, when one young woman listened to another young woman in the group complain that she had frequently seen police officers whistling and cat-calling at women in the neighborhood, diminishing her opinion of them and making it less likely that she would ask them for help if she were ever in trouble. The other young woman interjected, reminding the group that the situation in Los Angeles has gotten better. "I don't know, but in my neighborhood I think it has gotten better. There use to be a lot more gangs and shootings and now there aren't so many," she said, and no one argued with her.

### **Detainee Interviews**

Just as our focus groups with active community residents, youth, and police officers allowed us to look more closely at how these three important groups see police-community relations, we also sought to examine more closely the opinions of those residents who have frequent, involuntary contact with the LAPD. How do the people whom the LAPD arrests feel about relations between the police and their communities?

Our research team interviewed 71 detainees within a few hours of their arrests. The detainees were randomly selected but this was not a representative sample of detainees. Rather, it was a convenience sample allowing us to probe more deeply the same questions we were asking residents, gaining the perspective of many more residents who have frequent contact with the police. Of the 71, most had been stopped at least three times by the police in the last two years, and 13 told us they had been stopped more than 20 times in that period. All but four were men, and they ranged in age fairly evenly from 18 to 65. Their most common communities of residence were South Central LA (23), Downtown (22), and East LA (7). Fifteen of the interviews were conducted in Spanish.

Many members of our research team were surprised at the positive responses to the questions we asked. For example, 39 of the detainees—just over half—told us the LAPD is doing a "good" or "excellent" job. That is not the 83 percent that we found in our survey of residents, but it is still impressively high among a sample of recently arrested individuals. Between a third and a half of the detainees told us that in the last two-to-

three years, the LAPD had improved in its professionalism, its community relations, its respect toward residents, and the quality of its performance.

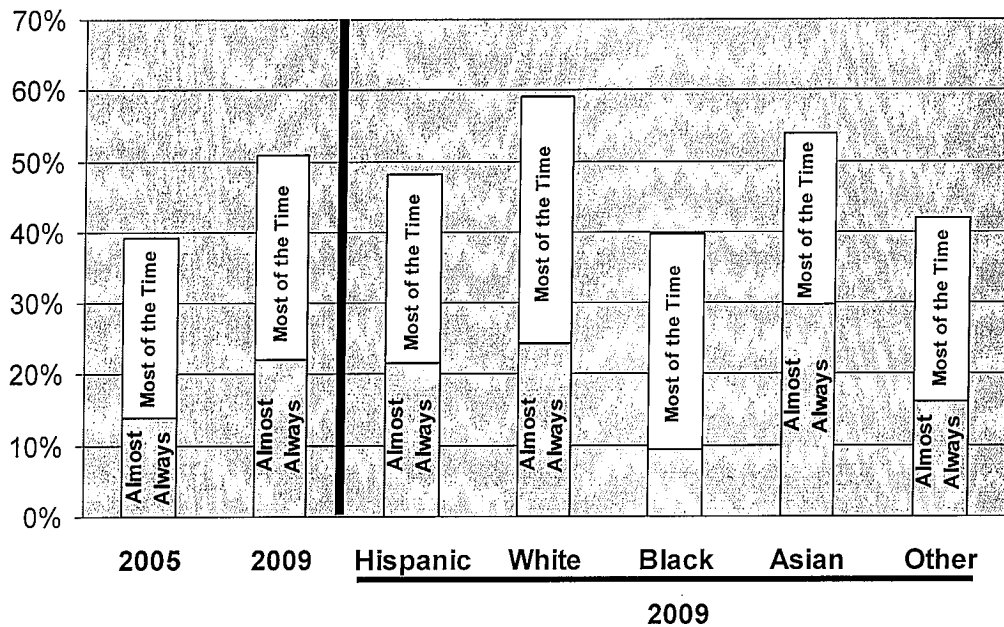
In two open-ended questions, we asked the detainees to tell us the best experience and the worst experience that they had ever had with an LA police officer. The worst experiences included examples of allegedly wrongful arrests, handcuffs being applied too tightly, and many examples of disrespect. The best experiences were equally telling, if not more so. One immigrant detainee said he had been comforted by his arresting officer when he expressed fear of being deported as a result of his arrest. Another detainee described a sergeant who helped him file a civilian complaint against another officer whom the detainee felt was harassing him for no reason. The research team noticed a pattern of positive experiences that involved police acknowledging a detainee's feelings or individual circumstances.

### **Relations with Racial and Ethnic Minority Communities**

In our survey, we asked a series of questions designed to explore the sensitive question of police relations with members of racial and ethnic minorities, asking about both general beliefs and about personal experience with police treatment of friends and family. In every case, the responses to questions asked in earlier surveys improved in 2009. In addition, we found strong expressions of confidence in the fairness of the LAPD and the respect it shows to members of racial and ethnic minority groups. Within the 2009 results, however, there is a worrying trend: a lower level of confidence among African-American respondents.

This general pattern is evident in the most straightforward question we asked: "Do you think that the police in your community treat all racial and ethnic groups fairly?" The same question was asked in a 2005 survey, and by 2009 the positive answers had risen from 39 to 51 percent of respondents. Moreover, the results for separate racial and ethnic groups in 2009 showed a relatively consistent and strong pattern, as shown in the chart below. Yet Black residents of Los Angeles answered less positively to the question, with 23 percent of Black residents responding, "almost never." That is far higher than the percentage of other groups answering "almost never" (14 percent for Hispanics, 10 percent for Whites, and 6 percent for Asians).

Figure 33. Residents' Assessment of Frequency of Fair Treatment by LAPD, 2005 and 2009

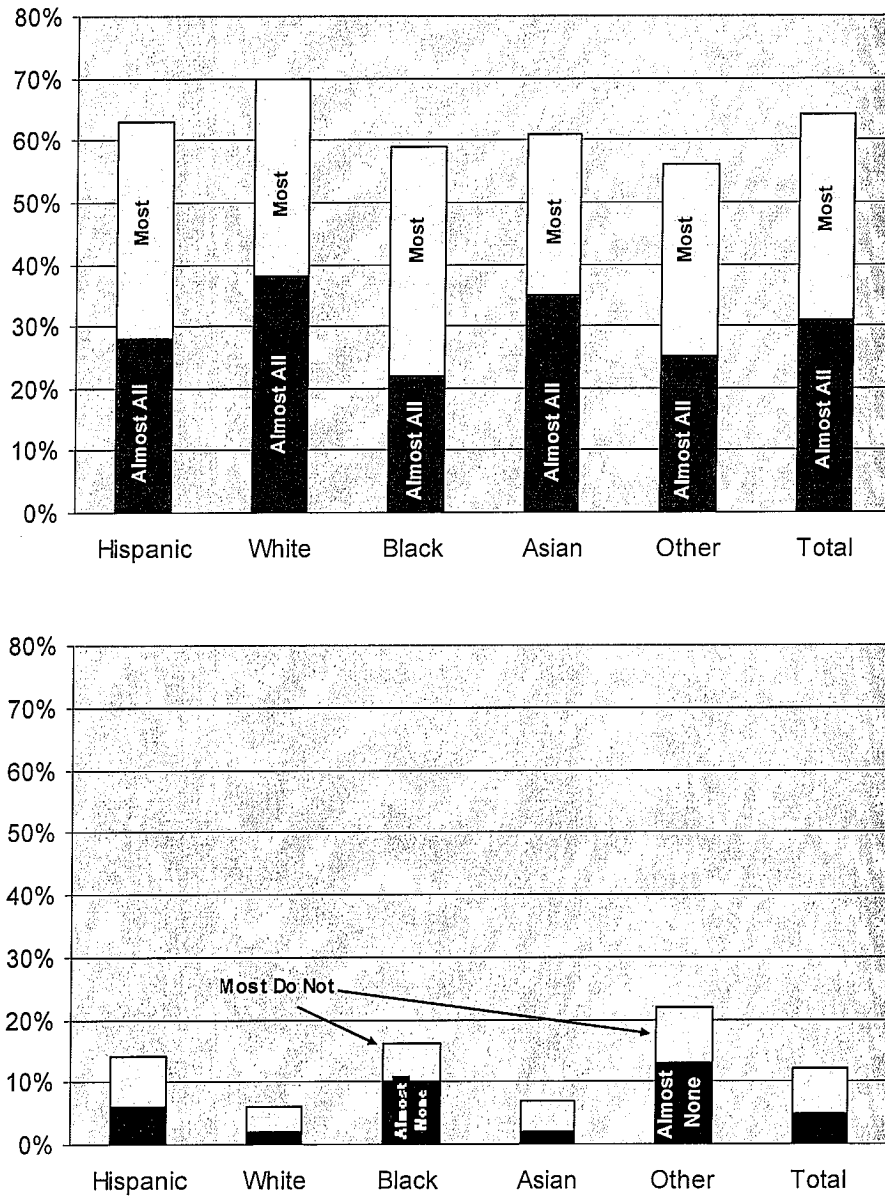


Interviewers asked: "Do you think the police in your community treat all racial and ethnic groups fairly?"

Source: Harvard Kennedy School, Program in Criminal Justice Policy & Management (2009); Public Policy Institute of California (2005)

We asked residents to tell us, based on their personal experiences, how many of the LAPD officers they encounter treat them, their friends, and their families with respect. Issues of respect figure prominently in conceptions of fairness and equal treatment across all racial and ethnic groups, as well as in people's conceptions of justice. Again, the general pattern was very positive, with majorities of every racial and ethnic group reporting that most, if not all, of the LAPD officers they encountered treated them and their friends and family with respect. But among Black respondents, 10 percent reported that almost no LAPD officers treat them with respect, and the figure was even higher for the small number of residents who identify as something other than Hispanic, White, Black, or Asian. On its own, this 10 percent figure might not cause too much concern, but it is twice the rate for Hispanics and it fits the pattern we observed across most questions, suggesting that in a portion of African-American communities, relations with the LAPD remain tense.

*Figure 34. Residents' Experience of How Many LAPD Officers Treat Them with Respect, by Race/Ethnicity, 2009*



Interviewers asked: "Based on your personal experiences, how many of the LAPD officers you encounter treat you, your friends, and your family members with respect?" Percentages not shown answered "about the same treat us with respect as do not treat us with respect" or preferred not to answer.

Source: Harvard Kennedy School, Program in Criminal Justice Policy & Management

We can see the same pattern in responses to our general question about relations between the LAPD and our respondents' own communities. A majority of each racial and ethnic group described relations between the LAPD and their communities as positive, and in a separate question, the vast majority of respondents saw those relations as either stable or getting better over the last three years. Again, however, there are troubling responses from African-Americans, 22 percent of whom described relations as negative, with 10 percent describing them as very negative.

We observed several of the efforts that the LAPD is making to strengthen its relations with communities, especially in predominantly Black and Hispanic neighborhoods. Of particular interest, amid a variety of programs and priorities, is the role of the Senior Lead Officers in each police division. While the role itself dates back at least a couple of decades, the SLOs have taken on greater significance since the consent decree. Removed from the obligations to respond to routine calls-for-service, these officers become specialists in their neighborhoods, not only attending the usual panoply of community events, but building strategic relationships with community leaders, activists, and respected neighborhood residents.

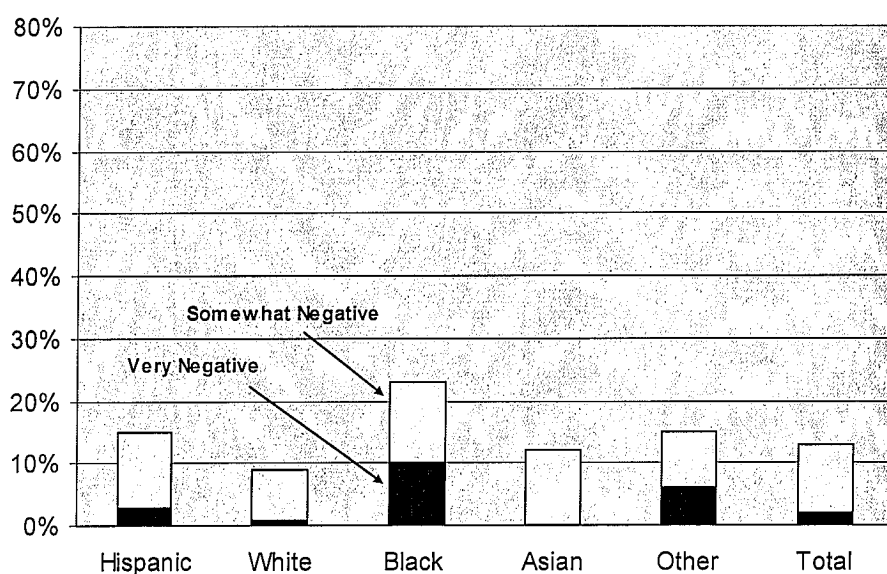
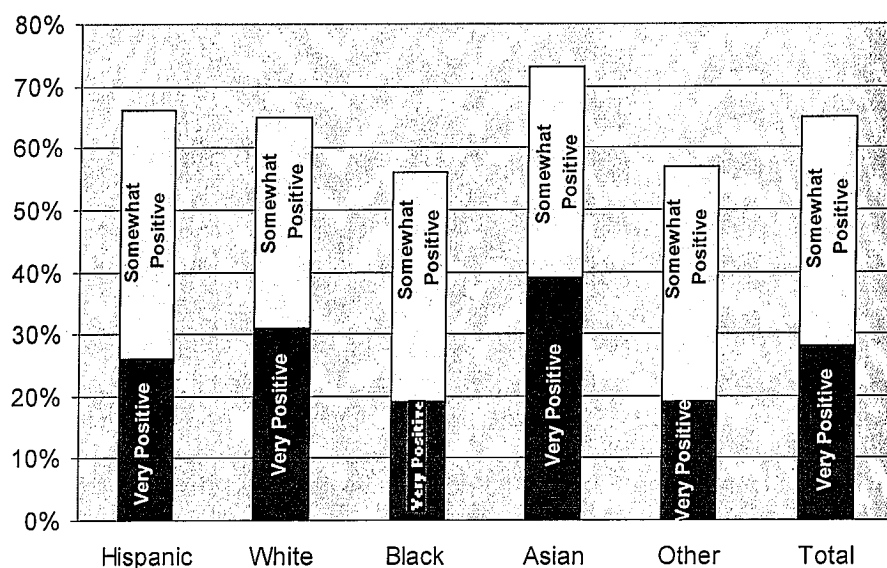
We found the SLOs whom we interviewed to be impressively well informed about the neighborhoods they police and the people who live and work there. Moreover, unlike community liaison officers in some other departments, the SLOs are able to direct and monitor the work of officers in their divisions. For example, we observed one SLO make an effort to re-assign an officer whom he believed was not well suited to a particular neighborhood. We also observed division commanders assess the work of SLOs as part of the core business of their divisions, not merely as an add-on program. In a meeting to select the "officer of the year" in one division, the captain indicated his preference for a SLO over a sergeant who had made many arrests that year because the SLO had "prevented crime as well as stopped it."

Positive attitudes about the role and contribution of SLOs to the mission of the LAPD permeate the Department. Seventy-seven percent of all officers completing our survey strongly agreed or agreed with the statement "the work of Senior Lead Officers helps reduce crime," with one quarter strongly agreeing. Eighty-eight percent of officers agreed or strongly agreed with the statement "SLOs do valuable work for the Department," with one-third strongly agreeing. The work of the SLOs is unlikely to resolve all of the remaining difficulties in police-community relations, but they appear to represent an important strategic asset in that effort.

In sum, the rift between the LAPD and its communities has narrowed, and the communities across the City of Los Angeles are increasingly confident in the professionalism of the LAPD. We found a spectrum of opinion, but not a divided city. From the detainees who had just been arrested, to the older teenagers, to the most committed community activists, we found remarkably similar opinions: mostly cautious optimism that the police in Los Angeles could treat them with respect while effectively providing a service of high quality. Perhaps the most significant pattern to emerge from our study of public attitudes is that the city's African-American communities, often the

least satisfied with the Department today, are also the most hopeful about its continued improvement.

*Figure 35. Residents' Assessment of Police Relations with Their Communities, 2009*



Interviewers asked: "How would you describe relations between the LAPD and the community where you live?"

Percentages not shown answered "Neither positive nor negative" or declined to answer.

Source: Harvard Kennedy School, Program in Criminal Justice Policy & Management

## **4. Changes in Governance of the LAPD**

### **The Commission and the Inspector General**

The governance and oversight of police work in every democratic society is multifaceted. While police in authoritarian societies are answerable only up the chain of command to a chief autocrat, police in democracies are answerable to many bodies: chief executives, courts, legislatures, auditors, commissions, neighborhood associations, journalists, and more. Governance of policing in a democracy is never straightforward.

The Los Angeles Police Department is formally governed by the Board of Police Commissioners, a five-person, civilian body with each member appointed by the Mayor and confirmed by the City Council for a five-year term, renewable once. The Police Commission's own materials describe it as the equivalent of a corporate board of directors, but the Commissioners serve without pay and are expected to work harder than any independent corporate directors, attending weekly Commission meetings and devoting between 25 and 50 hours per week to Commission business. Unlike a corporate board, the Commission is served by an executive director and staff.<sup>21</sup> The Commission has formal authority to hire the Chief of Police (also for a five-year term, renewable once) and to set broad policy for the Department. Two years into the consent decree, the Police Commission decided not to renew the appointment of then-Chief Bernard Parks, subsequently hiring William Bratton as Chief and renewing his appointment in 2007.

The Police Commission, like any governing body, must maintain a balance between critical review and public support. It must hold the LAPD and its Chief accountable and in compliance with its policies, yet it also must encourage them to align their work with changing public needs and expectations. The Commission must defer to the expertise of police officers and respect their exercise of discretion in operational matters at the same time as they require compliance with rules and procedures that can seem rigid. These challenges are multiplied when the work of the Department draws public attention and controversy, and they are complicated further by the web of relationships that binds the Department to other systems of governance and oversight—the courts, the media, and the local, state, and federal governments.

The consent decree represents a challenge and an opportunity for the Commission. Had the Commission been performing as an effective corporate board, it is unlikely that the U.S. Department of Justice could have intervened as it did. In that sense, the consent decree is a challenge to the Commission to step up and govern the Department more effectively. At the same time, the consent decree has provided the Commission with an opportunity to focus consistently on a few key issues: strengthening its review of uses of force and generally raising its prominence in debates about police-community relations.

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<sup>21</sup> The office of Executive Director organizes the meetings of the Commission and also manages labor and employment matters, issues permits, facilitates community policing activities, handles public information, and conducts reviews and research on change in policies and procedures in the profession of policing.



The Commission appoints the Inspector General, whose office audits, investigates, and oversees the handling of complaints of misconduct by Department employees, and conducts other investigations as directed by the Board. The Office of Inspector General was established only four years before the consent decree came into force on the recommendation of the Christopher Commission.

The Consent Decree formalized a particular role for the Inspector General in the oversight of the LAPD's use of force, requiring the Inspector General to review every instance of the use of categorical force, witness the Department's own investigation of each incident, offer an independent evaluation of the Department's findings, and make recommendations about how the Department might improve practices.<sup>22</sup> The Commission issues a final ruling on each individual incident of the use of categorical force as well as an annual report on these decisions, but it relies on the Inspector General for the information that shapes its findings.<sup>23</sup>

We observed both the public and private work of the Police Commission and Inspector General, including their interactions with the LAPD's command staff. We conducted a series of interviews with members of the Commission and its executive director, as well as the Inspector General and an assistant inspector general about their investigations. We witnessed the workings of the LAPD's internal Use-of-Force Review Boards at which a representative of the Inspector General is always present and may ask questions but not vote. Finally, we received wide access to data and reports maintained by the Office of the Inspector General.

We examined the changing roles played by the Commission and the Inspector General by focusing on two high-priority, controversial issues: the use of force and racial profiling. The response of these governing bodies to high-profile events, such as the policing of the May Day demonstrations in MacArthur Park in 2007, are important, but these have been extensively reviewed by others, so we focus here on more routine functions of governance. Before turning to these specific topics, however, we describe the general performance of the Commission and the Inspector General.

Our interviews revealed growing respect for the Commission under the consent decree. Several people described the Commission's current membership as "the strongest in a long time," or words to that effect. We heard frequent references to its elevated "status" and its greater "authority." In our observations, the Commission was able to challenge the LAPD leadership on questions of policy and performance, and to require greater attention to issues the Commission deemed essential to public confidence.

Structurally, the governance of the LAPD depends on a small number of unpaid Commissioners to devote at least half of their working hours to a delicate political, technical, and professional enterprise that is often in the midst of public controversy. It is

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<sup>22</sup> The Inspector General is also required to audit and review a sample of the Department's own investigations of the use of non-categorical force.

<sup>23</sup> Each year since 2003, the Office of the Inspector General has published an annual report on the use of categorical and non-categorical force as well as audits of the Department's own use of force investigations. For a recent example, see [www.lacity.org/oig/Reports/2006\\_CUOF\\_Annual\\_Rprt\\_11-29-07.pdf](http://www.lacity.org/oig/Reports/2006_CUOF_Annual_Rprt_11-29-07.pdf)

not surprising, therefore, that our interviews also uncovered criticism of the Commission, mostly for its lack of strategic focus. One person complained about its “wandering agenda.” A senior LAPD officer observed “it seems as if nothing gets finalized,” adding that “the Commission isn’t good at identifying priorities, and is distracted by newspaper headlines.”

The current Inspector General, André Birotte, has held the post since 2003, following Katherine Mader (1996-1998) and Jeffrey Eglash (1998-2003). Until the consent decree came into force, the Inspector General’s office was tolerated, but barely so, by the LAPD. Disagreements over the authority of the office led the first Inspector General to resign, and the second Inspector General faced similar difficulties, despite changes to the city charter in 2001 that gave the Inspector General subpoena power and the ability to investigate relevant matters without specific authorization.<sup>24</sup> The Police Commission has the power to order the Inspector General to terminate an investigation, but it has never used this power formally.

The role of the office has changed considerably since Birotte took up the post. A senior officer of the LAPD confirmed for us what seemed apparent in our own observations: the Inspector General today has adopted a less “adversarial” approach and the Department has, in turn, given him greater access than his predecessors enjoyed. Significantly, the Inspector General has codified this new access in “work rules” that should allow the good practice to be continued beyond his own term of office and that of Chief Bratton.

In our interviews, one senior officer said that the Office of the Inspector General had “earned respect” in the Department, and had competently conducted audits and reviews of Department investigations. “We need them,” said one officer, describing the Office of the Inspector General’s review of the complaints process. “They’re in the business of criticism, and we’re not perfect.” At the same time, several officers we interviewed believe that the Inspector General’s office has become bogged down in details of police operations: “Their role is oversight, not coaching,” said one officer. “They should be doing more than remind us to wear our vests,” he added. Another officer said: “I guess they’ve been taught to microscopize everything they see, but instead of getting a conversation about what activities comprise quality in policing, we hear about widgets.”

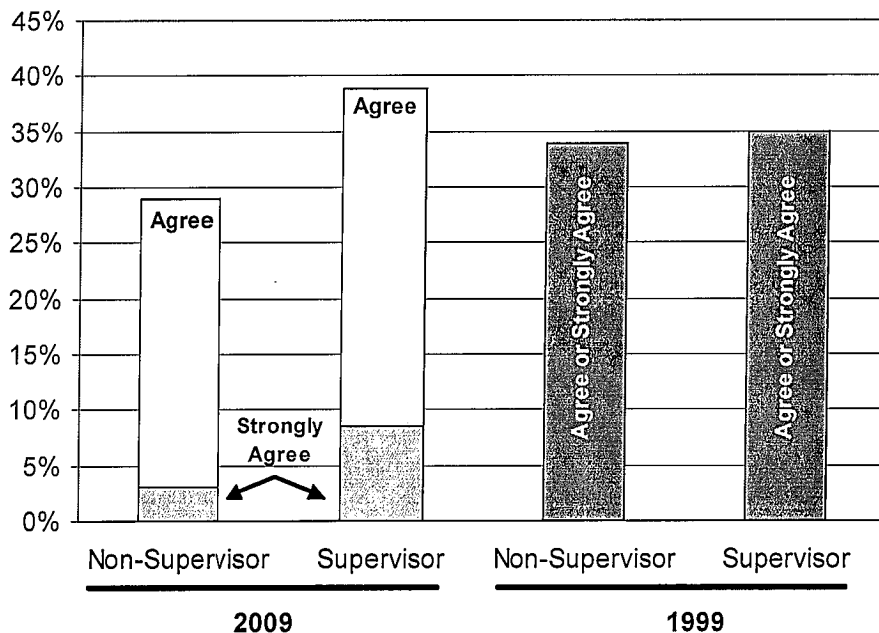
These comments come from headquarters personnel who deal routinely with the Office of the Inspector General, but most members of the LAPD do not have strong views about the Inspector General. Indeed, perceptions of the Inspector General across the Department have not changed much since the year before the consent decree was signed. A 1999 survey of LAPD officers found that only about a third of non-supervisors and a third of supervisors believed that the Inspector General added integrity to “the Department’s disciplinary system.” When we asked that same question in 2009, we received roughly similar responses, a little lower among non-supervisors and slightly higher among supervisors, as shown in Figure 36. But relatively few of those we surveyed had strong views on the subject, and a large fraction—more than a quarter of

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<sup>24</sup> James Sterngold, “A Monitor of Los Angeles Police Seeks to Build Power” in *The New York Times*, June 6, 2001, page A18.

our respondents—did not answer this question at all, suggesting that the Inspector General does not figure prominently in the image of the Department held by a large fraction of sworn officers.

*Figure 36. LAPD Sworn Officers Who Agree that the Inspector General Gives the Disciplinary System Greater Integrity, 1999 and 2009*



Source: Harvard Kennedy School Program in Criminal Justice Policy & Management (2009); Wellford Wilms (1999)

Mixed impressions of governance and oversight structures in a police organization should be expected, especially from individuals and units that are being supervised. But it is important to appreciate their ambiguity. The frustrations of police officers with oversight could be a warning of outside interference and unproductive oversight, but the same frustrations might be a sign of a fresh influence on an organization that had previously considered itself impervious. Likewise, the allegations of excessively “fastidious” reviews of police work-products might be signs of redundant systems of quality control, but they could also be proof of the continuing need for painstaking oversight.<sup>25</sup>

The comments made in our interviews raise important questions about the role and resilience of the work of the Commission and Inspector General in the direction and oversight of policing. “The Commission today appears strong,” said one senior officer,

<sup>25</sup> One of the tasks of the Office of the Inspector General is to review the quality and completeness of the work of the Department’s own internal governance operations, such as the inspections and audits of the Audit Division, which are themselves exhaustive and inquire into such apparently minor issues as whether or not notifications of CUOF incidents are actually received or recorded on an answering machine or BlackBerry.

“but how do we know it’s the organization and not the individual members that are strong?” Another officer asked: “Are the changes in the Department reversible? The previous chief undid many things, and the one before him scrapped a lot of good practices, too. Does that mean it all could change quickly with a new chief, or once the decree is over?” Coming from the present and future leaders of the Department, these questions command attention.

One test of the quality and resilience of governance would assess the dynamic character of the relationships within the LAPD. Governance and oversight of the LAPD is so multilayered that it is difficult to discern, isolate, and measure the independent contribution of any one body.<sup>26</sup> The effects of the Commission and Inspector General might better be detected in the character of the interactions and processes that connect the various bodies of governance. Another test would examine whether the volume and gravity of misconduct or complaints and the use of force are going up or down in response to the exercise of governance and oversight. When the Commission or IG find the use of force out of policy or recommend changes to the way complaints are handled, how does the Department respond? When they find lapses or honest mistakes that do not rise to the level of misconduct, does the Department embrace their findings? When they concur or even commend the Department for excellent work, does it matter?

In the section that follows, we focus on the role of the Commission and Office of the Inspector General in two discreet areas: (1) assessing its response to complaints, including complaints of racial profiling, and (2) overseeing the Department’s use of force. Uses of force and complaints of racial profiling are uncommon events in the lives of individual police officers, but they have earned a lot of attention in the press and in the weekly meetings of the Commission, and triggered a lot of activity and change within the Department’s own governance routines.

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<sup>26</sup> Take the example of complaints: the Internal Affairs Group, part of the Professional Standards Bureau, not only receives, classifies, and assigns all complaints for investigation, but also conducts occasional tests of the integrity of the system, filing anonymous complaints and tracking their resolution. The Research and Evaluation unit performs quality assurance tests, assessing the completeness of investigations, ferreting out boiler-plate language in witness statements, and drafting letters to complainants that explain the outcomes of the investigations. The Audit Division reviews this performance, searching for inconsistencies and errors in the entire process. Finally, the complaints section of the Inspector General’s office scrutinizes these audits, examines a sample of the complaints, and publishes a review of the quarterly and annual reports, the data for which comes from the Teams II Development Bureau.

## Handling Civilian Complaints

The receipt, investigation, and review of civilian complaints are the joint responsibility of the Inspector General, Police Commission, and Police Department, all of which can independently act on allegations of misconduct. In practice, most of the work managing these complaints falls to the Department's Internal Affairs Group (IAG), which investigates a small portion of all complaints and monitors the investigation and disposition of the majority, which are handled by supervisors in the 19 area divisions.<sup>27</sup>

The overwhelming majority of complaints originate with the public as a result of some type of contact with police officers. Officers refer to these complaints as "1.28s" for the number of the form which they are required to provide citizens who wish to file a complaint. Each year since 2000, between 70 and 75 percent of all complaints recorded by the LAPD came from members of the public. The remainder involves allegations of police misconduct that are made by other police officers, with most common allegations being "neglect of duty" and "unbecoming conduct," about 16 and 11 percent of which, respectively, are sustained during a police investigation.<sup>28</sup>

The most common allegation in civilian complaints is that officers were discourteous. Between January 1998 and October 2008, residents filed complaints involving more than 17,000 allegations of discourtesy – roughly 150 each month, or five each day. A small but steady proportion of these allegations are sustained in the course of police investigations. For example, of the 2,368 complaints the LAPD closed in 2008 that involved an allegation of discourtesy, 39 (1.6%) were sustained. Allegations of discourtesy made by the "person involved" or a "third-party" are sustained less frequently than allegations of discourtesy made by uninvolved members of the public, suggesting that the LAPD attaches great importance to these kinds of complaints.<sup>29</sup>

The majority of LAPD police officers continue to have negative perceptions about the complaints process. As Figure 37 shows, nearly 85 percent of officers responding to our survey in March 2009 agreed or strongly agreed with the statement "most civilian complaints are frivolous," and less than 40 percent believe the investigation of civilian complaints is fair. Only 37 percent agreed or strongly agreed that the complaint system makes the Department more accountable to the public. A few officers we spoke with thought the easy accessibility of the complaints process was an asset to the Department, but negative perceptions are the norm, as the chart below shows. Most officers in the LAPD do not distinguish the complaints process from the discipline process.

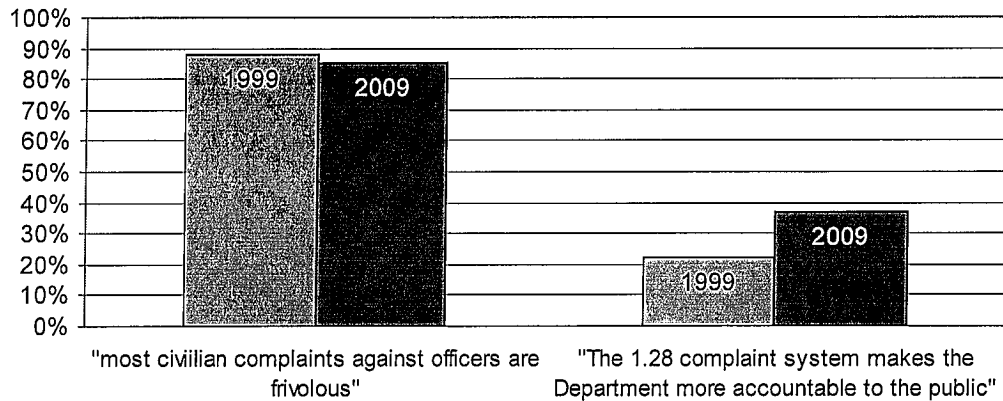
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<sup>27</sup> The IAG investigates allegations of misconduct mandated by the consent decree. In 2004, the IAG took direct responsibility for investigating less than 5 percent of all complaints. In the last four years, the IAG has directly investigated about 10 percent of all complaints.

<sup>28</sup> Some of the complaints in these cases are in fact generated by citizens, since in the course of investigating use of force incidents the LAPD sometimes opens a complaint form based on interviews of witnesses and participants who allege excessive force or verbal mistreatment and other misconduct.

<sup>29</sup> In 2008, the LAPD sustained 3 percent of all complaints that came from the "person involved" in an incident, and 3 percent of complaints from "third parties," but 26 percent of the complaints that came from other members of the public.

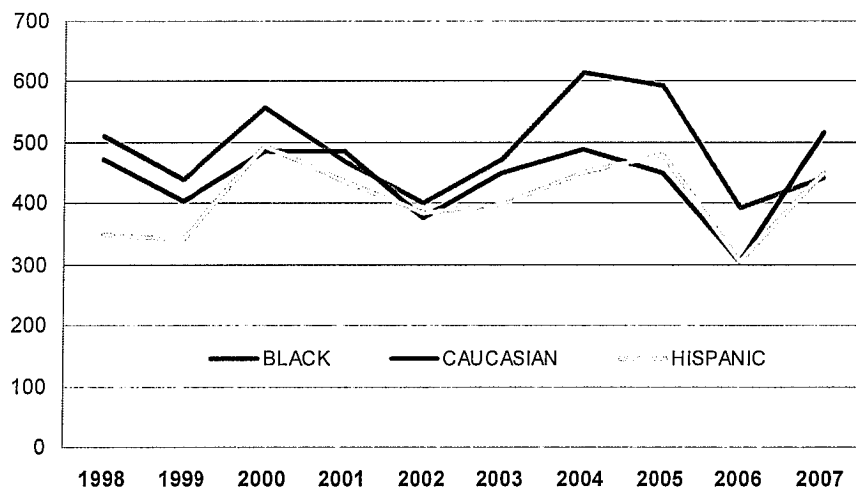
Figure 37. LAPD Sworn Officers Agreement with Certain Statements, 1999 and 2009



Source: Harvard Kennedy School Program in Criminal Justice Policy & Management (2009); Wellford Wilms (1999)

Black residents have filed a slightly larger number of complaints of discourtesy than White or Hispanic residents, even though they comprise a smaller proportion of suspects stopped by the police. In 2008, Blacks filed 31 percent of all allegations of discourtesy and yet constituted 23 percent of all individuals stopped by the LAPD. Figure 38 depicts trends in discourtesy complaints over time, which remain relatively steady, with annual variations, despite substantial increases in enforcement activity during these years.

Figure 38. Civilian Complaints Received by the LAPD Alleging Discourtesy, 1998 to 2007



Source: LAPD

The Police Commission regularly reviews the Department's "quarterly discipline reports," which contain an array of figures on the volume and types of these complaints as well as their disposition but do not by themselves communicate an opinion about recent trends and progress toward Department goals.<sup>30</sup> It falls to the Commission to make these judgments and the Commission often invites the Inspector General to select topics or concerns for further investigation. Because of the large volume of complaints, however, the Inspector General's review is often limited to assessing the accuracy and completeness of statements collected and summarized by investigators, focusing on complaints that are investigated by the Department's Internal Affairs Group, the so-called "level two" or more serious complaints.<sup>31</sup>

### *Racial Profiling*

In recent years, the LAPD has paid particular attention to the management of complaints of racial profiling. Among many reasons for this special attention is that the Commission has insisted that the Department review the process by which it investigates allegations of racial profiling.

In May 2007, the Department introduced a new set of protocols for handling allegations of racial profiling that required the Professional Standards Bureau to conduct an initial review of all such complaints and that the IAG conduct the investigation centrally. It also required that investigators take additional steps to document an officer's actions when they were not triggered by a call for service. The introduction of these protocols stemmed in part from the fact that, in January 2007, the Commission had received that a review by the Inspector General that expressed "some concern regarding the penalty imposed upon a supervisor accused of failing to take appropriate action when a subordinate made ethnic remarks," and observed that none of the 85 allegations of racial profiling that quarter had been sustained. None of the 116 allegations of wrong searches that quarter had been sustained either, but the null finding on racial profiling stood out.

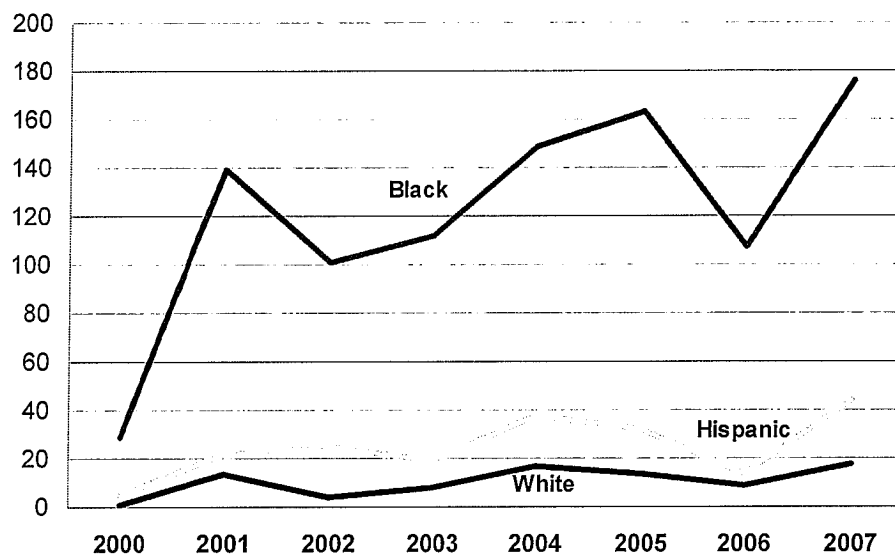
As Figure 39 illustrates, the number of allegations of racial profiling had generally increased since 2002, although there was a pronounced decrease in 2006. The following year, the number of these complaints surged to an all time high.

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<sup>30</sup> The "QDRs" could function as a barometer for understanding change in the public experience of policing as they do in other cities as well as guide and facilitate the Commission's oversight. For an example of a report on civilian complaints of misconduct that analyzes trends over time by the social status and racial identity of complainants, see the Annual Report of the New York City Civilian Complaint Review Board, <http://www.nyc.gov/html/ccrb/home.html>

<sup>31</sup> Each year, the Office of the Inspector General selects one aspect of complaints process for special consideration. A recent review, for example, focused on the investigation of complaints adjudicated as "Not Resolved." These reviews help identify concerns that the Commission raises with the leadership of the Department.

Figure 39. Civilian Complaints Received by the LAPD Alleging Racial Profiling, 2000 to 2007



Source: LAPD

Eager to know the impact of the protocols, the Commission in October 2007 directed the Inspector General to audit and review a sample of complaints involving allegations of racial profiling. The review, which was completed in February 2008, found shortcomings in five of the six complaints of racial profiling whose investigation had been initiated and closed between May and October 2007. Teams II data showed that none of the Department's investigations into 320 allegations culminated in a sustained finding of racial profiling. In April 2008, the Commission met to discuss with the Department the findings from these reviews.

At the Commission meeting one board member expressed consternation that the Department's investigations into racial profiling produced a "big fat zero." Representatives of the Department explained that they did not sustain any allegations because it was impossible through ordinary investigations to know the "state of mind" of its officers at the time of a stop.<sup>32</sup> The meeting concluded with the Commission requesting the Executive Director to work with the Department's Internal Affairs Group, which investigates all such allegations, on a study of the investigation and adjudication of similar complaints in other jurisdictions. Simultaneously, the Department contracted with an academic expert to reexamine its training processes.

The Commission returned to the subject of the investigation of complaints of racial profiling again in October 2008, with board members reiterating their commitment to

<sup>32</sup> See for example, Joel Rubin, "320 complaints of racial profiling and not one had merit, LAPD says," *Los Angeles Times*, April 30, 2008.



sustaining the credibility and integrity of the complaints investigation system, which one commissioner had called “the most fulsome in the country.” The head of the Professional Standards Bureau acknowledged shortcomings in the new methods and documentation of some of the allegations of racial profiling before the Commission, and proposed a different remedy structure for the investigation of such complaints in the future, including an alternative dispute resolution mechanism. Citing data contained in Teams II, the head of the Internal Affairs Group noticed that that some portion of the allegations of racial profiling were actually about discourteous treatment, a finding which could be used to adjust the classification system and thus also open a new avenue for responding to citizen concerns. As the head of the Internal Affairs Group said at the Commission meeting in October 2008, “we’ve got a community that feels it’s not being treated well, and we have to do something about it.”

The way the Department handles allegations of racial profiling continues to evolve. The Professional Standards Bureau is testing out the new system of dispute resolution for citizens that complain of racial profiling, and in December 2009 introduced further enhancements to the protocol for investigating allegations of “biased policing.” The Department has installed videos in police cars in the South Bureau order to more accurately record the nature of police-public encounters, and the devices should be operational soon. In March 2009, the Commission approved the Department’s new policy prohibiting racial profiling.

The Department has assumed leadership of this issue, and yet it is important to recognize how the intervention of the Commission and the Inspector General helped the Department set out on this path, reinforcing its efforts to build better systems of integrity and public confidence. By scrutinizing data on complaints process, the Commission uncovered a worrisome trend in Department practices. By insisting on a review of practices in other jurisdictions, the Department examined its protocols from a fresh perspective and considered solutions that were tested in other cities and Departments. And by doing so, the Commission strengthened the commitment of the Department to transparency and respect in community relations. As the Assistant Chief of Police put it at the conclusion of the meeting of the Commission, “we’ve got to do more to ensure we provide the most respectful policing we’re capable of.”

### **Use of Force**

No problem of police management and governance is of greater concern than the use of force by police. As recently as 2000, the LAPD’s internal Board of Inquiry examined the possibility that LAPD officers were concealing instances of the use of force, a problem discovered during the Rampart scandal. It investigated whether or not supervisors and commanders in that division were still permitting such concealment as part of an earnest effort to fight gang crime. The Department’s report found that, “unfortunately, ...this pattern has occurred within Rampart once again.”<sup>33</sup>

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<sup>33</sup> See “Board of Inquiry into the Rampart Area Corruption Incident,” March 2000, p. 56.

With the implementation of the Consent Decree, the Department redoubled its efforts to document and critically evaluate every incident of the use of force. The Department first converted the Critical Incident Investigation Division into the Force Investigation Division, whose work, all our interviewees said, was “vastly superior” to the investigations completed in the past. The Department also reorganized the meetings of the Use of Force Review Board, which now analytically reviews each shooting, listens to a recommendation from the supervising captain, and then issues a ruling on the appropriateness of the tactics and use of force. Each incident of the use of categorical force is then reexamined carefully by the Commission in a closed session, drawing on a briefing and independent analysis of the facts prepared by the Office of the Inspector General.

The Office of the Inspector General plays a special role in the governance of the use of force, shadowing investigators at the scene of critical incidents, conducting real-time reviews of the work of Force Investigation Division (FID), and later summarizing exhaustively the quality and outcomes of investigations in its annual reports.<sup>34</sup> We cannot say whether or not the Inspector General’s efforts have had a direct effect, but the FID investigations do seem to be improving. In 2005 and 2006, the Office of the Inspector General identified shortcomings in nearly two-thirds of all investigations of alleged excessive force. In 2007, the Office of the Inspector General found shortcomings in less than half of the cases it sampled. As one person within the Office of the Inspector General told us, there have been “huge” improvements in the quality of the investigations completed by FID over this time.

Disagreements between the Inspector General and the Chief of Police are rare, but when they occur the Commission seems influenced by the Inspector General. Between 2005 and 2008, there were 449 incidents involving the use of categorical force. In rare instances, the Department’s own investigation leads the Chief of Police to administratively disapprove of officers’ tactics, and in a smaller subset to find the use of force “out of policy.” In the vast majority of cases however, the Department approves the tactics and use of force, and the Inspector General almost always agrees. In only ten instances between 2005 and 2008, did we find the cases where the Office of the Inspector General recommended a finding substantially different from that of the Chief. In each of these ten instances, the Commission adopted the position of the Inspector General in its final ruling, and these were the only instances of which we know where the Board of Police Commissioners adopted a finding contrary to the recommendation of the Chief of Police.

The Department has made its own efforts to improve training and incorporate the findings and decisions of oversight organs into its routines. We found many examples of scrupulous investigations of individual incidents that raised questions about tactics that may have led to the use of deadly force. For example, the Use of Force Review Boards

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<sup>34</sup> Only some of these findings are contained in the Inspector General’s Annual Report Regarding the Use of Categorical Force. The Office of the Inspector General also publishes findings in its reviews of the Departments “Quarterly Discipline Report” and “Categorical Use of Force Investigations Audit.” See [www.lacity.org/oig/isgrp1.htm](http://www.lacity.org/oig/isgrp1.htm)

have found numerous instances in which officers in plain clothes had engaged suspects without identifying themselves, without notifying supervisors of their locations, and without following various other standard procedures.<sup>35</sup> The Use of Force Review Division has reminded personnel of such shortcomings in its newsletter, and communicated concerns about the “loose supervision” of officers in the narcotics division in connection with multiple incidents of so-called “waist-band shootings” involving plain-clothes officers. This combination of thorough investigation, tactical debriefing, adjustments to training, and reminders in the newsletter is intended to keep such uses of force to the minimum necessary, and the efforts of the Department, the Inspector General, and the Police Commission together certainly appear to have produced more careful reviews of the use of force in individual cases. The analysis of trends in the use of force seems less developed.

### **The Quality of Governance**

Good governance aligns internal management and leadership with external oversight and direction. In the case of the LAPD, the Commission and Inspector General exert their influence largely by strengthening internal processes of accountability and management, though the Department also cultivates innovation in government and key management processes on its own. Without the prodding of the Inspector General or any specific direction by the Commission, for example, the Department improved the complaints process above and beyond the requirements of the Consent Decree. In 2006 and 2007, staff in the Teams II Development Bureau created a special intake template and training module for officers in the area divisions in order to facilitate and streamline the process of opening and completing an investigation. In 2008, Teams II staff designed a prototype dashboard by which to chart change in the character and resolution of complaints across the organization over time. If the dashboard is implemented, command staff will be able to compare trends in the types of complaints filed and sustained over the diverse units that comprise the LAPD, and thus be in a position to detect emerging patterns of problems or successes before an alarm sounds or calls for change come from outside agencies.

There are other signs of innovation in governance that may well be below or beyond the radar of the Commission and Inspector General. The Use of Force Review Division, for example, is developing new ways of disseminating information about troubling patterns in tactics as well as insights about how to better train officers in use of force situations. The Tac-Ops newsletter is becoming a rich source of information for officers in the LAPD and other agencies as well, and staff members in the Use of Force Review Division actively push out the information through email blasts and other reminders. Some of the insights and innovations are the result of interactions with the Inspector

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<sup>35</sup> The Use of Force Review Boards typically generate careful reviews of the practices that lead up to a categorical use of force incident, and we were impressed by the seriousness of those we observed. For example, in one of review we observed, the captain who supervised the officers involved in a shooting candidly raised critical questions about the situation, asking why these particular officers were in plain clothes in light of the limited experience and training, why they seemed poorly equipped for the traffic stop they made, and why they seemed not to have identified themselves as police officers. It is a sign of integrity in the Review Boards that these kinds of questions can be explicitly discussed.

General, but others are the product of the staff's own ingenuity and desire to lead the Department and profession.

What does this tell us about the quality of external governance today?

In our estimation, the Office of Inspector General has come a long way since it was first created in 1996. The first two occupants of the position of Inspector General left frustrated by the difficulties of obtaining information and cooperation from the Department and without finding an effective voice in the governance system. Since the consent decree, however, the Department and the Inspector General have gradually strengthened cooperation to the point where it is now noticed by rank and file members of the Department and appreciated by others. The Office of the Inspector General now has standing to speak at the Use of Force Review Boards and its opinions are generally respected by members of both the Force Investigation Division and Use of Force Review Division.

Our reviews of the reports prepared by the Office of the Inspector General for the commission reinforce the impression of good cooperation and the high quality of its products. The Inspector General's reports on the use of force in particular find lapses in Department investigations, identify areas for improvements, and make reasonable recommendations for how the Commission can encourage better officer training and learning from the review of use of force incidents.<sup>36</sup> These reports are taken seriously by the Department, which now requests copies before Commission meetings and at times requests opportunities to discuss their findings. The Inspector General, in short, has chosen to influence Department practices through a steady but gradual process, avoiding public criticism and relying on the sound quality of its work. While it has rarely used the authority to initiate an investigation or audit without prior authorization of the Board, each year, the Inspector General addresses at least one issue that is unrelated to the consent decree, slowly expanding its role in the governance of the Department.

There are limits here. The adoption of the Inspector General's recommendations and advice is optional and its formal powers are modest. The Inspector General cannot recommend an out of policy finding in the use of force unless the practice *substantially* deviates from policy, and that standard is, as one person put it, "fuzzy." The Inspector General also does not consistently check up on the implementation of recommendations made by the Commission. There is also little capacity with which the Inspector General can assess the long-term impact of its decisions and recommendations on Department practices, a limitation that is lamented by staff as well as some members of the Commission. In the present arrangement, in short, the Office of the Inspector General plays as much an auxiliary role as an oversight role and it is heavily dependant on the Commission. As one member of the Office of the Inspector General put it: "We have influence on the Department only in so far as the Commission has power."

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<sup>36</sup> These products are used by outside agencies to learn about the Department and engage the Commission in a conversation about progress in the LAPD. See, for example, the letter from the Southern California chapter of the ACLU to the Board of Commissioners, dated March 3, 2008 (on file with Executive Director of the Commission).

The Commission, too, has evolved and improved substantially since 2000. Every observer of the Commission noted its growing strength and competence as well as its ability to question a prominent and renowned chief of police.

Still, everyone we interviewed about the Commission had their lists of how the Commission could improve. As with Police Department itself, there is more to be done in the Commission's development. Three features of the Commission's role recur repeatedly in areas identified for improvement.

First, except for the yard posts established by the consent decree, which it regularly reviews, the Commission has no measures or indicators of its own by which to evaluate progress in policing over time. An explicit discussion about the goals of policing in Los Angeles and measures against which the Commission might count progress might be helpful as the Commission moves beyond the era of the consent decree.

Second, the Commission does not appear to have a clear way to group issues that come up for consideration. "If you look at the agenda," one senior officer told us, "you'll see that 95 percent of the topics on the agenda concern a single incident." Commissioners are attentive to this problem, too, apparently, and have begun asking questions about the mixture of reactive and directive roles it should play in governing the Department. "We need to strike the right balance between letting the chief create an agenda, on the one hand, and telling him what he needs to address on the other," said one board member. "We are looking into long-term planning," said another.

Third, the Commission does not yet possess independent sources of routine information about Department practices. The Inspector General's office does not conduct independent or parallel investigations, but rather exhaustively reviews the information unearthed in the course of the Department's internal reviews. As a result, Commission members sometimes rely on press reports and other sources of information by which to assess the completeness and accuracy of Department reports. There is no standard way of filling this need, but this hard working, unpaid board is probably at the limit of what can do with its current sources of information. At least one senior official we spoke with suggested that the Department would probably benefit from a "genuine civilian oversight commission."

## **Concluding Observations**

Stepping back from the dozens of specific provisions of the LAPD consent decree that have been implemented, we see a staggering scale of change. The LAPD is the largest and most complicated police agency ever subjected to the oversight of a Federal Court under the 1994 law giving the Justice Department authority to bring pattern-and-practice cases against states and municipal governments; and the consent decree in LA is among the most complex ever entered by a police department. If local governments and police departments elsewhere are ever going to consent to such reform programs in the future, they will need to know that success is possible. The changes in Los Angeles should be encouraging in that respect.

The consent decree alone does not explain the changes in the LAPD. Indeed, it is unlikely that a consent decree can ever make these kinds of improvements without strong and effective leadership. At best, federal oversight and a consent decree can keep shortcomings in view, but only police leadership and strong local governance can bring the changes that the parties to such litigation agree they want to see.

The evidence presented here shows that with both strong police leadership and strong police oversight, cities can enjoy both respectful and effective policing. We have seen that the officers of the LAPD have regained their commitment to the institution: attrition is down and was down even while the economy was booming. On a variety of survey questions, officers signaled their renewed satisfaction on the job. And residents, too, are highly satisfied.

The LAPD of today is a changed organization. Within Los Angeles, community engagement and partnership is part of the mainstream culture of the Department. Not everyone embraces it, and not everyone practices it, but the commanders we observed take relationships with communities seriously as an essential part of their work. The precise forms that accountability takes remain subjects of intense debate, but the fact of accountability has entered the lifeblood of the organization. Even on the most sensitive issue of the use of force, officers of the LAPD are willing to act when necessary, but the Department scrutinizes each use of force closely and is accountable through many devices for its proper use.

Time and again we heard police officers and community residents pose the question: will the improvements persist if the consent decree ends? Research cannot answer such a prospective question, but in our opinion the officers and residents with whom we spoke seem ready for that test. It is not that policing in Los Angeles is all that it can ever be, but the balance of local leadership and local oversight is healthy enough to carry the process of continuous improvement forward.

## Kaplan, Rebecca

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**From:** Gregory McConnell <greg@jobsandhousing.com>  
**Sent:** Tuesday, January 22, 2013 8:20 AM  
**To:** DL - City Council  
**Cc:** Quan, Jean; Campbell-Washington, Anne; Santana, Deanna  
**Subject:** Support for anti crime packages; January 22, 2013 City Council Agenda Items S20, S21, S22, and S23

Dear Members of the Oakland City Council,

Tonight, the Oakland City Council has four items before it that address public safety and seek to stem the horrific violence that is plaguing the city. Three of the items, S 20, 21, and 22 are introduced by Vice Mayor Larry Reid and Council Member Libby Schaaf. They would allow the city to:

1. Contract with the Alameda County Sheriff's" Department
2. Hire non sworn technicians to do routine support work
3. Jump start police academies

The Jobs and Housing Coalition urges you to vote yes on all three. While they do not solve our problems, we think they are a step in the right direction and we congratulate Mr. Reid and Ms. Schaaf for bringing these items forward.

The other matter, which is more controversial, authorizes a consulting contract which includes William Bratton. Mr. Bratton has been criticized by a small but vocal group for his support of "stop and frisk" a policy they say will lead to racial profiling and damage relations between OPD and the community. The Mayor and Police Chief have said racial profiling will not be tolerated in Oakland.

Given this controversy, the Council faces a question of whether to accept Mr. Bratton's participation in the consulting contract. We say yes, **unequivocally**.

Mr. Bratton has been a top cop in New York and Los Angeles. He succeeded in turning around cities that others had all but written off as hopelessly lost to violence. In New York, he reduced the homicide rate by 80%. In Los Angeles, he inherited a police department that was hated by the community. When he left, he had reduced homicides by 40%, and earned praise from the ACLU and the citizens of Los Angeles for turning the department around.

The LA Times reported that when Mr. Bratton left the department Ramona Ripston, the local ACLU executive director said, "This is a terrible loss for the city of Los Angeles.

"We used to get over 10,000 complaints a year," said the ACLU's Ripston. "In the last couple of years, it's decreased to a trickle."

The article reported similar support from city residents:

"With crime at the lowest levels in decades, city residents were glowingly supportive of the department in a Times poll this summer. An overwhelming majority of all ethnic groups--including those historically most resistant to praising the LAPD -- approved of both the department and the

chief. The findings confirmed the diminishing number of complaints about the LAPD logged by outside groups."

<http://www.latimes.com/news/local/la-me-week9-2009aug09,0,3065096.story>

The New York Times reported that: "Constance Rice, a civil rights lawyer who regularly sued the (LA) department two decades ago, said, "We've gone from a state of war to becoming partners here."

"Bratton took them from the police force with the biggest police corruption scandal in the country and the biggest riot in American history on its résumé to a police force that was producing declining crime, had won the confidence of a liberal police commission and won the respect of the black middle class," Ms. Rice said. "The L.A.P.D. was hated by everybody. Bratton didn't only reduce crime. He created a new policing atmosphere."

<http://www.nytimes.com/2011/08/13/us/13lapd.html?pagewanted=all&r=0>

Mr. Bratton has been successful everywhere he has been hired. He is considered the best of the best. It is repugnant to think that Oakland would not hire this expert because a vocal small group, some of whom confess that they don't want any cops, objects to one of the many arrows he has in his public safety quiver. More to the point, based upon what happened in LA, Mr. Bratton is not antagonistic to minority communities. To the contrary, according to the ACLU and a noted civil rights attorney, he turned a hostile police department into one that is both effective and admired by an ethnically diverse community.

As Bishop Bob Jackson said:

"We need something to stop the bleeding in the African American community. If Bill Bratton can do something about the bleeding, then I'm for Bill Bratton."

<http://www.sfgate.com/bayarea/johnson/article/Ideals-don-t-mean-giving-up-common-sense-4203807.php#ixzz2LibuQcwn>

Oakland desperately needs help and if Mr. Bratton can help Oakland do what New York and Los Angeles has done, bring him in right away.

**The Jobs and Housing Coalition urges a YES vote on S 23 and all of the crime fighting measures.**

Thank you for considering our position.

**Gregory McConnell**

President and CEO

**Jobs and Housing Coalition**

350 Frank H. Ogawa Plaza, Suite 703

Oakland CA, 94612

(510) 834-0400 Office

(510) 701-7158 Mobile

CC: The Honorable Jean Quan  
City Administrator Deanna Santana



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## Kaplan, Rebecca

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**From:** Rick Hirsch <rickaicp@gmail.com>  
**Sent:** Sunday, January 20, 2013 7:50 PM  
**To:** Kernighan, Pat  
**Cc:** ajaykshatriya@gmail.com; angelinab1969@sbcglobal.net; borgessandy48@yahoo.com; catherinestclair@gmail.com; chmawil@att.net; crallles@aol.com; dougleesf@yahoo.com; elteiken@gmail.com; evan@weissfam.net; fishfishy@gmail.com; hithisisjeff@gmail.com; jimmieoneill@yahoo.com; johnifcher@gmail.com; jonathan@christchurcheastbay.org; kevc17@gmail.com; kristakshatriya@gmail.com; lorlin@tndc.org; m8cats@gmail.com; mcneill79@yahoo.com; mrkan@comcast.net; rob.k.bircher@gmail.com; robin@patfield.com; rusticus@earthlink.net; sean.byernes@gmail.com; shadiah.sigala@gmail.com; simon@patfield.com; weisslaw@aol.com; wfarhat@aol.com; Kalb, Dan; McElhaney, Lynette; Schaaf, Libby; Gallo, Noel; Brooks, Desley; Reid, Larry; Kaplan, Rebecca  
**Subject:** Re: article in today's SF Gate... - Please attend Tuesday's council meeting

Pat,

I very much appreciate your reply message, your efforts to improve the setting in the Council Chambers and your vote on all four of the proposed below agenda items. I plan on attending and speaking at this Tuesday's Council meeting. I think many of my neighbors on Keith Avenue in Rockridge will be supportive and appreciative as well and thus I've forwarded your email to our Residents of Keith Avenue (ROKA) email group list which represents approximately 35 residences on Keith Avenue.

Ladies and gentlemen, please read below. Please attend if possible and please forward to anyone who may be interested who is not on this list.

Thank you!

Rick

**Rick Hirsch, AICP**  
**Permitting Specialist**  
**Permit Me, Inc.**  
**cell: 415.377.7826**  
**fax: 510.338.3459**  
**rickaicp@gmail.com**

On Sun, Jan 20, 2013 at 12:08 PM, Kernighan, Pat <[PKernighan@oaklandnet.com](mailto:PKernighan@oaklandnet.com)> wrote:

Mr. Hirsch,

Thank you for speaking up regarding Oakland's public safety crisis, as well as the issue of disruptive, intimidating behavior at Council meetings. I will be voting Yes on all four of the public safety items on Tuesday. Also, you might be interested in the following message that I sent to neighborhood groups in my

district this weekend (with emphasis on the third paragraph).

Best,  
Pat Kernighan

The need to address Oakland's epidemic of crime and violence has never been more urgent. I am sure you already know that and you are looking to Oakland's leaders to take action. This Tuesday night, both you and I have a unique opportunity to take action in a meaningful way. My part as a City Councilmember is to vote YES on four matters, each of which will help the Police Department become more effective in reducing crime. (Details on those items below.)

It is extremely important that the City Council vote to support these measures for two reasons. Foremost is the practical impact these measures will have in helping to reduce the crime that is plaguing our city. The second reason is to send the message that our city will not be bullied by the group of people who have attended several Council meetings to heckle, boo, or shout down any Councilmember or citizen who disagrees with their point of view.

I am writing to ask you to do something out of the ordinary to help me and several other Councilmembers turn the tables on those who would disrupt the meetings and intimidate other members of the public from speaking. At this Tuesday's meeting, we want to FILL the Council Chambers with people who believe in orderly and civil discussions of issues, who respect the right of free speech for all people, and who support the right of everyone to participate in the democratic process. We are calling upon you, the people we represent, to come in large numbers to this City Council meeting and fill the seats and set the tone. You don't need to speak unless you feel comfortable doing so. I am just asking that you show up, take a seat, and respect the right of others to speak their minds.

Now I know that many of you will say: "I'm not going to that circus and subject myself to the abuse I've read about!" To that I say two things: First, as chair of the meeting, I will insist on decorum, and if there is heckling, I will ask the police officers to escort those people out of the chamber. But also key is our strategy to out-number the disrupters. In fact, if most of the seats have been taken by ordinary folks who value an orderly and peaceful process, there will not be enough room for a large presence of the hecklers.

We are going all out to organize a strong presence of reasonable people at this one meeting. Expect to see fellow residents from West and East Oakland, Montclair and Chinatown. Please be part of this! Think of what a powerful message it will send. Sane Oaklanders reclaim their City government!

If you can attend:

- Arrive by 6:00 pm if possible, so you will be sure to get a seat. (Chamber opens at 5:30 pm)
- Location of City Hall is 14th Street between Broadway and Clay.
- Free Parking during the meeting in the parking garage next to City Hall.
- Drive into the garage on Clay Street, just north of 14th Street.
- The walk between the garage and the door to City Hall is less than 100 feet, so you will be safe coming and going.  
(Walk out of the garage on the north side of the building, for shortest walk.)
- Several bus lines serve 14th Street if you take public transit.
- We may get to the public safety items as early as 8:00, but could be 9:00 pm.

Please let me know by email if you will come to the Council meeting. (Please email me directly, don't reply to the yahoo group.)

With a strong presence of like-minded people, I think you will find this to be an uplifting experience.

Please, bring a friend and take back our city on Tuesday night!

Best,  
Pat Kernighan

[pkernighan@oaklandnet.com](mailto:pkernighan@oaklandnet.com)

\*\*If you wish to speak at the Council meeting, you need to sign up in advance. I recommend filling out the speaker card online this weekend (you will be earlier in the line of speakers than if you wait to do it in person at the meeting).

Go to: <http://www2.oaklandnet.com/Government/o/CityClerk/index.htm>  
and follow the directions for Speakers Cards. You will need to indicate which items you want to speak on. The public safety items are #s 20, 21, 22, and 23. If you sign up, but don't wish to speak, you can cede your time to another speaker at the meeting.

Item 20. Hiring 21 civilian police technicians

Item 21. Contract with Sheriff's Department for short-term assistance

Item 22. Funding for a Police Academy to train officers, to begin September 2013

Item 23. Contract with Strategic Policy Partnership, a law enforcement consulting group that includes Bill Bratton

\*\*\*A note on the consulting contract that includes Bill Bratton, former NY Police Commissioner and LA Police Chief: The recent media focus on "stop and frisk" does not fairly represent this Bratton's accomplishments. In addition to achieving substantial reductions in crime in New York City and LA, he also brought the LA Police Department into compliance with a federal consent decree, reduced the number of police misconduct claims to a small percentage of what they had been, garnering accolades from the ACLU in the process, and increased the level of trust of the LA Police Department by residents in all neighborhoods of that city. I believe the Oakland Police Department can learn a lot from him, both on crime reduction and improving community relations.

-----Original Message-----

From: Rick Hirsch [<mailto:rickaicp@gmail.com>]

Sent: Fri 01/18/13 9:18 AM

To: Kalb, Dan; Kernighan, Pat; McElhaney, Lynette; Schaaf, Libby; Gallo, Noel; Brooks, Desley; Reid, Larry; Kaplan, Rebecca

Subject: article in today's SF Gate...

Oakland City Council members,

Here is the text of the most popular comment on today's SF Gate article entitled "Ideals don't mean giving up common sense".

( <http://www.sfgate.com/bayarea/johnson/article/Ideals-don-t-mean-giving-up-common-sense-4203807.php>)

To my mind a simple litmus test for our estimable gang of politicians is if they are so singularly devoted to the demands of the intolerant, juvenile, obnoxious, belligerent, Fascistic, bombastic blowhards who trumpet the mindless drivel and dogma of the lunatic, idiosyncratic minority who predominate at Oakland's City Council meetings. Are these folks so out-of-touch with the citizenry in this town to believe that these rancid, pathetic, unaccomplished nonentities have a constituency larger than what could fit inside of a phone booth? These horrid, hyper-aggressive losers hate the police, hate the economy, hate the society, participate in nothing, do nothing with their lives, hate monger with impunity, threaten and intimidate anybody who disagrees with their doggerel, putrid, hate filled rants. They do succeed in alienating the average person to degrees which prevent most from venturing downtown as the experience is horrid, scary and nauseating. The city council, to their credit, endures these pathetic losers with a degree of patience and respect but if they actually believe even for one second that this pathetic, putrid garbage that these uneducated, unaccomplished brats spew with a bizarre and downright wierd sense of certitude then they really are out of touch. Oakland needs 1000 police and perhaps once they are on board these rancid cowards and belligerent louses will leave town and try to screw up another place.

Reply <<http://www.sfgate.com/bayarea/johnson/article/Ideals-don-t-mean-giving-up-common-sense-4203807.php#>> REP <<http://www.sfgate.com/bayarea/johnson/article/Ideals-don-t-mean-giving-up-common-sense-4203807.php#>> LY  
Recommend <[http://www.sfgate.com/img/pluck/core/comments\\_thumbsup\\_icon.gif](http://www.sfgate.com/img/pluck/core/comments_thumbsup_icon.gif)> (119)  
Disapprove <[http://www.sfgate.com/img/pluck/core/comments\\_thumbsdown\\_icon.gif](http://www.sfgate.com/img/pluck/core/comments_thumbsdown_icon.gif)> (6)

Popularity: 113

Please take note of these comments as they are shared by the vast majority of good Oakland citizens. Do something about the obnoxious Occupy leftists who are destroying our great city.

Rick Hirsch, AICP

## Kaplan, Rebecca

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**From:** Chan, Ada  
**Sent:** Thursday, April 10, 2014 2:05 PM  
**To:** Overman, Jason; Kaplan, Rebecca  
**Subject:** FW: DAC Privacy Committee  
**Attachments:** DAC Ad Hoc Advisory Committee Contact List.doc

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**From:** DeVries, Joe  
**Sent:** Thursday, April 03, 2014 2:19 PM  
**To:** Chan, Ada  
**Subject:** DAC Privacy Committee

Hey Ada,

Attached is the list I had prepared. some have already been appointed as indicated below, but not all. Allan Brill from the Glenview is especially interested as is John Kline and neither have been appointed yet. I would recommend Allan because he is a really active neighborhood guy and is reasonable. I also would recommend Mary Bergan from the League but I think Pat might appoint her. You should appoint two people and I want to finalize the list by tomorrow if possible. As you can see below, I am waiting on several people and so someone you may want to pick may be picked by someone else so let's keep checking in.

Thus far here are the appointees:

Kalb:	none yet
Kernighan	none yet
McElhaney:	Linda Lye and Brian Hofer
Schaaf:	They told me to appoint whoever is left from the original list after the rest of you appoint
Gallo:	Robert Gray and Eduardo de Loa
Brooks:	none yet, her original recommendations are not interested
Reid:	Carl Chan and Mike O'Brian
Kaplan:	none yet

Thanks for your help on this.

**Joe DeVries**  
*Assistant to the City Administrator*  
City of Oakland  
250 Frank Ogawa Plaza Suite 6303  
Oakland, CA 94612  
(510) 238-3083  
[jdevries@oaklandnet.com](mailto:jdevries@oaklandnet.com)

## Kaplan, Rebecca

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**From:** rashidah grinage <rashidah@earthlink.net>  
**Sent:** Sunday, April 14, 2013 12:18 PM  
**To:** Gallo, Noel; Burgos, Claudia (was Jimenez); McElhaney, Lynette; Cook, Brigitte; Kalb, Dan; Luby, Oliver; Schaaf, Libby; Kernighan, Pat; Kaplan, Rebecca; Jones, Andre; Chan, Ada; Brooks, Desley; Reid, Larry; Merriouns, Iris  
**Cc:** Office of the Mayor; Harmon, Reygan; Caceres, Patrick  
**Subject:** April 16 Agenda: Item 12 CPRB Intake of Complaints  
**Attachments:** Revised NSA with civilianization changes.doc; PUEBLO ACLU vs City of Oakand.pdf  
**Importance:** High

### ***“Born under a Bad Sign”***

Ms Santana’s staff report recounts all the bad luck that has resulted in her failure to implement the City Council’s decision (and budget allocation of \$1.4 million) in June 2011 to consolidate the intake of complaints against police at the Citizens’ Police Review Board.

Among many other benefits, this plan, when implemented, will result in the ability of OPD to re-assign at least 10 current IAD sworn to patrol or other crime-fighting duties.

The report cites the following main reasons for the delays that have occurred each of which is suspect:

#### **1. The loss of redevelopment funds**

The original implementation was scheduled for August 2012; after the loss of the redevelopment funds, Council’s revised budget pushed the date to January, 2013.

The question remains: Why was it not accomplished by January 2013, or any time since?

#### **2. Additional duties of Reygan Harmon and Patrick Caceres**

Reygan has no direct responsibility for this implementation since she is the Public Safety Advisor to the Mayor, not the City Administrator. CPRB Manager Patrick Caceres was assigned additional duties, but by Ms Santana, herself!

#### **3. NSA requirements**

This is an entirely bogus argument. Since the original proposal in 2006, the City Council adoption in 2011 and subsequent conversations with both NSA Monitor teams, there has never been any objection to this policy as long as the provisions of the NSA that concern the intake and investigations of complaints are adhered to. (Please see the attached amended NSA prepared by City Attorney Rocio Fierro in December 2008 which shows these accommodations, and which has never been opposed.)

#### **4. Meeting and Conferring with the OPOA**

There has never been a need to 'meet and confer' with OPOA over this proposal. It is a public policy decision that does not result in any losses of sworn positions at OPD, nor does it impact salary, benefits or any other labor related matters. The OPOA has never publicly objected to this plan nor have they sought arbitration on this issue. Discussions between the City Administrator's office and the OPOA should never have been allowed to delay the implementation of this policy. (see *ACLU-PUEBLO settlement agreement w/City of Oakland attached*).

## 5. Civilianizing the OIG

The decision to transfer residents' complaints to the CPRB had no Inspector General component. This idea to civilianize the IG position is the Mayor's, transmitted to Judge Henderson, in an effort to show the City's willingness to make greater efforts toward NSA compliance. Although there would clearly be some relationship between this office and the operations of the CPRB, there is no reason why the transfer of the intake of complaints should not proceed on schedule, while efforts are made to negotiate the details of the IG position, recruit and hire this person, etc. No doubt, the Compliance Director will want to oversee this process.

### Conclusion:

- The City Council must insist that the transfer of the intake of complaints to the CPRB be implemented as decided in the June 2011-2013 budget.
- The date certain by which this must occur is October 15, 2013 which provides ample time for the job announcement, interviewing, background checks, hiring and training to occur.
- The Compliance Director should select the agency who will train the new CPRB hires. The funding must be taken from the current budget, not from the 2013-2015 budget.

*Rashidah Grinage*  
*PUEBLO*  
*3528 Foothill Blvd*  
*Oakland CA 94601*  
*(510) 535 2525*  
*[www.peopleunited.org](http://www.peopleunited.org)*



## Kaplan, Rebecca

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**From:** Zima, Hannah  
**Sent:** Tuesday, November 12, 2013 11:26 AM  
**To:** Brooks, Desley; Gallo, Noel; Kalb, Dan; Kaplan, Rebecca; Kernighan, Pat; McElhaney, Lynette; Reid, Larry; Schaaf, Libby  
**Subject:** FW: Juvenile Protection Curfew Ordinance, Item 10, File # 13-0071, November 12, 2013 Agenda  
**Attachments:** 2013.11.12 MTR Ltr to Oakland Pub. Safety Committee.pdf

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**From:** Bourelly, Veronica **On Behalf Of** City Clerk  
**Sent:** Tuesday, November 12, 2013 11:01 AM  
**To:** Simmons, LaTonda; Thomas, Tamika; Reed, Asha; Zima, Hannah  
**Subject:** FW: Juvenile Protection Curfew Ordinance, Item 10, File # 13-0071, November 12, 2013 Agenda

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**From:** Carey Lamprecht [<mailto:clamprecht@aclunc.org>]  
**Sent:** Tuesday, November 12, 2013 10:24 AM  
**To:** Gallo, Noel; Schaaf, Libby; Kalb, Dan; McElhaney, Lynette  
**Cc:** City Clerk; Parker, Barbara; Sanchez, Arturo M; Quan, Jean  
**Subject:** Juvenile Protection Curfew Ordinance, Item 10, File # 13-0071, November 12, 2013 Agenda

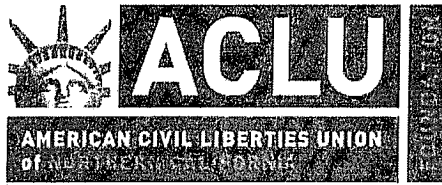
Dear Members of the Oakland City Council and Public Safety Committee,

Attached, you will find a letter from Michael T. Risher, staff attorney at the ACLU of Northern California.

Yours truly,  
Carey Lamprecht

Carey Lamprecht • Litigation Assistant • ACLU of Northern California  
39 Drumm Street, San Francisco, CA 94111 • (415) 621-2493 • [clamprecht@aclunc.org](mailto:clamprecht@aclunc.org)

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November 12, 2013

*Via Electronic Mail only*

Public Safety Committee  
Oakland City Council  
1 Frank Ogawa Plaza, Second Floor  
Oakland, CA 94612

**Re: Juvenile Protection Curfew Ordinance, Item 10, File # 13-0071,  
November 12, 2013 Agenda**

Dear Councilmembers:

I am writing on behalf of the American Civil Liberties Union of Northern California. It has come to our attention that your Committee is considering a new youth-curfew law modeled on the City Council's October, 2011 draft ordinance. The ACLU-NC opposed the 2011 proposal on the grounds that it would be counterproductive, that it would result in arbitrary and discriminatory enforcement, and that it would infringe on constitutional rights. These concerns are discussed in the attached October 3, 2011 letter from our Legal Director, Alan L. Schlosser, to the City Council.

To the extent that any new proposal is modeled after the earlier one, we will have the same concerns. We hope that the Committee will take them, and the other issues that Mr. Schlosser's letter raises, into account as it decides whether to draft a new curfew law.

A copy of the October 3, 2011 letter is attached.

Sincerely,

Michael T. Risher

Staff Attorney

Encl.

Cc: Oakland Mayor, Oakland City Attorney, City Clerk

MICHELLE A. WELSH, CHAIRPERSON | DENNIS McNALLY, AJAY KRISHNAM, FARAH BRELVI, ALLEN ASCH, VICE CHAIRPERSONS | KENNETH J. SUGARMAN, SECRETARY/TREASURER  
ABDI SOLTANI, EXECUTIVE DIRECTOR | CHERI DRYANT, DEVELOPMENT DIRECTOR | SHAYNA GELENDER, ORGANIZING & COMMUNITY ENGAGEMENT DIRECTOR | REBECCA FARMER, COMMUNICATIONS DIRECTOR  
ALAN SCHLOSSER, LEGAL DIRECTOR | MARGARET C. CROSBY, ELIZABETH GILL, LINDA LYE, JULIA HARUMI MASS, LINNEA NELSON, MICHAEL RISHER, JORY STEELE, STAFF ATTORNEYS  
PIYLLIDA DURLINGAME, ALLEN HOPPER, NATASHA MINSKER, NICOLE A. OZER, POLICY DIRECTORS | STEPHEN V. BOMSE, GENERAL COUNSEL



October 3, 2011

VIA E-MAIL AND FACSIMILE

Oakland City Council  
1 Frank H. Ogawa Plaza, 3<sup>rd</sup> Floor  
Oakland, CA 94612

Re: Juvenile Protection Curfew

Dear City Council Member:

I am writing on behalf of the American Civil Liberties Union of Northern California in opposition to the proposed Juvenile Protection Curfew (Oakland Municipal Code Chapter 9.12, Article II) which is being considered by the City Council on October 4, 2011.

The ACLU understands that a juvenile curfew law is being introduced now as a result of great and legitimate concern by Oakland residents and city officials about serious crime, and particularly criminal violence, in the city. This concern is heightened by budget shortfalls which have led to a reduction in the police force and in its ability to respond quickly and effectively to serious criminal activity which threatens lives and property. While imposing a curfew on juveniles does respond to the public's wish for governmental action, the ACLU believes the proposed Curfew is an ineffective and problematic response, one that will divert scarce city and police resources away from dealing with serious criminal activity, exacerbate tensions between the police and communities, undermine efforts to build trust between the police and young people, and deprive minors and their parents of fundamental constitutional rights.

The Ninth Circuit Court of Appeals has recognized that juvenile curfew laws directly infringe on minors' constitutional rights of freedom of movement, right to travel, privacy, and expression. *Nunez v. City of San Diego*, 114 F.3d 935, 944, n. 6 (1997). Furthermore, curfew laws abridge the constitutionally protected right of parents to make decisions about their children's upbringing by taking curfew decisions away from parents and giving them to the government. *Nunez*, 114 F.3d at 952. Because of this direct and sweeping impact on constitutional rights, curfew laws are strictly scrutinized by the courts to determine whether they are narrowly tailored to promote a compelling governmental interest. *Id.* at 946.

The police already have the power to detain and question any minor on the streets during curfew hours who is suspected of being involved in unlawful activity. Furthermore, the police

MICHELLE A. WELSH, CHAIRPERSON | SUSAN MIZNER, JAHAN SAGAFI, FARAH DIELVI, ALLEN ASCH, VICE CHAIRPERSONS | KENNETH SUGARMAN, SECRETARY/TREASURER  
ABDI SOLTANI, EXECUTIVE DIRECTOR | KELLI EVANS, ASSOCIATE DIRECTOR | CHERI BRYANT, DEVELOPMENT DIRECTOR | SHAYNA BELENDER, ORGANIZING & COMMUNITY ENGAGEMENT DIRECTOR  
LAURA SAPONARA, COMMUNICATIONS DIRECTOR | ALAN SCHLOSSER, LEGAL DIRECTOR | MARGARET C. CROSHY, ELIZABETH GILL, LINDA LYE, JULIA HARUMI MASS, MICHAEL RISHER, JORY STEELE, STAFF ATTORNEYS  
ALLEN HOPPEIT, NATASHA MIHSKER, NICOLE A. OZER, DIANA TATE VERMEIRE, POLICY DIRECTORS | STEPHEN Y. DOMSE, GENERAL COUNSEL

have the power to approach and take into custody any minor who appears to be in danger. (Welfare & Institutions Code sec. 305). The effect - **and the purpose** - of a curfew law is to give police expanded power and discretion to detain and question young persons who are **not** suspected of any unlawful activity, but who are merely present in a public place or business establishment during curfew hours.

This significant expansion of police powers will not just be felt by minors under 18 and their parents. Under this curfew law, the police will be given the authority to approach and question anyone who **appears to be under 18**, thereby subjecting a much broader segment of the population to what are essentially suspicionless stops, requests for ID and detentive questioning. If the curfew were to be enforced seriously and uniformly, then it would constitute a major diversion of police resources away from responding to serious criminal activity. Given the problems of reduced police staffing in Oakland, it is plain that the curfew is going to be enforced very selectively, and it is predictable that its impact will be felt in poor neighborhoods, and by youth of color.

Police Chief Anthony Batts recently commented on the 10.7 million dollar federal grant to hire Oakland police officers, emphasizing the need to change youth perceptions of officers "so police officers are seen in a positive way." (*Oakland Wins Justice Dept. Grant for 25 Officers*, San Francisco Chronicle, Sept. 29, 2011, at A-1). Enacting a juvenile curfew will thwart these very goals. Granting law enforcement officers unbridled discretion to detain and question youth for no reason except their presence will only increase tensions and distrust. While curfew laws are defended as giving the police another "tool for their tool kit," the young people who are targeted to be stopped and detained will see it as a club.

The proposed Curfew imposes a form of house arrest on minors, regardless of the wishes of their parents, for significant portions of the day and night.<sup>1</sup> To narrow and justify such a massive curtailment of liberty, the ordinance includes a number of "defenses" that carve out conduct that not will not be criminalized. However, these "defenses" only highlight and exacerbate the inherent problem with curfew laws - **that they inevitably result in arbitrary and discriminatory enforcement.**

Persons who appear to be under 18 and are in public places or private business establishments during the 12-1/2 hours covered by the proposed Curfew are subject to a police stop and questioning. Whether they are violating the Curfew depends not just on a determination of their age, but on a police determination of whether one of the "defenses" applies. (Juvenile Protection Curfew, § 9.12.110.D). The police are directed to make this determination based on the minor's "responses and other circumstances." (§ 9.12.110.E). But what constitutes an "errand" and is the minor on an errand "without any detour or stop"? Is the minor returning home from employment "without any detour or stop"? Is the minor "going to or coming from a

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<sup>1</sup> Compare with San Francisco's curfew, which applies to children under 14, barring them from being in public places from 12:00 am to 5:00 am without express parental permission or in connection with legitimate employment or First Amendment activities. (San Francisco Municipal Police Code 539). The San Francisco curfew allows law enforcement officers to protect vulnerable younger children,. Children who violate the curfew are subject to a civil, rather than criminal, penalty. Parents and business owners are not penalized.

medical appointment"? Is the student not required to be in school by his school because of his "school track or curriculum schedule." Which minors will have their "responses" believed by a police officer and which will not? Does the officer have the discretion to decide when the "suspect" will be allowed to make calls to a parent or a teacher or an employer to verify the story? Or is the City telling young people who appear to be under 18 that, from 8:30 am to 2:00 pm and 10:00 pm (11:30 on weekends) to 5:00 am, they need to carry not only proof of their age, but written notes from their parents or their school or their employers whenever they may be out of the house or school during curfew hours. And even if they do, how will such a writing be verified? **Does Oakland really want to adopt such a "pass law" that requires young people to carry papers to move about freely?**

It is hard to believe that the City wants its police officers to spend the time needed to make a fair determination of whether the curfew law (with its myriad of exceptions) is being violated. Thus, it is predictable that its enforcement will be very selective and based on subjective gut reactions of police officers on which young people should be targeted, and which young people should be believed. Of course, the curfew law is not unique when it comes to being enforced by police officers who must make decisions based on stopping and questioning suspects on the street. But the curfew law discards the traditional limit on police power of requiring reasonable suspicion of unlawful activity, and gives officers the unfettered discretion to stop any youthful-looking person who is on the street or in a private establishment during curfew hours. A police department that has been under federal court supervision for eight years as a result of allegations of racially biased and unlawful enforcement practices should not be asked to enforce a law which by its very nature must be selectively enforced and will inevitably result in perceptions of unfair and discriminatory treatment among youth of color.

The possibilities of arbitrary and discriminatory enforcement are compounded by the ordinance's sweep of business owners into its enforcement authority. Business owners face criminal liability if they knowingly allow minors to be on their premises during curfew hours. Should a prudent restaurant owner eject high school or middle school students at lunchtime or at least question them whether they are being home schooled or have a "school-issued off-campus permit"? Should a movie theater stop selling tickets to persons who appear to be under 18 for any show that ends after 10:00p.m.? And, one can expect that the private enforcement and targeting of such young people for questioning or ejection by business owners will also be highly selective based on neighborhood, appearance and, inevitably, race.

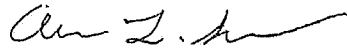
Finally, enforcement of the curfew is likely to have severe consequences for the most marginalized youth who may have no place to go other than a public space. For some young people, home is not necessarily a safe place to be for 12 hours a day. Young people who are homeless may have no way of establishing their age as well as no choice but to be in public places. Certainly these situations may call out for some intervention or assistance by social service agencies, but imposing a curfew law making their presence a criminal offense is not a responsible or effective response to such difficult social problems.

\*\*\*\*\*

*Oakland City Council Member*  
*October 3, 2011*  
*Page 4*

Keeping young people off the streets for significant portions of the day and the night is one way to try and reduce crime rates. Of course, keeping adults off the street would also probably reduce crime rates. But neither solution would be effective nor worth its price in liberty and in undermining police-community relations. Juveniles who are involved in serious criminal activity in spite of the severe penalties will not be deterred by a curfew ordinance. Curfew laws, like some other tough sounding anti-crime strategies, mask the underlying causes of crime by diverting the public's attention away from real crime prevention, like enriched educational programs, or meaningful job opportunities. They also divert the police's attention from more serious crime problems. Ultimately, these curfew laws do not make us any more safe. They only make us less free.

Sincerely,



Alan L. Schlosser  
Legal Director

cc: All Members of the City Council  
Barbara Parker, City Attorney  
Jean Quan, Mayor  
LaTonda Simmons, City Clerk

## Kaplan, Rebecca

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**From:** Joshua Smith <occupyoakland@riseup.net>  
**Sent:** Tuesday, December 10, 2013 1:30 PM  
**To:** Santana, Deanna; Barnes, Deborah; sbaig@oaklandnet.com; Kalb, Dan; Kernighan, Pat; McElhaney, Lynette; Schaaf, Libby; Gallo, Noel; Brooks, Desley; Reid, Larry; Kaplan, Rebecca  
**Subject:** ALJAZEERA REPORT: Little oversight at nation's terrorism watch centers

<http://america.aljazeera.com/articles/2013/12/10/little-oversightconsistencyatnationsterrorismwatchcenters.html>

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### Report: Little oversight at nation's terrorism watch centers

#### *Study shows intelligence gathering at fusion centers is out of line with accepted standard of reasonable suspicion*

There is little if any independent oversight of or consistency in information-gathering procedures at some of the nation's largest police departments, joint terrorism task forces and fusion centers, according to a new report published Tuesday by the Brennan Center for Justice.

The report, compiled from the findings from numerous Freedom of Information Act requests, reveals that there are large gaps in the local-federal intelligence-sharing systems that, the center says, pose a significant threat to national security and civil liberties.

"It's organized chaos. That is the state of things at the moment," said Michael Price, legal counsel at the Brennan Center and author of the report. "First is the lack of clear and consistent rules. Everyone has their own perception of what is suspicious, and what often happens is officers rely on their own biases and preconceptions."

"The other half of it is, there's nobody monitoring what these fusion centers are doing at the state and federal level," he said.

The Brennan Center calls for more oversight and a clear set of standards that all the agencies can follow. Price says having an inspector general oversee the fusion centers could be a step in the right direction.

"Strong independent oversight has got to be a part of that," he told Al Jazeera. "To the extent that police departments and local governments can create independent monitors, there need to be officials that can peer behind the curtain and see that the rules are being followed and then report back to the public. Reports about compliance, audits, are standard things that are at the heart of transparency."

The report, based on findings from 16 major police departments, 19 affiliated fusion centers and 14 Joint Terrorism Task Forces, finds that information sharing among the various intelligence and security departments is governed by "a patchwork of inconsistent rules and procedures" and independent oversight of fusion centers is "virtually nonexistent."

The vast majority of information that is collected is useless, Price said. The study points to a report by the Senate Intelligence Committee that says 95 percent of suspicious-activity reports are not even investigated by

the FBI, saying analysts have “too many dots” to sort through.

***The CIA, NSA and Department of Homeland Security did not respond to requests for comment. The FBI declined to comment.***

A look at a training manual from the Los Angeles Police Department, titled “Characteristics of Terrorist Surveillance,” points to some of the dots the Senate report mentions.

The manual instructs officers to look for people who stay at bus or train stops for extended periods while buses and trains come and go, who carry on long conversations on pay or cellular telephones, who order food at restaurants and leave before the food arrives or order without eating or who are standing and stretching for an inordinate amount of time instead of jogging.

The Brennan report says these activities could either be “evidence of pre-operational planning related to terrorism or evidence of a sore hamstring.” Under such wide-ranging intelligence gathering, Price says, “anyone could end up on a terrorist watch list for ordering food and not eating it.”

He also says that it is unclear what happens with the 5 percent of reports that are investigated and that the information is not collected under the established standard of reasonable suspicion that has been used for years in intelligence gathering and local policing.

**Mike Sena, director of the Northern California Regional Intelligence Center, told the Brennan Center that the information reported on the nationwide Intelligence Sharing Environment and the FBI's eGuardian intelligence-sharing portal may not always meet the reasonable-suspicion requirement** — something Price said was the standard before the Sept. 11, 2001, terrorist attacks.

The Brennan Center is not alone in its concerns. The American Civil Liberties Union has been worried about some of the same issues for years.

“The ACLU has long expressed concerns about these new counterterrorism authorities and platforms that are being used,” said Mike German, senior policy counsel at the American Civil Liberties Union. “What the public needs to understand is that this type of suspicious intelligence collection is not really effective. It sacrifices privacy for no security benefits.”

**Regional fusion centers in Los Angeles have determined that only 2 percent of suspicious-activity reports produced by the LAPD from 2008 to 2010 had information that was connected to possible terrorism. However, the agency kept 98 percent of the essentially useless intelligence files, purging only 66 of the nearly 2,800 records collected.**

**Fusion centers, spread across the country, cost up to \$1.4 billion from 2003 to 2011 and routinely produce “irrelevant, useless or inappropriate” information, according to a bipartisan Senate investigation (PDF).**

Price said the collection and retention of such information is a threat to civil liberties. “There’s no indication that the kind of reports they’re generating are contributing anything to counterterrorism,” he said. “If anything, they’re doing the exact opposite. By collecting large quantities of useless information, they’re making it harder to identify potential terrorist threats.”

Price pointed out the ineffectiveness of the procedures by looking at the Boston Marathon bombing in his report.

While Boston was not initially one of the cities the report studied, Price says it is the perfect example of why



things aren't working. The Boston fusion center may have missed critical information that could have prevented the bombing had the right dots been connected regarding Tamerlan Tsarnaev, the now deceased older brother in the bombing duo, the report says.

“We know the FBI conducted an investigation of Tamerlan. They placed him on a watch list, and three months later he was implicated in a pretty gruesome triple homicide. And it doesn't appear that the local fusion center was aware of this, or at least we don't know if they or the FBI was aware of this,” Price said.

“What we do know is that at the time this was going on, the fusion center was fixated on monitoring Occupy Boston protesters,” he added.

## Kaplan, Rebecca

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**From:** Joshua Smith <occupyoakland@riseup.net>  
**Sent:** Tuesday, December 10, 2013 7:16 PM  
**To:** Santana, Deanna; Barnes, Deborah; sbaig@oaklandnet.com; Kalb, Dan; Kernighan, Pat; McElhaney, Lynette; Schaaf, Libby; Gallo, Noel; Brooks, Desley; Reid, Larry; Kaplan, Rebecca  
**Subject:** Chicago Fusion Center (the reference/model for the Oakland DAC)

Oakland City Council:

1. First read/view this (very important): [bit.ly/1czlSYC](http://bit.ly/1czlSYC)
2. Then see attached email image.
3. Then ask yourselves generally if you really know what is going on regarding the DAC [surveillance society]?
4. Then ask yourselves specifically “*How much truth are we being given by Renee Domingo?*” and “*What crimes are we witnessing and/or being accomplice to?*”
5. It is all going to come out publicly very soon... you might want to publicly reverse your decisions and run for cover before the media shitstorm arrives. It's going to get really good soon.
6. The people attempted to speak out about the realities of what is going on, and you didn't listen. In fact, you went **directly** against everything you were and are being told (and shown).
7. **Libby Schaaf:** This is going to become a large issue in your campaign... and in the New York Times. *Ouch!*
8. Now, quickly forward this email to others with questions and comments like “Have you seen this?” and/or “We need to address this very soon in a private meeting.” (Don't forget to CC the City Attorney's office.)

**NOTE:** THIS EMAIL IS NOW IN THE PUBLIC RECORD.

**PUBLIC RECORD REQUEST KEYWORD SEARCH TERMS/TAGS:** JOINT DOMAIN, DAC, PORT OF OAKLAND, MARITIME, FEDERAL GRANT, DOMAIN AWARENESS CENTER, SURVEILLANCE, VIDEO CAMERAS, SNOWDEN, DHS, FEMA, SAIC, FUSION CENTER, OPENGOV, OPEN GOVERNMENT, SMART CITY, SMART CITIES, TERRORISM, LIBBY SCHAAF, ACLU, EFF, 4TH AMENDMENT, FOURTH AMENDMENT, POLICE STATE, SURVEILLANCE STATE, SURVEILLANCE SOCIETY, CORRUPTION, UASI, BAYRICS, FIRSTNET, FACIAL RECOGNITION, FIELD FINGERPRINTING, BIOMETRICS, POLICE BRUTALITY

Happy Holidays,  
Joshua Smith

“Key to 1984 wasn't that everyone was always being watched; the knowledge one could be is what imposed fear.” –Glenn Greenwald

**Ogata, Eileen**

---

**From:** Domingo, Renee  
**Sent:** Wednesday, May 01, 2013 10:39 AM  
**To:** 'mobrien@portoakland.com'; Baig, Ahsan  
**Subject:** Re: Trip to Chicago Fusion Center

Yes. Only you and Ahsan. Only the PD chief as far as I know.

---

**From:** Michael O'Brien <[mobrien@portoakland.com](mailto:mobrien@portoakland.com)>  
**To:** Domingo, Renee; Baig, Ahsan  
**Sent:** Wed May 01 08:00:31 2013  
**Subject:** RE: Trip to Chicago Fusion Center

Renee, who else will be going to Chicago in company with the Chief? Is it just Ahsan and I or are the officers or Deputy Chiefs going along? Anyone from your shop?

I assume the purpose is to benchmark their operation in order to better plan for the establishment

Thanks,  
Mike

---

**From:** Domingo, Renee [<mailto:RADomingo@oaklandnet.com>]  
**Sent:** Tuesday, April 30, 2013 10:41 AM  
**To:** Michael O'Brien; Baig, Ahsan  
**Subject:** Re: Trip to Chicago Fusion Center

Hi Mike:

What is your availability for the email request below?

----- Original Message -----

**From:** Domingo, Renee  
**To:** 'mobrien@portoakland.com' <[mobrien@portoakland.com](mailto:mobrien@portoakland.com)>; Baig, Ahsan  
**Sent:** Mon Apr 29 19:09:30 2013  
**Subject:** Trip to Chicago Fusion Center

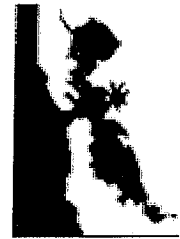
May 29 returning on May 31st.

Would either of you or both of you be interested in traveling with the Oakland Police Chief to visit the Chicago indicated above?

Please advise as soon as possible.



# WELLSTONE DEMOCRATIC RENEWAL CLUB



February 18, 2014

To: Mayor Jean Quan, City Attorney Barbara Parker, City Council Members Dan Kalb, Pat Kernighan, Lynette Gibson McElhaney, Libby Schaaf, Noel Gallo, Desley Brooks, Larry Reid, Rebecca Kaplan

Our Club has very serious misgivings about the ability of the Domain Awareness Center (DAC) to collect and stockpile information about the movements of ordinary citizens of Oakland who, in the words of the local chapter of the ACLU, "have engaged in no wrong doing whatsoever."

It is even more troubling that this center has been authorized, funded and is proceeding before:

- \* a well-thought out privacy plan which has been vetted by the community is in place;
- \* parameters are developed for what will be collected, how long data will be stored, and which entities could have access to the data in the future;
- \* it is established which entity will have ultimate authority over the DAC; and
- \* how operations will be funded in the future,

We are concerned that even with a comprehensive privacy policy the information this center collects could be misused in the future by employees of the City of Oakland or Homeland Security. We understand the need to prevent actual terrorism at the Port of Oakland and to provide up-to-date tools that might help combat crime in Oakland, but we are far from convinced of the efficacy of this type of surveillance to attain either of these goals.

Many of our members have been long involved in the fight to maintain and expand our civil liberties since the days of the House UnAmerican Activities Committee and the Freedom Rides in the South. We also have members whose families suffered great tragedy during the Holocaust. We opposed the Patriot Act and will always oppose the desire of government, local, state, and federal, to limit our Fourth Amendment rights to privacy, and know too well the ability of government to abuse its power.

We respectfully oppose the acceptance of further funding and development of the DAC until the above information is fully released to the public, and there are full public hearings that address the usefulness of the DAC, the privacy issues that it raises, and the costs to the city of its implementation.

The Wellstone Democratic Renewal Club Coordinating Committee

Pamela Drake, Ellen Augustine, Matthew Hallinan, Debbie Dille, Juli Dickey, Nicky Gonzalez-Yuen, Mal Burnstein, Zipporah Collins, Kate Harrison, Jack Kurzweil, John Katz

[www.wellstoneclub.org](http://www.wellstoneclub.org)

P.O Box 65, Berkeley, CA 94701-0065

Tel: 510.262-1001

## Kaplan, Rebecca

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**From:** Valerie Winemiller <vwinemiller@hotmail.com>  
**Sent:** Tuesday, February 18, 2014 12:09 PM  
**To:** Kaplan, Rebecca; Chan, Alan  
**Subject:** Oppose the DAC tonight.

Dear Rebecca,

I agree with all the privacy concerns of the ACLU and the Wellstone Democratic Club. Additionally, there are too many unanswered questions about the real cost of this DAC.

The federal funding only covers some initial start-up hard costs, not long term staffing, maintenance or upgrades, which are necessary frequently in high-tech applications. The grant is not "free money" under these circumstances.

Oakland is also proposing to do a much more extensive data collection than any other city has done to date, and it is unclear how well it will work—or how much it will cost—to have to sift this data for useful information. We have no idea what this will really cost, and there is no one else to look at to see what it cost them, because ours is so much bigger.

Please oppose the DAC tonight, or at least postpone the vote until Oakland has better answers about its true cost.

Thank you for your consideration,

~Valerie Winemiller  
121 Monte Vista Ave  
Oakland CA 94611

## Kaplan, Rebecca

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**From:** Catrina Roallos <croallos@aclunc.org>  
**Sent:** Tuesday, March 04, 2014 12:50 PM  
**To:** Kaplan, Rebecca; 'Ischaff@oaklandnet.com'  
**Subject:** DAC - Please vote NO

**Importance:** High

Dear Councilpersons Kaplan and Schaff,

I am your constituent and I also work at the ACLU of Northern California.

Please, please, **PLEASE** do not vote to fund the Domain Awareness Center!

### ACLU Resources

[OPD Documents Expose Grave Potential for Abuse of Domain Awareness Center](#)

[Public Remains in the Dark about Planned Oakland Surveillance Center](#)

[ACLU Urges Oakland City Council to Put the Brakes on Surveillance Center](#)

Respectfully,

Catrina Roallos  
2888 Georgia St.  
Oakland, CA 94602

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### Catrina Roallos

+ Web Content Manager  
+ New Media Strategist

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