Kansas City Has A Flavor All Its Own

Located in America’s heartland, Kansas City is brimming with midwestern flavor. From its smoky barbecue to its thriving arts scene, Kansas City is a city forged by a rich history. Part of Kansas City’s charm lies in its beauty, which includes an impressive network of boulevards, parks and exquisite fountains. The area has plenty to keep visitors and residents entertained—swinging jazz, unique museums, a vibrant arts scene, professional sports, fantastic shopping and excellent cuisine.

Kansas City offers a diverse selection of shopping and entertainment areas. Crown Center, a project of Hallmark Cards, Inc., is an enclosed shopping and entertainment center with more than 60 shops and restaurants, live theatres and two hotels. This walkable area is also home to Union Station, the National World War I Museum at Liberty Memorial and the Money Museum at the Federal Reserve Bank of Kansas City. Must-see kid-friendly attractions include: Science City, the Planetarium, Kaleidoscope, the SEA LIFE Kansas City Aquarium and LEGO-LAND Discovery Center.

South of Crown Center is historic Westport, once an outfitting post for wagons heading West. Historic markers highlight the area’s history,

The Conservative Case for Civilian Review

American attitudes about criminal justice have always crossed party lines. But a view existed, from the 1960s to the early 2000s, that can be fairly called the conservative position. Its main arguments are familiar: American cities are dangerous places. Police protect us, in these cities, from crime and disorder. Our officers must be given broad discretion to do their job and not be second-guessed or restricted; criminals should be incarcerated, even for non-violent offenses, for the sake of punishment and deterrence. The conservative view was challenged by conservatives themselves, or those identifying as right of center. This re-evaluation began with the religious right and their defense of prisoners’ rights in the late 1970’s and 1980’s. It was bolstered by right-of-center scholars and politicians raising alarm bells about recidivism rates and the high costs when ex-prisoners re-enter society without adequate preparation. In more recent years, a “Right on Crime” initiative was launched by the Texas Public Policy Foundation to urge a cost benefit analysis of crime and punishment programs and a more carefully defined view of criminal behavior.

Conservatives’ approach to criminal justice has clearly evolved. Manichean views of crime and punishment have lost much of their appeal. But there is one area where conservatives have yet to adjust their position: civilian review boards (CRBs) that consider police behavior and practices. Conservatives have not given much attention to CRBs, and the attention they have given it has typically been negative. Attitudes split along conservative/liberal lines since the first CRBs appeared in the 1950’s, with the former identifying it as incompatible with crime control and the latter urging it as a remedy for police abuses. A Firing Line episode from October 1966 called “Civilian Review Board: Yes or No” is broadly representative. William F. Buckley questions the
Greetings from the President

The 19th Annual Conference in Salt Lake City was, by many accounts, one of the most successful to date. A number of people deserve to be recognized—the Conference Planning Committee, the Board of Directors, all of our speakers and panelists, and the attendees. It is through the kind of open dialogue and continual learning that occurred at the conference that civilian oversight of law enforcement will continue to grow and become more effective. Thank you. We appreciate your part in helping to make the conference a success.

One of the recurring themes that I heard during the presentations and the many informal conversations that occurred throughout the conference was, broadly, race and policing. Issues of race and policing are central to the history of civilian oversight and our own history in NACOLE. We know that civilian oversight has its roots in the civil rights movement; Professor Sam Walker talked about that history during the “Finding the ‘Right’ Balance” plenary session in Salt Lake City. Race and issues of fairness, equality, justice, and trust in law enforcement have had a prominent role in much of our work over the last 50 years. Yet, significant disparities in the treatment of young minority men and communities of color by the police and by the criminal justice system continue to persist, to the detriment of individuals and entire communities. Moreover, women and minority communities are not adequately represented in sworn positions within law enforcement, but particularly in the highest ranks, across the nation. Increasingly, more attention is also being paid to the strained relationship between the police and the LGBTQ community.

One of NACOLE’s five founding organizational goals, as articulated in our Bylaws, is to “encourage full racial and ethnic representation and participation in this organization and the agencies overseen by its members.” Our commitment to diversity and respectful and unbiased treatment is also reiterated in our Code of Ethics. Thus, the oversight community—and NACOLE specifically—recognizes that we have an important role to play and an obligation to identify, understand, and address discriminatory practices by the police. Accordingly, issues of race, diversity, and discrimination will be a focus of mine as President of NACOLE.

Where are we today? Studies of attitudes toward the police have consistently found that communities of color, and African Americans in particular, have less confidence and trust in the police and are significantly more likely to think that police do not treat different races equally. Young people are also generally less trusting of the police.

In 2011, to study the potential impact of the New York Police Department’s “Stop and Frisk” strategy on young people, the Vera Institute of Justice surveyed young people in highly patrolled, high-crime areas in New York City who had been stopped by the police at least once. They surveyed approximately 500 people between the ages of 18 and 25. Some of their key findings include: 88 percent of young people surveyed believed that residents in their neighborhood do not trust the police; forty-four percent indicated the police had stopped them repeatedly—9 times or more—yet less than one-third reported ever being informed of a reason for the stop; and only four in 10 said they would be comfortable seeking help from the police if in trouble. Additionally, only one in four would report someone whom they believe had committed a crime.

According to a recent Gallup poll, one in four African American males between the ages of 18 and 34 reports being treated unfairly by police within the last 30 days. A 2009 survey by the Pew Research Center found that regardless of age, income, or education, African Americans were largely skeptical of the police. This perception among African Americans, according to the study, has been remarkably stable over time. African Americans were also significantly more likely than Whites to say that the police do not treat African Americans the same as Whites. This gap between attitudes toward the police is something that I believe civilian oversight must acknowledge its ability to impact and, to the degree possible, commit itself to lessening.

Several emerging areas of research and practice, which can apply to the broader context of race and policing, are the concepts of police legitimacy and procedural justice. Police legitimacy is the idea that citizens make judgments—every day—about the rightful or wrongful use of police conduct, whether or not they experienced it directly, and these judgments influence their level of support of the police department and law enforcement in general. Central to police legitimacy is the idea of procedural justice. Procedural justice relates to perceptions of fairness in the administration of justice and the fair and impartial exercise of police discretion. And, while officers have an obligation to be impartial and enforce the law fairly, procedural justice says that officers should also treat people with dignity and respect, regardless of the outcome, and that doing so is almost as important, if not more so. In communities of color across the country, policing practices that may be lawful but are perceived to be overly harsh, unjust, or unfair can decrease the perception of procedural justice and undermine the legitimacy of the police. Effective policing requires public support and cooperation. The public is more likely to cooperate with law enforcement and to be receptive and accepting of crime control efforts when they believe the police are just and fair.

At the 2011 conference in New Orleans, I participated on a panel that specifically addressed civilian oversight’s role as a bridge builder between police and communities with a history of strained police-community relations. I also co-authored an article, in large part based on that panel, for the Winter 2012 edition of the NACOLE Review. In Los Angeles, the Los Angeles Police Department underwent major reforms and has gone a long way in rebuilding trust in the community. Progress on this front was accomplished through long-term, concerted outreach efforts to the many groups represented across the city, by supporting effective civilian oversight and by the Board of Police Commissioners, the Office of the Inspector General, and Department leadership insisting on dramatic improvement in the quality of internal investigations. As we saw in Los Angeles, true change depends on outreach to the community that is backed up by real authority, substantive reform, and accountability through strong and independent oversight.

Many police agencies across the country—Chicago PD and the King County, Washington Sheriff’s Department, to name two—currently serve as laboratories for procedural justice programs and training designed to build (or in some cases, rebuild) the public’s trust in law enforcement. Civilian oversight has also already begun to explore and apply the concept of procedural justice. In its most recent annual report, the Syracuse Citizen Review Board specifically cites procedural justice as an important component to its process.

I believe that we must make it a priority to help improve the relationship between law enforcement and the broad spectrum of communities across the nation. We cannot allow the status quo to continue. We can do this by talking about race, sexual orientation, and diversity in our own agencies, jurisdictions, and at our conferences, not ignoring it. We can continue to host speakers at our conferences like Dr. Jack McDevitt, Dr. Lorie Fridell, and others who are on the cutting edge of research into areas such as police legitimacy and procedural justice.
T

HE CIVIL RIGHTS DIVISION’S SPECIAL Litigation Section has the authority to con-
duct investigations of state and local law en-
forcement for patterns and practices of violations of the Constitution or federal law. This authority
was given by Congress to the Department of Jus-
tice in the wake of the events following the Rodney
King incident and is found in 42 U.S.C. § 14141.
Since the enactment of the statute in 1994, the
Special Litigation Section has worked for reforms
in dozens of police departments including Los
Angeles, Detroit, Cincinnati, and more recently in
Seattle, New Orleans, Puerto Rico and elsewhere.

Community engagement and oversight have
been critical to our investigations, the design
of remedies, the implementation of corrective initia-
tives, and the sustainability of reform. Each com-
munity is unique; as is each police department.
The capacity of formal and informal institutions to
participate in oversight varies greatly from place
to place. However, there are several lessons we
have learned and incorporated into our practice:

It is essential to reflect the community voice
in investigations and findings. By necessity, inves-
tigations of police departments require a detailed
review of policies, practices, training, investigative
reports and other official documents. Interviews
with police leadership and subordinate officials
provide necessary information to determine

whether there is a pattern or practice of a violation
of the Constitution or federal law.

It is equally important to gather the experi-
ences of people who have had encounters with
police and to learn the views and perceptions of the
different communities that receive police services.
Where we find violations, it is important to
reflect the experiences of victims in public find-
ings. When the evidence of violations is consistent
with the experiences of community members,
not only validates the community’s concerns,
but also begins a process of healing, encourages
engagement and builds confidence that change
will be real and meaningful.

Community members and leaders provide
important remedies. As the Section develops
remedies, we have learned that it is essential to
seek the best ideas from all stakeholders—police
officials, rank and file officers, union officials, aca-
demics and, importantly, individuals and leaders
from the various communities being served by
the department. The most effective agreements
will reflect the contributions of all stakeholders.

Data collection and transparency is critical to
reform. Often, patterns and practices of constitu-
tional violations have developed and been permit-
ted to fester because of the inherent opacity of
crime operations. Through our agreements, we
seek to provide communities with better access to
information about the reforms being undertaken
and their impact on police services. The confi-
dence that comes from transparency builds trust
between the police and communities whose trust
has been broken by actual or perceived abuses,
thus promoting greater cooperation, improving
public safety and making the job of policing safer.

Community engagement is indispensable
to sustainable reform. Finally, the Department
would prefer if jurisdictions came into compliance
quickly so that agreements terminate sooner
rather than later. But reform is not inherently per-
manent and the changes will only be sustained
if there are strong institutional mechanisms to
continue oversight. The evidence shows that
strong civilian oversight mechanisms lead to
longer-lasting, more effective reform. In various
consent decrees over the last several years, we
have included a range of mechanisms to promote
existing or new institutions to play this role.

We value our relationship with NACOLE and
hope to continue a dialogue about how we can
continue to strengthen civilian oversight.

Jonathan M. Smith is chief of the Special Litiga-
tion Section of the United States Department of
Justice, Civil Rights Division. Christy E. Lopez is
deputy chief in the Section. Both have attended
and presented at prior NACOLE conferences.

Finding the Right Balance:
Input from NACOLE Members

By Kathryn Olson

A

RE THERE OVERSIGHT MODELS
that are more effective than others? Are
there aspects of different approaches that
are particularly important to creating successful
oversight systems? How do we recognize effec-
tive oversight when we see it? These and related
questions were behind the 2013 NACOLE Con-
ference session on “Finding the ‘Right’ Balance.”
First, Barbara Attard, Philip K. Eure, and Dr.
Samuel Walker provided an overview of civilian
oversight models and offered their perspectives
on the merits of various oversight features. The
audience then broke into small groups to discuss
the ideas raised by the panel, guided by facilita-
tors Dr. Eduardo I. Diaz, Michael Gennaco,
Judge Anne Levinson (Ret.), and Marcos Soler.
Breakout group scribes (Joyce Hicks, Christian
Klossner, Dawn Reynolds, and Karen Williams)
took notes, which were collected and reviewed
for common themes raised by the groups.

Before summarizing some of the ideas that
emerged, I want to quote an observation made by
NACOLE’s Immediate-Past President Ilana B.R.
Rosenzweig in the NACOLE Review Summer

2013 edition: “As civilian oversight matures…
the spotlight is...more often on how our agencies
justify our actions...We are more often called
upon to explain our powers, compare them to
other oversight...[and] defend whether we are
performing adequately...” During the “Finding
the ‘Right’ Balance” panel discussion, Dr. Walker
echoed Ilana, emphasizing the need for oversight
to improve its ability to explain its value to
the public. Identifying the factors important to suc-
cess would seem central to this process, though it
proved to be a difficult task.

The groups considered different ideas about
how to measure and communicate the value
of civilian oversight. They all recognized that
engaging in active listening with community
members is vital, and oversight at its core
requires accessibility and transparency. However,

time, some thought that benchmarks across oversight
agencies should be developed as a means to
measure effectiveness, while others returned to
the idea that each oversight entity is created as a
unique response to local conditions, making
comparative metrics difficult at best.

Breakout group members commented on
some of the unique aspects of oversight work
that make identifying metrics difficult. For exam-
ple, in the investigative realm, oversight agencies
vary widely on the types of issues that can be
investigated, limiting the value of cross-agency
comparisons on the number of complaints inves-
tigated, outcomes, and other factors. Further,
a relatively low or high number of complaints
or low or high rate of sustained findings is not
clearly indicative of a positive or negative impact
of civilian involvement. A high number of com-
plaints can represent broad misconduct or an
accessible complaint system. A low rate of sus-
tained misconduct findings might indicate police
officers are generally meeting conduct expecta-
tions or could represent an unreliable investiga-
tion process. Similarly, civilian review boards,
auditors, ombudsmen, and police commissions
in different jurisdictions also have widely differ-
ing powers, making it difficult to create measures
of effectiveness across oversight systems.

While everyone seemed to struggle in defin-
Why NACOLE?

By Karen Williams

Oversight can be a lonely profession. There is not a large community of people who do what we do on a daily basis, and it can be difficult for one to listen to complaints day in and day out. In addition, in our mission to be fair and impartial to both the complainant and the police employee, one party is inevitably displeased with the outcome. As I have heard many times, if no one likes us then we are doing our job properly!

Enter NACOLE. Some call our yearly conference a version of therapy. Others say it’s like being around your oldest friends who understand you on so many levels. This year, in an effort to understand what draws people to our conference, I reached out to several brand new conference attendees as well as those who are not involved in the day-to-day business of oversight. Here are their responses when I asked them, “Why NACOLE?”

Ellen LoCurto-Martinez, a doctoral student from the University of Tennessee who was involved in the creation of oversight in Columbia, Missouri, writes “I have attended NACOLE conferences as a civilian review board chair; however, I attended this conference as a doctoral student (also as a scholarship recipient). My dissertation will focus on law enforcement oversight and its effectiveness in improving accountability and transparency. From both perspectives the conferences are invaluable! The educational component is timely and on target; the discussions that follow add depth and breadth from experienced professionals. Just as valuable is the networking with these professionals. From experienced professionals, an attendee can gather insights into what works and what may/may not work. From those just entering the profession, an attendee can learn a new perspective that could open up new avenues of oversight management. I learned so much from the educational sessions and the many professionals who attended. For me, NACOLE is an invaluable resource and I am sure that anyone interested in law enforcement oversight will agree.”

Her thoughts were echoed by Dr. Loan Le, the Director of Research for the Center for Latino Policy Research at the University of California, Berkeley. Dr. Le, a first time attendee, states “Why NACOLE? In my perspective, we need people from all walks of life to be attentive to the pressing issue of law enforcement oversight. As recent trends in the militarization of our police forces have unfolded under the Department of Homeland Security, Americans are witness to a sharp expansion in law enforcement’s power and willingness to use drones, integrated information centers and other technologies to investigate, to monitor and to capture targets of interest. Nevertheless, along with this tremendous rise in capacity, law enforcement officers and public officials have a responsibility to uphold fundamental pillars of American democratic governance—e.g., freedom of speech, rights to privacy, rights to due process, transparency vis-à-vis “the people’s business,” an impartial application of the law and so on. To be sure, we see law enforcement officers commit acts of courage in the news but to me, NACOLE practitioners are the unsung heroes in the struggle to make sure that victims have somewhere to turn when law enforcement processes go awry. As a political scientist, I hope to bolster NACOLE’s work through collaborative ventures to: (1) enhance our quantitative understanding of multi-level explanatory variables (officer, station, city and region) for successful resolution and categories of police complaints submitted across jurisdictions and (2) assist with proactive risk management in policing through the development and recommendation of statistical approaches such as outlier analyses across key domains (e.g., resources expended on each individual case, group-level racial or ethnic disparities in policing and records of use-of-force for each law enforcement officer). I am honored to join this admirable community of practitioners, scholars and other interested parties in an area that is always complex and frequently controversial.”

William Huey, an investigator from San Francisco, California, recently attended his first conference after years of being an oversight practitioner. He shared his thoughts on his first NACOLE conference with me recently. “As an Office of Citizen Complaints (OCC) investigator for over ten years, I receive complaints from civilians regarding misconduct by members of the San Francisco Police Department (SFPD). I conducted investigations in the public and private sectors for over twenty years. I work with a staff of investigators who investigate and make written findings of police misconduct. My role as an oversight investigator requires specialized knowledge, skills, and experience. Investigations of citizens’ complaints against police officers present unique challenges and difficulties. This year I had the rewarding opportunity to attend my first NACOLE conference in Salt Lake City. The conference provided an inspiration for me to look at my job with more insight, knowledge, and commitment. As a result, I have become a better practitioner of oversight in working with our members from the community and law enforcement. The conference covered a wide array of issues and interests in the field of oversight of law enforcement from technology, mediation, discussions of research and good practices in investigating and preventing biased policing, and immigration. NACOLE further educated me that we were not alone in our endeavors in our oversight communities. I observed NACOLE and its members being dedicated to promoting police accountability, as well as the continual understanding and improvement of its members.”

Please turn to “Why NACOLE,” page 8

NACOLE and ILEAA Enter Cooperative Agreement

Recently, board members from the International Law Enforcement Auditors Association (ILEAA) and NACOLE were in friendly discussions about the commonalities and the uniqueness of their respective missions. Common goals quickly emerged, including improving law enforcement agencies by making them more transparent and accountable and by ensuring their policies and practices are constitutional. The ILEAA is focused on the professional auditing aspect of this endeavor, and has seen a great interest for law enforcement auditing from both law enforcement agencies and the growing civilian oversight community. By providing opportunities to increase the knowledge, skills, abilities, and professionalism of law enforcement auditors, ILEAA believes auditors and those whose professional duties and responsibilities include the oversight, enforcement, and administration of issues related to the enforcement of the law will contribute to enhancing the quality of law enforcement around the world.

As a result of these discussions, NACOLE and ILEAA entered into a cooperative agreement that will enhance the overall resource pool of both organizations. At the ILEAA, we strongly believe we can strive, along with NACOLE, to work collaboratively to promote better practices in our respective organizations and within policing. Both associations have a vast knowledge base—the strength of which lies in their membership. The partnership provides an opportunity to share knowledge and resources through training, seminars, and conferences.

We look forward to a new year. We believe this opportunity to partner with NACOLE will allow us to grow as an association, as well as expand our ability to provide NACOLE members everything we can to help you in your professions. Special thanks to Brian Buchner and Dawn Reynolds of NACOLE and Jodi Wakefield and Martin Krone of ILEAA for their hard work in facilitating this agreement. We also hope this will be just the first year in these efforts, and that we have many future years of collaboration ahead.

Please turn to “Why NACOLE,” page 8
HANK YOU FOR WELCOMING ME to your Annual Conference as the representative of the Canadian Association of Civilian Oversight of Law Enforcement (CACOLE). Also, I would like to thank the CACOLE Executive for sending me to your Conference.

In attending the sessions in Salt Lake City in September and listening to the presentations, the thought struck me that civilian oversight of law enforcement (COLE) in the United States is dictated, governed and orchestrated municipally or locally, and is not consistent on a state-wide basis. Even nomenclature, as well as functions of oversight bodies, varies from city to city or county to county within states. In Canada, this is not the case. Each of our 10 provinces has a relatively uniform province-wide system of COLE. At least within the Province, both the nomenclature and functions are consistent. My focus is the Province of Ontario, the largest Province and most populous. The capital is Toronto. There are about 5 million people living and working in the Greater Toronto Area.

To understand COLE in Ontario, it is necessary to know how policing is organized in the Province.

Like the FBI, the Secret Service, and the Border Agency in the U.S., Canada has federal agencies such as the Royal Canadian Mounted Police (RCMP), Military Police, and Canada Border Services. Their jurisdiction is cross-Canada. Each federal agency has its own oversight in the form of internal rules, external bodies sometimes involving COLE, but most often are governed by Federal legislation, reporting to a Department of the Canadian Government. In some provinces where the RCMP is the provincial police force, the RCMP members are subject to that province’s COLE in most respects.

In the Province of Ontario, we have the Ontario Provincial Police (OPP) as our provincial police force, and 52 municipal or regional police services (Local Police), the latter providing police services to generally-speaking the largest cities, towns and regions in Ontario. The OPP polices the rest of the Province.

There are 5 COLE organizations or groups for the whole Province of Ontario, all dictated and governed by one statute law, namely the Police Services Act (PSA) augmented by Regulations exacted under it. These organizations are:

1. The Ontario Government’s Ministry (Department) of Community Safety and Correctional Services—Oversees the OPP;
2. Special Investigations Unit (SIU) (www.siu.on.ca)—An arm’s length from Government COLE agency headed by a civilian Director appointed by the Provincial Government. Its mandate is to conduct investigations in Ontario into circumstances involving interaction with police and civilians where there has been a death, serious injury or allegation of sexual assault. The Director, after an investigation, can lay criminal charges or decide that none are warranted;
3. Office of the Independent Police Review Director (OIPRD) (www.oiprd.on.ca)—An arm’s length from Government COLE agency headed by a civilian Director appointed by the Provincial Government. OIPRD oversees and manages the investigation of public complaints about police, and also investigates some itself;
4. Police Service Boards (PSBs) (example: www.tpsb.ca)—There is a PSB as a governing body over each of the 52 Local Police forces. The Chief of the police force is employed by and reports to a PSB. Depending upon the population of a particular municipality or region, a PSB is made up of 3, 5 or 7 members. 50% plus 1 member are appointed by municipal/regional city or town councils. 50% less 1 member are appointed by the Provincial Government. The head of council, a Mayor or Chair, is entitled to be a member of a PSB, or can choose to delegate his/her seat to a fellow councillor. PSBs act as a Board of Directors governing the Local Police, setting objectives, priorities and policies for the Local Police, but by legislation, not being able to “direct the chief of police with respect to specific operational decisions or with respect to the day-to-day operation of the police force”, and
5. Ontario Civilian Police Commission (OCPC) (www.ocpc.ca)—the jurisdiction of OCPC, like the SIU and OIPRD, is Province-wide. Its mandate is both investigatory and adjudicative.

a. Investigative—in general terms, OCPC has oversight of police chiefs, police officers and members of PSBs in Ontario. It has the authority to investigate, hold a hearing and levy a penalty, up to ordering dismissal, in cases of misconduct or unsatisfactory work performance. In addition, OCPC tries to ensure that police services are providing “adequate and effective” policing within their jurisdiction; and
b. Adjudicative—OCPC holds 3 kinds of hearings:
   i. Appeals by police officers or public complainants from discipline decisions rendered by local hearing officers;
   ii. First instance hearings (or trials) regarding alleged misconduct or unsatisfactory work performance by a chief of police, police officer or member of a PSB, usually for alleged breaches of a Code of Conduct; and
   iii. Where a police service is terminating one or more employees for the purpose of abolishing the police service or reducing its size, OCPC will hold a public hearing in the affected location to hear the views of local politicians, police and the public at large. OCPC’s consent to any termination is required. In considering whether or not to consent, OCPC will consider whether “adequacy and effectiveness” of police services will be maintained and that severance arrangements are or will be in place for those whose employment is being terminated.

In closing, I leave you with 2 messages. First, the state of the relationship between NACOLE and CACOLE is good and the Executives and Boards of both will be looking at ways to strengthen it even further. Second, CACOLE will welcome NACOLE members to our annual Conference to be held in beautiful Victoria, British Columbia starting Sunday evening, May 4 and ending at noon on Wednesday, May 7, 2014.

Thank you again NACOLE for extending your hospitality to me in Salt Lake City.

David Gavsie is the Associate Chair of the Ontario Civilian Police Commission in Toronto, Ontario. He may be reached at David.Gavsie@ontario.ca.

The NACOLE Review
The NACOLE Review is produced under the supervision of the NACOLE Board of Directors and Newsletter Committee Chair Karen Williams. The Board thanks those individuals who contributed to this issue of the newsletter and extends a special thanks to the Newsletter Committee: William Huey, Loan Le, and Kathryn Olson. Additionally, the Board is grateful to Operations Coordinator Cameron McEllhiney, who provides independent contracting services for NACOLE. We would also like to extend our gratitude to Jerri Hemsworth of NewmanGrace (www.newmangrace.com) for providing layout and publication services to the NACOLE Review.
FOLLOWING A CONTROVERSIAL FATAL officer-involved shooting of a young African-American man in 2009 by Pasadena, California police officers, members of the Pasadena community began asking for independent civilian oversight of the police. There have been several more police shootings since that time, leading to increased calls for permanent oversight, but the Pasadena police chief, mayor, and city council all spoke out against establishing such a system. Instead, the chief called for the FBI to investigate and hired the Los Angeles County Office of Independent Review (OIR) to review two of the shootings and issue public reports.

Recently, John J. Kennedy, a member of the Pasadena City Council who serves on the Council’s Public Safety Committee, asked his colleagues to authorize a study of civilian oversight of the Pasadena Police Department (PPD). The issue did not make it out of committee. The Public Safety Committee, the argument went, provided sufficient oversight of the PPD. The community, most recently led by the Pasadena chapter of the American Civil Liberties Union (ACLU) of Southern California, nonetheless continued to call for oversight, and their efforts appeared to have worked. In December, Councilwoman Jacque Robinson, Chair of the Public Safety Committee, reversed her opposition to oversight and publicly spoke in favor of some type of citizen advisory group that would work on an ongoing basis with the chief and/or the Public Safety Committee.

Prior to the councilwoman’s public declaration in support of oversight, the ACLU had reached out to NACOLE for information and assistance. NACOLE President Brian Buchner, who lives and works in Los Angeles, responded to their inquiry and has been working with the ACLU to educate the Pasadena community about civilian oversight and about NACOLE. In addition to living close to Pasadena, Mr. Buchner led several studies of policing and police-community relations in Pasadena while employed by the Police Assessment Resource Center.

Since December of 2013, Mr. Buchner has met and spoken with the ACLU and has presented at several community meetings, including a recent meeting in January of 2014. These meetings included staff for Councilmember John J. Kennedy, the League of Women Voters, ACLU, ACT Pasadena, All Saints Church, Flintridge Center, Interdenominational Ministerial Alliance of Greater Pasadena, Learning Works Charter School, Men Educating Men About Health, NAACP, and the Pasadena Community Coalition.

Mr. Buchner has been invited to speak at a public forum, to be hosted by ACT Pasadena in late March, to discuss increased oversight of the Pasadena police. Plans are also in the works for NACOLE to participate in additional community meetings, including those facilitated by the ACLU. NACOLE will continue to work with the Pasadena community, its civic leaders, and others to advocate for permanent oversight of the Pasadena police.

President’s Greeting

Continued from page 2

as implicit bias and its effects on law enforce- ment decision-making, as well as speakers such as former director of the U.S. Department of Justice’s Office of Community Oriented Policing Services (COPS Office) Bernard Melekan and former King County Sheriff Sue Rahr who talk about procedural justice programs and training. We can continue to improve our ability to identify and prevent discriminatory policing, which, across the board, erodes trust and confidence in the police. We can support groups like the American Civil Liberties Union and Center for Constitutional Rights in New York and others who fight injustice and discrimination every day in the courts.

As President, I am committed to refocusing NACOLE on issues of race and diversity within the organization, within civilian oversight, and within law enforcement. Importantly, I recently learned that Ron Davis, the former Chief of the East Palo Alto Police Department and the newly appointed director of the COPS Office, has made addressing the issue of race and policing at the national level one of his top priorities. NACOLE can help ensure that citizen oversight is a part of this national dialogue around race and diversity and policing. We have started some of this work already—individually and collectively—but I believe we can do more, and better.

I look forward to hearing your thoughts. Please send an email to NACOLESecretary@gmail.com. Your email may be featured in a future newsletter.

Brian Buchner is the president of NACOLE and a special investigator at the Los Angeles Board of Police Commissioners, Office of the Inspector General. He is also a Certified Practitioner of Oversight, a Certified Law Enforcement Auditor, and a Certified Inspector General Investigator.

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need for civilian review in New York City in the run up to a referendum on the issue. He opposed a civilian role in the complaint process because it distracts from more pressing needs and weakens local officers. “What we need primarily to fasten our attention on,” he argued, “is the necessity to catch criminals.” Buckley ridiculed the kind of people chosen to sit on civilian review boards for their lack of knowledge and anti-cop agendas.

“The radical introduction of the idea of the civilian review board” he argued, tends to be “a foot in the door in the way to politicize the police.”

The New York City civilian review board of 1966 was opposed by the Conservative Party, American Legion posts, and the John Birch Society. Fourteen years later, Mayor David Dinkins proposed a new board, and, in light of high crime and police opposition to the board, Mayoral candidate Rudy Giuliani proclaimed it “bullshit.” Republicans abolished a review board in Rochester in 1970 and opposed the Philadelphia board in the 1990’s. Over in the scholarly realm, Edwin Delattre’s Character and Cops, first published by American Enterprise Institute in 1989 (and republished in six editions) envisions no role for \textbf{boards in addressing problems of corruption}.

“Experience in such programs,” Delattre writes, “has not established the rightful place of civilian boards in addressing problems of corruption.”

This hostility was, perhaps, inevitable. Civilian review, in its early years, did have an anti-police orientation. Early review boards were designed to address anger over police conduct, particularly by black city residents and civil rights organizations. The first proponents of review saw many police officers as racist, criminal, and out of control, which put them in direct conflict with those advocating for more “law and order”. This was a show-down that conservatives won, at least in most American cities: civilian oversight bodies were few and far between up into the 1980s, and those that did exist were controversial and ineffective.

\textbf{The New Oversight Industry}

But times have changed, and conservative’s opposition and neglect of civilian review seem outdated. For one thing, the field has exploded: NACOLE lists around 100 oversight entities on its website (there were three when Buckley taped his 1966 Firing Line), and they exist, in some form or other, in around 80 percent of the largest American cities. With this growth have come professional standards, ethics codes and other forms of maturation. Talk of social justice at a NACOLE conference is less frequent than talk about getting the “balance” right between law enforcement and complain- ants. Indeed, the popularity of the “political” volunteer, within the oversight profession, seems to be waning; oversight is increasingly dominated by auditors, investigators, and ombudsmen with legal and law enforcement training.

One of the central arguments against civilian review—police can monitor themselves—has lost its relevance. Since the passage in 1994 of the Violent Crime Control and Law Enforcement Act, the Department of Justice’s Civil Rights Division has had the incentive and authority to sue municipalities for unconstitutional policing practices. These suits, and the threat of these suits, have resulted in consent decrees and memos of understanding between cities and the \textit{DOJ}.

mandating policing changes. The number of \textit{DOJ} investigations, lawsuits, and agreements concerning police practices since 1994 is small—the Civil Rights Division’s website lists somewhere around two dozen—but they have had significant impact on local jurisdictions. Federal action (and the possibility of federal action) has produced a cottage industry of government experts and private consultants to enforce agreements or give advice about how to best avoid them.

The \textit{DOJ} is not the only force driving oversight. Private lawsuits against police officers and depart- ments have a similar effect. Hiring an outside consultant to review and improve the local police departments’ policies is now standard risk management practice. In light of \textit{DOJ} investigations, private actions, and cities’ interest in reform, the days when police departments could claim authority to police themselves are over. The question now, for cities, is what form of oversight is best.

Many police chiefs have accepted CRBs as an acceptable alternative. There is no evidence that local review boards deter federal investigations (indeed, \textit{DOJ} investigations tend to occur in places where civilian review agencies are in place), but they can make them less painful. There is a tendency, at the \textit{DOJ}, to recognize a well-functioning review entity as a sign of policing improvement. Police professionals see the value of citizen review as part of a larger strategy of community policing. Perhaps most importantly, civilian oversight is less expensive than lawsuits and consultants when it comes to identifying problems.

As civilian review has matured, it has broadened its concerns from particular incidents to broader policy issues. To borrow the language of Judge Debra Livingston, who once served on the New York City Civilian Complaint Review Board, civilian review is at its best when it is not backward looking and punishment driven. The most useful forms of civilian review are concerned with the department policies, procedures, and culture since these are the things that influence officer behavior. In Seattle, the Community Police Commission doesn’t consider complaints at all. It provides input on federally mandated police reforms and police department policies. This aspect of civilian review has tremendous potential, as it provides city leaders with new policing ideas and practical insight into what is and isn’t working. It engages at least some city residents, in a meaningful way, in shaping policing priorities and objectives.

In light of the changed nature of civilian oversight in the last two decades, it is high time for conservatives to adopt a more positive stance.

\textbf{“...The days when police departments could claim authority to police themselves is over. The question now, for cities, is what form of oversight is best.”}

Local civilian review provides voice to local preferences. It is very much in line with the conservative interest in preserving at least some forms of local government power. A police department in San Diego should be concerned with different issues than a department in Chicago—and civilian review is a mechanism to encourage these differences. There are many constitutional reasons why some policing standards are national, and many incentives exist (like federal grants) that nationalize police practices. But, as our founders understood, there is nothing more essentially local than the function of policing.

Conservatives should also celebrate civilian review because Buckley was right: civilian oversight does politicize policing. But this politicization is precisely what is needed if police departments, like other government agencies, are to be held accountable to the people they are there to serve. Thanks, in part, to the late 20th Century rise in urban crime and the “tough on crime” approach that followed, too many police departments were given the leeway to amass power, which made them insulated, unresponsive, and unaccountable to the public. Civilian oversight has the capacity to reverse this trend, particularly through its policy function.

Civilian review is not a panacea for policing problems. In the words of former NACOLE president Kathryn Olson, it is experiencing “growing pains” that should not be glossed over. But the solution is more attention and energy toward improvement. Civilian review needs friends if it is to have a meaningful and positive place in municipal government. Conservatives, with their allegiance to federalism, account- ability, and limited government, are its natural defenders. Let this be the next step in the right’s criminal justice reorientation.

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ing how to measure effectiveness, all four groups noted that the value of oversight is not limited to investigating misconduct complaints or having a role in disciplining police officers. While noting oversight’s significant contributions to improving the complaint investigative process, the breakout groups also pointed to oversight as a platform for community input and the benefits of civilian involvement with law enforcement hiring decisions, policy development, training, and other systems. However, one group noted how difficult it is to sustain the community’s attention about oversight’s role in areas other than investigations, as there is not always the same intense media focus found with specific complaints and investigations.

While the breakout groups saw the role of oversight as broader than just handling misconduct complaints, when an oversight agency is charged with conducting or reviewing investigations, a variety of elements were noted as necessary to ensure thorough, objective and timely investigations. Many of the factors were noted by the panel and outlined in the article I co-authored with Barbara Attard and distributed at the conference, “Overview of Civilian Oversight of Law Enforcement in the United States.” A project is underway to expand on these ideas through the development of a handbook for civilian investigators handling police misconduct investigations.

There were discussions about how to have effective communications with the local police chief and other law enforcement personnel. While some expressed concern that an oversight agency’s independence is compromised if it has a relationship with police leadership, others indicated it is necessary to establishing legitimacy and respect for civilian input. Just as it is necessary to communicate the value of oversight to the community, law enforcement needs to appreciate how civilian practitioners contribute to public safety and constitutional policing.

Ultimately, the feedback from the breakout groups underscored the difficulty in identifying any single measurement of oversight effectiveness. NACOLE has always taken the position that there is no single best form of civilian oversight and that oversight is most successful when it is tailored to the specific needs of the community served. At the same time, developing tools to communicate the contributions made by individual oversight agencies is essential. This requires ongoing reflection about the strengths and weaknesses of various approaches, a need to develop local measurements of success, and recognition that oversight structures can (and should) evolve as community needs change over time.

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Why NACOLE?

The important benefits of attending the NACOLE conference was the strengthening of my relationship in assisting, educating, and connecting between my agency, NACOLE, and the world.”—William Huey
and its role as the site of the last major Civil War battle west of the Mississippi River. Today Westport is home to unique shops, restaurants, bars and nightclubs offering various types of music including country, blues and alternative.

South of Westport is the famous Country Club Plaza, a 15-square-block outdoor shopping and entertainment district filled with romantic Spanish architecture, European art and dazzling fountains. Voted by KC visitors as Favorite Shopping District, the Plaza has everything from big-name chains to eclectic boutiques. It is home to some of fashion’s favorite labels including Michael Kors, Kate Spade and Tiffany & Co.

Close to the Plaza are impressive facilities for art lovers—the Nelson-Atkins Museum of Art and the Kemper Museum of Contemporary Art. The Nelson—as it’s known by locals—is recognized nationally and internationally for its renowned collection of more than 33,500 art objects. The $200 million new addition, which was completed in 2007, houses contemporary, African art and rotating exhibitions.

Just around the corner, the acclaimed Kemper Museum of Contemporary Art is a virtual Who’s Who among contemporary artists—including works by Jackson Pollock, Andy Warhol and Georgia O’Keeffe. The Kemper will celebrate its 20th anniversary in 2014. After touring the museum, have a bite at the museum’s Café Sebastienne.

Kansas Citians take their commitment to the arts seriously. The result is a dynamic mix of professional symphony, ballet, opera and theater organizations. In 2011, the magnificent Kauffman Center for the Performing Arts was completed to house KC’s acclaimed ballet, opera and symphony companies. Serving as a cultural cornerstone for Kansas City’s dynamic downtown, the Kauffman Center brings a new spotlight to the region’s performing arts community while simultaneously attracting some of the world’s most talented performers and entertainers, further establishing Kansas City as a major cultural destination.

Kansas City also offers an incredible variety of cuisine. In addition to its mouthwatering barbecue and sizzling steaks, visitors are delighted by the abundance of excellent restaurants of every ethnic origin. Award-winning chefs are showcased in innovative restaurants, imparting a Midwestern flair to contemporary cuisine. With approximately 100 barbecue joints in KC, each boasts its personal house specialty. And every October, Kansas City hosts the world’s largest barbecue competition, the American Royal BBQ Contest.

Historic diversions and family attractions are abundant. In addition to the magnificently restored Union Station, which is the second largest train station in the United States, the 18th & Vine Historic Jazz District is home to the American Jazz Museum and the Negro Leagues Baseball Museum. The Kansas City Zoo is home to nearly 1,000 animals on more than 200 acres, and the $15 million Helzberg Penguin Plaza opened in Fall 2013, featuring both cold and tropical climate penguins.

Area sports fans enjoy professional football and baseball at side-by-side Arrowhead and Kauffman Stadiums. NASCAR’s top drivers visit the Kansas Speedway each summer and fall. Outdoor soccer fans head to Sporting Park just across the river in Kansas City, Kan., to root for Sporting KC. The city also offers professional hockey, independent league baseball and indoor soccer.

The metropolitan area encompasses interesting municipalities in both Missouri and Kansas. Located about fifteen minutes east of downtown Independence, Mo., perhaps best-known as the home of President Harry S. Truman. This city is home to numerous historic sites, including the Truman Presidential Museum & Library. For an interesting look at the life of the outlaw Jesse James, head north to Kearney, Missouri. The Jesse James Farm and Museum feature the world’s largest display of James family artifacts. Also located in the Northland are two side-by-side amusement parks, Worlds of Fun and Oceans of Fun. Another area entertainment option is riverboat gaming, offered at several dazzling facilities in and around Kansas City.

Kansas City’s diverse selection of things to see and do really does give it a flavor all its own. •

Scholarships Available!

The NACOLE Annual Scholarship Fund is an opportunity for individuals to seek financial support to attend the 20th Annual NACOLE conference in Kansas City, Missouri from September 14–18, 2014.

The scholarships are open to a diverse group of individuals including current members, students, community members, and individuals interested in the oversight of law enforcement. Scholarship applications are available online at www.NACOLE.org and are due May 1.