

NACOLE Review

NATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

www.nacole.org

Spring 2012

The 18th Annual NACOLE Conference Will Be Held October 14-18, 'In America's Finest City', San Diego

Come to San Diego!!

THE SAN DIEGO VISITOR INDUSTRY IS THE third largest industry in San Diego County, employing approximately 152,300 San Diegans. It is one of the top five leisure vacation destinations in the U.S. and a top 10 business destination as measured by visitor-days. Visitors spend \$7 billion annually at thousands of businesses in the County which equates to \$16 Billion in economic impact for the region, and thus a very important piece of the economic health of the region.

It's not difficult to understand why so many visitors come to San Diego each year. San Diego is renowned for its idyllic climate, 70 miles of pristine beaches and a dazzling array of world-class family attractions. Popular attractions include the world-famous San Diego Zoo and San Diego Zoo Safari Park, SeaWorld San Diego and LEGOLAND California. San Diego offers an expansive

variety of things to see and do, appealing to guests of all ages from around the world.

San Diego County has three civilian oversight agencies in operation. Most senior among these, the City of San Diego's Citizens' Review Board on Police Practices (CRBPP), was established by public vote in 1988. Shortly afterwards, the County of San Diego created the Citizens' Law Enforcement Review Board (CLERB) in 1990 with overwhelming support of the voters. In 2003, the City Council of National City established the newest of the local oversight agencies



San Diego Harbor and skyline. Photo courtesy of San Diego Convention and Visitors Bureau.

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Florida's Police Oversight Bodies in a State of Evolution in 2012

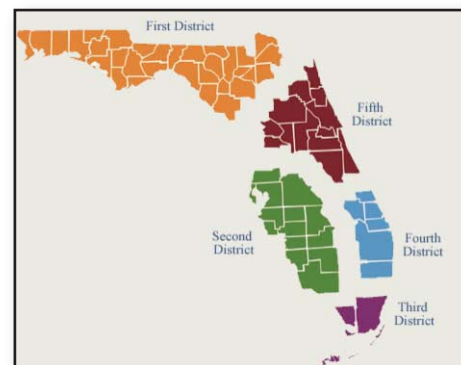
By Stephen C. Muffler, Esquire

FLORIDA HAS OVER ELEVEN CIVILIAN review boards (CRBs) with various degrees of responsibility and authority at the municipal level. The most recent Florida municipality to form a CRB is the City of Sarasota. Like most other jurisdictions, the formation of Sarasota's two CRBs came on the heels of an internal affairs scandal revealing a department supervisor's alleged attempts to silence a victim of an apparent police excessive force incident caught on video, by offering monetary compensation for his silence. While sanctions against a number of Sarasota officers involved in the events were handed out, the public's dissatisfaction over the inability of its police force to police itself

boiled over and resulted in a unanimous City Commission vote to create two CRBs. The first civilian board, called the "Advisory Panel" will be tasked with reviewing general Police Department operations and will receive quarterly reports from a second civilian "Complaints Committee" that will address complaints against the Sarasota Police Department.

Most of the Florida CRBs, including those in Sarasota, render only advice to governing administrative bodies or agency heads. No CRB in Florida can directly administer discipline against any officer. As a result, their proponents point out these CRBs fall outside the "could lead to disciplinary action"

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Greetings From The President

By Kathryn Olson

FEEDBACK RECEIVED ABOUT THE NACOLE Conference in New Orleans was extremely positive - attendees gave high marks to the quality of the speakers, the rich variety of topics covered, the opportunities to network, and the sights and sounds of the French Quarter and other attractions around New Orleans. However, I want to comment on a few issues that arose during the membership meeting that were not as positive, and share information about steps being taken in response.

I wish I had known ahead of time there would be a nomination from the floor for me to run for NACOLE president again. I was surprised when the nomination came, since I had no idea anyone was planning to do so. Had I known in advance, I would have had time to weigh the pros and cons of running for president again. As it was, I responded as best I could. Caught off guard as I was by the nomination, I did not take the time I should have to consider the implications of accepting. As the process moved forward, other issues evolved out of my decision, resulting in overall confusion and unfairness to others who had expressed interest in serving on the Board or as an officer. For this, I sincerely apologize.

The membership vote on the changes to the NACOLE Bylaws allowing the president and vice-president to be reelected may have given some the impression that the procedural change and my nomination from the floor were part of a larger plan to keep the current Board in place. Given the circumstances, such a conclusion would be completely understandable, albeit incorrect. While the Board had discussed in advance the merits of allowing the president and vice-president to serve more than one term, the proposed Bylaw change was not made in contemplation that I would be running for a second term, nor was it intended to ensure continuation of the status quo for the Board.

After returning from New Orleans, the Elections and Bylaws Committee immediately went to work reviewing the unanticipated issues that developed during the membership meeting. These issues include whether members

should be permitted to file for more than one open position on the Board, whether incumbent officers or Board members should be required to use the formal Declaration for Election to Office procedure if interested in running, and whether tie votes should be decided by the flip of a coin.

The Elections and Bylaws Committee presented a draft proposal with recommended changes to the Board. Once the Board has finished reviewing these proposals, they will be shared with the full membership. Committee members include Charles Reynolds (Chair), Ainsley Cromwell, and Karen Williams. I appreciate how quickly and thoughtfully they moved to address our procedural concerns.

The Board also heard a concern expressed by some in New Orleans that NACOLE leadership is out of touch with and not representative of the larger membership. Recognizing that such comments essentially raise questions of trust, the Board devoted a half day at its recent mid-winter meeting in San Diego to these concerns and discussed various alternatives to address them.

Board members brainstormed ways in which NACOLE can encourage representative involvement, including diversity based on geography, race, ethnicity, gender, age, sexual orientation, gender identity, disability, oversight model, position (head of organization vs. member of organization), and political views. This list is not meant to be exhaustive, but is offered to provide a sense of the variety of considerations involved with diversity. We all agreed that bringing together different experiences and perspectives is integral to making NACOLE and the Board successful, responsive, and forward thinking.

The Board also considered various means to encourage and mentor those interested in becoming Board members. We are looking at ways to broaden opportunities for participation at all levels of the NACOLE organization, from serving on Board committees to sitting on panels at the annual conference. Communicating more regularly and through different means about the work of NACOLE was recognized as very important.

As a result of these discussions, an Ad Hoc Committee on Membership Engagement has been created, under the leadership of Pierce Murphy. He will work



Kathryn Olson, current president of NACOLE

with the Committee to identify barriers to involvement and ways to create opportunities to engage members in the important work of NACOLE. I am thankful that Pierce is willing to take on this job on our behalf and am confident that he and the Committee will help the organization constructively address concerns voiced in New Orleans.

I encourage everyone to reach out to Pierce, me or another Board member if you have input for the Ad Hoc Committee on Membership Engagement. We will look forward to hearing ideas and initiatives developed by the Committee when we meet in San Diego.

Finally, please accept my deepest gratitude to each of you for all you do in support of NACOLE and to contribute to the work of oversight. Stay strong, stay committed, and mark your calendar for another great time of training and professional development in San Diego on October 14 – 18, 2012. ■

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LAPD and the Community: A Bridge Built by Strong Oversight

By Robert Saltzman and
Brian Buchner

FORMER LOS ANGELES POLICE CHIEF Daryl Gates once said that his personal view was that homosexuality is “unnatural,” and that, professionally, gay officers would never fit into a police force. He was (in)famously quoted as asking, “Who’d want to work with one?”

That was the old view of the Los Angeles Police Department (“LAPD” or “Department”). Not surprisingly, the old relationship between the Lesbian, Gay, Bisexual and Transgender (“LGBT”) community and the Department was strained. Today, LAPD has a strong and positive relationship with the LGBT community. The Department acknowledges Gay Pride Month, just as it does Black History Month. The current chief, Charlie Beck, hosts LGBT community forums, participates in large LGBT community events (e.g., the Pride Parade) and the Department actively recruits openly gay and lesbian officers. In addition, one of the five police commissioners is openly gay. (In Los Angeles, under the City Charter, the Police Commission is the head of the Department, setting policies and overseeing its operations, and hiring and firing the Chief.)

How did LAPD change from being openly hostile toward gay and lesbian officers and the LGBT community to enjoying a strong and positive relationship with

them? It was the result of effective civilian oversight of LAPD by the Police Commission (the Commission) and its Office of the Inspector General (Inspector General), combined with strong progressive leadership by the chief of police. The LAPD relied on long-term, concerted outreach efforts; effective communication and meaningful cooperation with the LGBT community both before and after major incidents; recruitment and promotion of LGBT officers; and dramatic improvements in the quality of internal investigations. As a result of these efforts, today’s LAPD is an organization that supports and vigorously protects the rights of LGBT officers within its ranks, and enjoys a positive and constructive relationship with LGBT communities across the city.

An important first step in improving the relationship between LAPD and the LGBT community in Los Angeles was to build a positive and professional relationship between the Department and the entity charged with overseeing it: the Police Commission and its Inspector General. The development of this professional relationship took concerted effort over time and its benefits have been many. It has made for more robust investigations of difficult issues, including allegations of excessive force, biased policing (racial profiling) and workplace discrimination. In turn, improved investigations have led to greater public



Proud Graduate of LGBT Community Policing Academy. Photo courtesy of The Los Angeles Police Commission

acceptance of both the investigations and their findings. Along the way, the Department had the opportunity to learn, in a confidential setting, where it may have made mistakes. It also gave the Police Commission and the Inspector General – the public’s representatives in this process – the credibility they

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Any Questions?

By Gareth Jones

NOT EVERYBODY IN THE POLICE oversight world conducts formal interviews. They may not find themselves face to face with an interviewee, video or digital voice recorder and questions at hand. Even those in oversight who do conduct formal interviews may not use the more interesting interview and interrogation techniques used by the police, tools such as Statement Content Analysis or body language courses where, so it is claimed, one can acquire the skills to assess if someone is being truthful or not. They may not have learned the art of cross-examination, or the judicious use of cunning ruses.

That said, many in oversight do spend a fair proportion of their time speaking to people to obtain information – the classic definition of interviewing. It could be asking a complainant to flesh out the reasons why he or she felt treated unfairly. It might be getting an officer’s side of the story. It could be speaking to whomever actually conducted the investigation – Internal Affairs, perhaps – to determine if it was done properly. It may be more general, such as sitting down with interest groups who have a stake in effective police oversight, to better understand what their point of view is – and why.

On the face of it, the techniques used by the police to interview a homicide suspect may seem vastly different from those used to ask a complainant what happened when the officer allegedly swore at him. Maybe not so much, though. The skills, processes and techniques involved in asking questions, whatever the circumstances, have far more similarities than differences. It doesn’t matter what kind of interview you are conducting, how formal the process, or what the ultimate purpose is, the same **six principles** apply in every case.

These principles apply whether you are an ombudsman coaxing the facts from a shy witness, a police officer attempting to find out who committed a crime, a civilian investigator trying to determine if a policy was breached, or a mediator working to understand not just the issues but also everybody’s perspective of them.

These principles are:

● Be prepared

Learn as much as you can about the person with whom you will be speaking. Do your due diligence about both the person and what it is they or you want to talk about. Understand the issues, to the extent possible. Of course, you can’t prepare for everything, but the more work you put in beforehand, the more likely your questions will be targeted and informed. Plus, you will look super professional.

● Establish rapport

People tend to be more forthcoming if they think you like them, or if there is some bond or common interest. The opposite is also true. You may consider the person you want information from the most odious reptile you have ever encountered – but if that attitude comes across, that person will inevitably clam up. Do what you can to build a rapport, whether you mean it or not. That might involve consulting Facebook, Google, My Space, Twitter or whatever else exists out there – to see if there is information about the person to be interviewed that you can use to your advantage to create that rapport. Be as polite, pleasant and as empathetic as you can, even if it is through gritted teeth.

● Be thorough

Make sure you ask all the relevant questions, even the ones that may make you or your interviewee uncom-

fortable. Don’t be afraid to explore apparent inconsistencies. Cover all the relevant bases. If you do not, you lay yourself open to accusations of bias and/or conflict of interest, particularly if you work for the entity being complained about. Your entire process may be brought into question. And don’t forget to end the interview with these three key questions – is there anything you want to add, anyone else you think we should speak to, and is there any other evidence that you are aware of that might be relevant to what we are discussing? Asking these three closing questions will provide some defense if the interviewee subsequently claims that of course he would have told you about an important fact he was aware of at the time of the interview, but “you never asked.”

● Be objective

Keep an open mind. If you have already decided on the merits of an issue, or the credibility of your interviewee, or what they are going to say, why bother conducting the interview in the first place? Avoid leading questions (“It must have been very dark in that alley and I bet you thought that stapler in the subject’s hand was a gun, which is why you felt your life was in danger, even though you were in an armored vehicle and that’s why you shot him eighteen times. Isn’t that right, officer?”), undue deference or aggression, or an obvious bias in the way a question is framed (“what did you do to make the officer sexually assault you?”). Use any of these and you – and whomever you work for – will soon lose credibility.

● Keep control of the process

It is your interview.

Control the process. You decide where it is held, who is present, what is relevant, what isn’t, whether third

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Coast to Coast—the Public and the Department of Justice is Demanding More Police Accountability

By Dawn Reynolds

THIS PAST YEAR WITNESSED CONTINUED investigations by the US Department of Justice Civil Rights Division (DOJ/CRD) into police practices in the United States and territories.

● Seattle, Washington

On March 31, 2011, the CRD opened an investigation of the Seattle Police Department (SPD). Following its comprehensive investigation, the DOJ on December 16, 2011, announced its findings that SPD had engaged in a pattern or practice of officers using excessive force. The DOJ also announced that its investigation raised serious concerns that some of SPD's policies and practices, particularly those related to pedestrian encounters, could result in unlawful discriminatory policing.

DOJ investigators found just 20 of the department's 1,300 officers accounted for 18 percent of the uses of force (UOF) reported. This meant that those officers each averaged one UOF report per month. Meanwhile, at least 789 officers were not recorded as filing a single UOF report that year.

SPD officers, according to DOJ findings, frequently use force against individuals who are not in full control of their facilities, escalate situations and use unnecessary or excessive force when arresting individuals for minor offenses. This trend is pronounced in encounters with persons with mental illnesses or those under the influence of alcohol or drugs. SPD estimates that 70 percent of UOF encounters involve these populations.

In a Seattle Post Intelligencer article, U.S. Attorney Jenny Durkan stated the department had done little to investigate the UOF after the force had been reported leaving unexamined questions as to whether those officers needed more training, reassignment or disciplinary action. Durkan was also critical of state police academy training that does not appear to give officers the tools needed to defuse situations that potentially could turn violent. "Police officers are taught how to win fights but not how to avoid them," Durkan said.

The DOJ report alleges that, of the 1,230 UOF reports filed by Seattle officers in 2010, only five received significant review within the department. No actions were taken against any supervisors for failing to investigate, or review, the actions of officers they supervised. In fact, two-thirds of the complaints received by the Office of Professional Accountability (OPA) were routed back to the very precincts where the abuses were alleged to have occurred. The precinct level investigations were described by one OPA employee as, "appalling."

Pedestrians in Seattle are viewed as being most susceptible to unlawful encounters with SPD officers. The report states:

"Officers must have a sufficient factual basis to detain or investigate someone, or a person is free to walk away from police and free to disregard a police request to come or stay. In these circumstances, a person's decision to 'walk away' does not by itself create cause to detain."

Two former police auditors, Kate Pflaumer and Terrance Carroll, expressed their views in a guest editorial in the Seattle Times. While they took issues with some of the DOJ findings, both agreed that a serious limitation of the oversight system is that "OPA reviews only those incidents where a complaint is filed or that

are otherwise brought to its attention — a small percentage of all use-of-force incidents."

Pflaumer and Carroll also confirmed that in twenty years of oversight in Seattle, successive auditors and community members continued to witness the "escalation of minor incidents between citizens and officers into serious use-of-force confrontations."

● Maricopa County-Arizona

DOJ/CRD notified the sheriff of Maricopa County of its intent to begin a formal investigation in March of 2009. In a December 15, 2011 Findings Letter, DOJ stated it had sought the assistance of police practice experts, a jail expert and an expert on statistical analysis. Typical of the thoroughness with which DOJ conducts its investigations, the letter noted that these experts had reviewed tens of thousands of pages of documentary evidence, toured Maricopa County's jails and interviewed over 400 individuals—including current and former inmates. Also interviewed were over 75 former and current Maricopa County Sheriff's Office (MCSO) personnel, including high ranking command staff officials.

The investigation resulted in a finding that the MCSO engaged in a pattern and practice of unconstitutional policing. This included racial profiling of Latinos in unlawful stops, detentions and arrests. Limited English Proficient (LEP) Latino inmates at Maricopa jails were also routinely subjected to discriminatory practices and routinely punished for failing to understand commands given in English. This unlawful practice also denied Latinos critical services provided other inmates. Federal law prohibits discrimination by law enforcement agencies that receive federal assistance.

The investigation raised other areas of concern, including the use of excessive force and the under-investigation into serious allegations of sex crimes in the county. The county's implementation of an immigration enforcement program has drawn national attention to Arizona.

According to the DOJ report, the enforcement program had "created a wall of distrust" between MCSO officers and Maricopa County's Latino residents - a wall of distrust that has significantly compromised MCSO's ability to provide police protection to Maricopa County's Latino residents. MCSO's federal authority to identify and detain illegal immigrants was revoked on December 15, 2011, the same day DOJ published its report.

● East New Haven, Connecticut

After a two-year investigation that was the source of friction between the community and a resistant East New Haven Police Department (ENHPD), DOJ published a findings letter to the City on December 15, 2011. Among other findings, DOJ found that a small but growing Latino population in the area has borne much of the brunt of a police department cited by DOJ as prone to excessive force, biased policing and covering up wrongdoing.

Publication of the report has engendered further controversy and East New Haven Mayor Joe Maturo has come under increased fire, most recently for a statement made to FOX News on January 24, 2012, following the FBI's arrest of a police sergeant and three police officers. Charges against the officers included allegations they had used excessive force and covered up abuses that included assaulting people who were handcuffed, unlawfully searching Latino businesses, and harassing

and intimidating witnesses—including fellow officers—who tried to report the abuses.

The DOJ investigation yielded findings that the ENHPD had engaged in "a pattern of discrimination, particularly against Latinos, so deeply rooted that it will take years to change." Police Chief Leonard Gallo was singled out in the investigation as having created a "hostile work environment" for anyone cooperating with the investigation. Early on in the investigation Chief Gallo ignored a subpoena in which he was requested to testify as to why the department had failed to fully comply with public records requests in a police bias case. Maturo, who won the mayoral seat by a margin of 34 votes last November, may have compounded tensions in the community through his support for the chief. Reversing the East New Haven Police Commission's decision to place Chief Gallo on administrative leave in April 2010, Maturo returned Gallo to his post before the DOJ investigation had been completed. On January 30, 2012, under apparent pressure and the possibility of dismissal, Chief Gallo announced his retirement.

● Spokane, Washington

Washington's second largest city, Spokane, sits on the eastside of the state but is not insulated from criticism of its police department. Before leaving office, outgoing Mayor Mary Verner called for a federal investigation of the department. As allegations of excessive force continue to plague the city, current Mayor David Condon has stated that reforming the police department is his number one priority.

Last November, nearly fifty Spokane Police Department (SPD) officers stood inside a federal courthouse to salute fellow SPD Officer Karl Thompson, who was appearing for a post-conviction hearing. His conviction stemmed from the 2006 death of Otto Zehm, who had committed no crime, but was subjected to blows, being tased, knocked down, sat on and hog-tied at a convenience store. Zehm, a local janitor with a developmental disability, died in hospital two days after the event. His last words were, "All I wanted was a Snickers bar."

City officials issued a formal statement condemning what they say was unprofessional conduct on the part of the saluting fellow officers. However, no disciplinary action was taken. In the past few years, allegations of excessive force have plagued SPD. Officer Thompson was also convicted for his role in an attempted cover-up of the Zehm incident.

Meanwhile, Thompson's sentencing hearing, originally set for January 27, 2012, has been delayed to allow his defense attorneys more time to prepare their arguments as to why Thompson should receive a new trial.

As with a growing number of cities, Spokane has an oversight system in place. Spokane Police Ombudsman Tim Burns was hired in 2009, the first person to hold this position. In response to criticism regarding alleged cover-ups of police misconduct, the City granted investigative authority to the ombudsman in June 2010. However, an arbitrator overturned that decision because the City had not consulted the police union. Burns continues to monitor internal affairs investigations. ■

Dawn Reynolds is a Staff Consultant with Elite Performance Auditing Consultants LLC and a member of NACOLE.

New Orleans NACOLE Conference a Huge Success

By Liana Perez

THE 17th ANNUAL NACOLE CONFERENCE held in New Orleans in September 2011, was everything we expected and more! While some were skeptical about the potential number of attendees given the continuing effects of the economy on the budgets of oversight entities, it turned out that holding the conference in such a unique city with its share of challenges in police oversight attracted more than 200 delegates.

With twenty-two sessions on topics ranging from “Civilian Oversight as a Bridge Builder between Law Enforcement and Communities with a History of Strained Police-Community Relations” to “Oversight of Law Enforcement During Mass Demonstrations,” NACOLE continued to raise the bar by securing highly skilled and respected panelists who created stimulating sessions and lively discussions. Also included this year were the very popular Basic and Advanced Skills sessions that continue to get excellent reviews from our members.

We were very honored to have Director Bernard Melekian, Office of Community Oriented Policing Services (COPS) United States Department of Justice, as our keynote speaker. Director Melekian offered his perspectives on the relationships between the work of oversight entities and the programs supported by COPS in our communities. His comments clearly indicated his support for the role of oversight and were very reaffirm-

ing whether you are engaged in oversight as a paid professional, community member, or elected official.

The theme of the 2011 conference, “Making Lasting Reforms,” was borrowed (with his permission) from Professor Sam Walker, who closed the conference with a presentation on this topic. Many long-time attendees consider each year’s conference as an opportunity to re-energize for the year ahead and consider how ideas and methods learned at the conference can be applied to improve and expand oversight in their own jurisdictions. Closing the conference with Professor Walker’s presentation did just that.

New Orleans itself is under the microscope for making reforms. This was evident by the number of local community members who attended the sessions and spent time networking with representatives from other agencies across the country. Expectations are high and challenges abound for those tasked with turning things around in New Orleans. We wish them much success!

A special word of thanks is in order for the local conference committee, along with New Orleans Independent Police Monitor Susan Hutson and her staff for all their hard work and contributions towards making this a conference to remember. Finally, and most



NACOLE attendees at the annual Sankofa Reception. Photo courtesy of Jayson Wechter.

importantly, to our NACOLE members who were with us in New Orleans, Thank you for continuing to support the growth and visibility of NACOLE. If you missed us in New Orleans, we certainly hope you will join us in San Diego for the 2012 conference! ■

Liana Perez is a member of the NACOLE Board of Directors and serves as the director of the Office of Equal Opportunity Programs and Independent Police Review for the City of Tucson, Arizona.

NACOLE Adopts Core Competencies for Oversight Professionals

By Karen Williams

AT ITS 2012 MID-WINTER MEETING THE NACOLE Board of Directors endorsed a set of core competencies for oversight professionals. These competencies were developed by members of the Professional Standards Committee, and will serve as a guideline for training as well as a rubric for conference planning and other organizational tasks. The competencies fall into six categories: Civilian Oversight of Law Enforcement, Investigations, The Public and Transparency, Law, Policing/Law Enforcement Policies and Procedures, and Remediation and Discipline. Each category contains specific information or skills that oversight professionals should possess while working in

the field. For example, the Public and Transparency category focuses on community outreach, keeping stakeholders informed, holding meetings, receiving and processing stakeholder input, public reporting and speaking, tools and methods for making reports available to the public, and media relations.

“NACOLE is committed to providing practitioners of oversight with resources to develop the knowledge and skills needed to succeed,” states Ilana Rosenzweig, co-chair of the Professional Standards Committee and NACOLE vice-president. “The core competencies provide guidance for self-study and a structure to ensure the annual NACOLE conference provides quality training in these key areas.”

Attendees at the 18th annual NACOLE conference

in San Diego October 14 – 18, 2012, will notice that the core competencies were utilized in all aspects of conference planning, from the location (San Diego has multiple forms of police oversight) to the conference panels (each covering one or more competencies), to the scheduled speakers.

A copy of the core competencies is available on the NACOLE website, www.NACOLE.org. If you have any questions, please contact Brian Buchner or Ilana Rosenzweig, Professional Standards committee co-chairs, at Buchner@NACOLE.org or Rosenzweig@NACOLE.org. ■

Karen Williams is a member of the NACOLE Board of Directors and an analyst with the Office of Community Complaints in Kansas City, Missouri.

NACOLE Assists

Did you know that NACOLE is available to provide technical assistance and advice to jurisdictions and others that are considering the creation or reinvigoration of organizations in their communities dedicated to civilian oversight of the police? Find out how NACOLE can help by contacting us at www.nacole.org

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the Community and Police Relations Commission (CPRC).

Local co-coordinators for the 18th annual NACOLE Conference are Sandra Arkin for the City of San Diego and Patrick Hunter for the County of San Diego. All are invited to come early and stay late!!

To kick off your positive conference experience start with a fabulous location. Travel from the airport to the Westin San Diego at 400 West Broadway is a mere 3.0 miles and the shuttle to/from is FREE! For those of you traveling by train, the San Diego Santa Fe Depot is just a three-block, or four minute, walk.

The Westin San Diego (not to be confused with The Westin Gaslamp Quarter) is situated in the heart of beautiful downtown San Diego. Guest rooms feature panoramic views of the San Diego Bay, Coronado Island, and the downtown cityscape. Convenient to business and shopping, The Westin San Diego is within walking distance of the San Diego Convention Center, Seaport Village, Little Italy, the San Diego Gaslamp Quarter, and a variety of shopping options. Only minutes away are major attractions, such as the world-renowned San Diego Zoo, Sea World, Old Town, Balboa Park and Museums, the USS Midway, and the breathtaking scenery of San Diego's stunning sandy beaches. San Diego City and County promise a truly remarkable conference experience for everyone.

Remember – all are welcome in America's Finest City. Come to San Diego. Come early and stay late! ■

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language found in F.S. 112.532(1), a section of the Florida Officer's Bill of Rights (OBR). This critical “life saving” characteristic allows for the existence of advisory CRBs in Florida without running afoul of the OBR.

Of all the CRBs in Florida, only the City of Miami's Civilian Investigative Panel (CIP) and the City of Key West's CRB have subpoena power to require production of documents, evidence and witnesses, along with compelling the physical presence of the respondent officers before their members for questioning. Such authority is generally held in reserve and these particular boards act in a “review” capacity when advising on the proper disposition of internal affairs matters. New Florida appellate decisions have caused some heightened friction between these civilian police oversight boards and the police unions.

Conflicting Appellate Decisions on CRB powers in light of the Florida Officer's Bill of Rights

In September 2008, the Florida Third District Court of Appeals issued a ruling in *Timoney v. City of Miami Civilian Investigative Panel (CIP)*. In *Timoney*, the

court reflected on the City of Miami's CIP attempts at subpoenaing the then chief of the Miami Police Department, John F. Timoney, to explain his alleged questionable use of a Lexis vehicle which was the subject matter of a complaint filed by a third party. Chief Timoney refused to appear and contested the authority of the CIP to conduct an independent investigation, along with its subpoena power. The court, when affirming the CIP's authority to conduct independent investigations and recognizing its lawful subpoena power stated:

“Chapter 112 does not apply, as in this case, to an independent, external investigation, where the CIP's Enabling Ordinance provides that any sworn police officer is subject to an independent investigation by the CIP. City of Miami Code, art.II, § 11.5-27(1) (2002). Accordingly, Chief Timoney is not exempt from the CIP's authority because the CIP is not following up on an internal affairs investigation pursuant to Chapter 112, from which Timoney is exempt; rather, the CIP is conducting its own, independent external investigation, and Chief Timoney is not exempt.” See City of Miami Code, Art. II, Sec. 11.5-26 (2002).

The *Timoney* case limited the application of the OBR to the “employing agency” and thus not preventing an outside investigation of the subject officer by a municipally created CRB.

In May 2009, the Fifth District Court of Appeals issued an apparent conflicting opinion in *Demings v. Orange County Citizens Review Board*. The Orlando CRB was created by referendum by the Orange County voters arming it with subpoena powers to independently investigate Orange County Sheriff's deputies. The court explained that the Sheriff's Department was a separate constitutional office which could not be regulated or investigated by the Orange County's CRB under the current conditions. In a direct rebuke of the *Timoney* case via a footnote, the 5th District Court of Appeals in *Demings* held that the OBR was to be interpreted to prevent outside independent investigations by CRBs by stating:

“Timoney does contain language suggesting that nothing in chapter 112 prohibits an “independent, external investigation” by a local governing board of a complaint against a law enforcement officer. If this was an intended conclusion in *Timoney*, we believe it to be in error – as inconsistent with the plain language of section 112.533. Again, however, the argument based upon section 112.533 does not appear to have been made in *Timoney*. Additionally, *Timoney* did not involve the relationship between a local governmental body and an independent constitutional officer. Rather, that case involved a city's authority to investigate its own employee.”

This decision has resulted in the stripping of the Orange County CRB's subpoena and investigative powers and ultimately its dissolution. The State of Florida remains divided as to the independent power of CRBs to subpoena and investigate complaints against municipal law enforcement officers.

Florida's State Agency Under Investigation

The Florida's Criminal Justice Standard and

Training Commission (CJSTC) is the state administrative agency that licenses all state and municipal law enforcement and correction offices. However, this agency has no true civilian representation among its ranks. The CJSTC is composed of 19 members, all of whom are current law enforcement personnel or designees of law enforcement directors and one open seat for someone who does not fall within “the foregoing classifications”. This apparent “civilian” seat position is currently occupied by a current or former police union representative. Governor Rick Scott has announced an investigation into the lack of a true “civilian” seated on this Commission and why apparent multiple appointments to this Commission did not conform to Florida law.

The state of Florida's civilian police oversight is anything but clear entering 2012. ■

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needed to assure the public that internal investigations have been done fairly, thoroughly and objectively. Finally, this improved relationship gave the Commission and the Inspector General credibility when they supported the conclusions of the Department, just as when they criticized it.

One reason why oversight of LAPD has been so successful is the fact that the Commission has real authority. The Commission, recognized as the legitimate oversight authority for LAPD, is the final decision-maker regarding whether a particular use of force (e.g., an officer-involved shooting, in-custody death or law enforcement-related injury requiring hospitalization) is within policy or not. Knowing that the Commission has real authority helps the public, especially those communities whose history with LAPD has been troubled, work collaboratively with both the Commission and the Department. Rebuilding troubled relationships has been based on the sort of credibility and trust that come from real changes in how LAPD handles its business.

One aspect of the Commission's approach to oversight—and to building bridges to communities—is to demonstrate to the public how the Commission uses its authority to ensure LAPD provides publicly accountable policing that is constitutional, culturally appropriate, and respects civil rights. The Department's most important outreach efforts are made, not in response to a tragic incident or to repair past damage, but in advance to build relationships and avoid future controversies.

The dramatic turnaround in the relationship between the Department and LGBT community began when Chief Willie Williams was willing to meet directly with LGBT community leaders. This and other outreach efforts were coupled with substantive change, some of

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which came from the leadership of the Commission, and some from the chief of police.

Some changes had great symbolic value. One such change was the decision to allow openly LGBT officers to wear their uniforms when participating in community events such as the LGBT Pride Parade. Other changes have had great substantive value. Taking complaints seriously was very important, not only complaints from citizens alleging biased policing based on sexual orientation or gender identity, but also internal complaints of discrimination, harassment and retaliation filed by officers. One of the most effective changes, both for the community and the Department, was LAPD's concerted effort to work hand-in-hand with community leaders to protect political marchers and demonstrators. This approach was most noticeable (and particularly effective) with regard to the many demonstrations that followed the passage of Proposition 8 (a ballot initiative in California banning same-sex marriage) in 2008. It was clear in the tense hours and days after the election that the Department's and the Commission's sustained efforts to develop positive and solid working relationships with community leaders had been well worth the extensive investment made by all involved.

Many of the changes were quite innovative. Premier among these groundbreaking changes was the Department-sponsored LGBT Community Policing Academy. The Academy is an eight-week program introducing community members to law enforcement and LAPD, culminating in a graduation ceremony, attended by the chief of police, and recognizing the unique individuals of the community.

One especially substantive change was particularly important to the Department's ability to be trusted by the LGBT community. After years of controversy the Department formally and publicly severed its relationship with the Boy Scouts of America/Learning for Life, sponsors of the police youth Explorer Program for many years. Although the Explorer Program had been successful and popular, and despite strong support in some quarters for continuing the program, its sponsor, the Boy Scouts of America, affirmatively discriminates on the basis of sexual orientation. In response, the Department, through the leadership of the Commission and with the full support and commitment of Chief Charlie Beck, severed LAPD's relationship with the Boy Scouts and replaced the Explorer Program with its own LAPD Cadet Program. The LAPD Cadet Program has been hugely successful—much more than the pre-existing Explorer Program. Since its inception, there have been over 4000 participants in the Cadet Program, including 400 parents, virtually all of whom are non-white, and two-thirds of whom are non-English speaking. The Cadet Program has also attracted significant new outside sources of charitable funding. As a result, not only are the Department's relationships with the LGBT community on firmer footing but the Department's efforts in these youth programs are leading to effective outreach in other communities as well.

With input from the Commission and the Inspector General, the Department has implemented a robust strategy for preventing retaliation and workplace harassment. The Department has a well-developed anti-retali-

ation and harassment policy that helps employees and supervisors to identify incidents of harassment and discrimination, and to respond appropriately. In addition to a sound policy, the Department trains its employees on appropriate supervision and workplace conduct, emphasizing that clear and consistent discipline is important in managing workplace conflict, harassment and discrimination.

The LAPD recognizes that because allegations of workplace harassment and discrimination are serious, all Department employees should be afforded protection in the process through timely and thorough investigations. As a result, internal complaints of discrimination, harassment and retaliation filed by LGBT officers, as well as those filed by citizens alleging biased policing based on sexual orientation or gender identity, are thoroughly investigated, reviewed and appropriately adjudicated. The Inspector General, as the "eyes and ears" of the Commission, reviews, monitors, assesses and advises the Department on its retaliation and workplace policies, practices and investigations, including those involving allegations of harassment and discrimination based on sexual orientation and gender identity. The Inspector General also accepts workplace harassment, discrimination and retaliation complaints from Department employees.

How did LAPD get to where it is today? It did so through long-term, concerted effort, by supporting effective civilian oversight, and by insisting on dramatic improvement in the quality of internal investigations. This came about because the Commission and the Department embraced independent oversight with real authority that emphasizes fairness and transparency; that ensures credible and reliable internal investigations; that respects confidentiality; and that both supports and criticizes the Department when appropriate.

Much credit goes to the Department of Justice and the federal Consent Decree, which assisted the Commission and Inspector General in taking on more responsibility as envisioned in the City Charter. Credit also goes to the leadership of current Chief Charlie Beck, former Chief Bill Bratton and their command staffs. Also vital was the strong political support of Mayor Antonio Villaraigosa, including resources to hire more officers, and support for real reform within the Department. Finally, proactive outreach by the Commission and the Department to communities with a history of strained relationships with LAPD was crucial. It also helped immensely that current policing efforts are effective: crime is going down; people feel safer and, as a result, are more trusting. In sum, it isn't enough to just do community outreach. True change depends on outreach that is backed up by real authority, substantive reform and accountability through strong and independent oversight. ■

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parties are allowed to be present and, if they are, what their role is. You decide the tone and pace of the interview, how long it is and in what order questions are asked.

● Listen

This is probably the most important principle. In my experience, good civilian oversight people, be they assessors, reviewers, investigators, mediators or whatever, are invariably very good active listeners. Focus on what is being said. Think about what the actual message is. Make sure you understand what you are being told. Don't be afraid to ask for clarification if you do not understand – it is not a sign of weakness. Don't interrupt unless absolutely necessary.

You may be asking yourself why I am regurgitating the blatantly obvious. We all know how to talk to people and most of us are reasonably good at it, otherwise we would not be in the business. The fact is, these principles are ignored with breathtaking frequency. Working in the police oversight field is challenging enough – an unlovely struggle against unfair odds, to borrow from Siegfried Sassoon – there is no need to make it harder by not using your very best interviewing skills.

The result of ignoring the principles? Failure to gather important information, lack of understanding, relevant issues ignored or overlooked, facts swept under the carpet, diminished possibility of resolution, increased likelihood of some kind of adversarial process, including litigation, eroded credibility of the organization or the individual conducting the interview, an injustice not brought to light or a reputation unfairly besmirched. Not pretty.

So good luck. Remember, interviewing can be fun. As a course instructor at the Metropolitan Police in London once told our class, a well-prepared and well-executed interview can be almost as satisfying as sex. And, if it is done well, it may last a bit longer. ■

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Suggestions?

We are constantly seeking suggestions for articles and feedback on what you would like to see in upcoming issues, as well as volunteers to write articles and book reviews.

*If you have ideas
or would like to help,
please contact
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Many agencies have found that social media is a key marketing tool. To that end, NACOLE has embraced social media and you can now “friend” NACOLE on Facebook, follow NACOLE on Twitter (@NACOLE_org), or join our group on LinkedIn. Make 2012 the year you network with your community, fellow oversight professionals, and volunteers! ■



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