



Conference 2002:

The Challenges of Accountability

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Welcome! This is the second issue of Communiqué for 2002! Inside, you'll find highlights of the upcoming CACOLE Conference. There's a full agenda of interesting topics relevant to civilian oversight.

The Conference will be held at The Fairmont Newfoundland, in St. John's. We start with Conference registration and a reception on Wednesday, September 18th and conclude with the Annual General Meeting and CACOLE Board meeting on Saturday, September 21st.

We've been able to confirm top-notch speakers from the policing sector, civilian oversight organizations, all levels of government and the private sector. Check out the agenda summary on pages 7 and 8. This is a conference you certainly don't want to miss!

Join colleagues from across Canada and around the world in an exciting array of professional development and networking opportunities. Please use the form on page 8 and register now, if you have not already done so.

Before you finalize your travel plans, why not check out the web site for the Government of Newfoundland & Labrador Tourism, at <http://www.gov.nf.ca/tourism>. The province is described as "a place that stays the same, but changes you forever, where land, water and sky embrace like old friends". A variety of attractions await - plan on staying a few extra days.

Visit our website for periodic updates. And tell your colleagues about CACOLE. See you in St. John's, in September!

Hyacinthe Miller

Police Assessment Resource Center (PARC)

Unlike police management, police oversight is a new field, rapidly diversifying both within and outside departments.

Long-standing internal affairs units are changing to meet public demand for greater accountability. Police departments are creating specialized riskmanagement bureaus. Police commissions, civilian review boards, and inspectors general are growing in number and taking on more authority.

Overview

Ten years ago there were no police monitors.

Today, as a result of federal law suits and investigations, there are monitors in Steubenville, Ohio; Pittsburgh; Montgomery County, Maryland; the entire state of New Jersey; Los Angeles, and Washington, D.C. State attorneys general and public interest lawyers have filed similar lawsuits,

settled in part by requiring some form of monitoring. At the same time, law enforcement and civic leaders are voluntarily creating or enhancing their own oversight mechanisms before reforms are imposed from the bench.

Despite this rapid growth, the field of police oversight is young, without clear definitions, and lacking an organization to advance best practices and spur innovation. Vera created the Police Assessment Resource Center (PARC) in May 2001 to fill this void.

PARC supports and assists those responsible for the oversight of police departments—monitors, law enforcement executives, civic officials, and government agencies—to advance effective, respectful, and publicly accountable policing. Based in Los Angeles but working nationally, the Center is a neutral player, helping its clients implement reforms that are appropriate to the particular problems facing police in that jurisdiction and to the local political environment. PARC helps its clients document police behaviors, providing the most effective way to hold departments and individual officers accountable for their actions.

In the past, monitors had to work in isolation and with little or no experience. Most are lawyers, not police professionals, and they struggled to quickly understand the intricacies of police management, the serious issues facing police today, and how to reliably document the behavior of officers. Similarly, although senior police officials certainly understand the culture and practices of law enforcement, rarely are they able to remedy the problems that nearly all departments face: brutality, intimidation, corruption, and profiling. While no two law enforcement agencies are identical, they all can take similar steps to address these problems. PARC's role is to facilitate the reform process by providing information and guidance.

Through on-site assistance, PARC helps monitors and police officials set up lasting systems to identify problem officers and stations, document and investigate the use of force, detect racial profiling, review disciplinary decisions, measure community satisfaction, assess the risk of litigation, and track, analyze, and respond to citizen complaints. By assisting people around the country, PARC is developing a better sense of the emerging field of police oversight than anyone could acquire independently and is therefore in a position to share and adapt the most promising techniques.

<http://www.parc.info>

NACOLE's 2002 Conference, The Value of Civilian Oversight—Dollars and Sense, will be held October 31 through November 3, 2002 at the Marriott Cambridge Hotel, at 2 Cambridge Center, Cambridge, MA. The detailed flyer will be mailed out this summer and posted to their web site at www.nacole.org.

Early registration will be \$275 for NACOLE members and \$375 for non-members. Conference room rates are \$135 and can be reserved at 1-800-228-9290 or 617-494-6600. Rooms are also available for 3 days before or after the conference.



Policing in Democratic Societies

Overview

People in countries with different legal traditions and crime problems face remarkably similar issues when they try to reform law enforcement practices. Policing in Democratic Societies, a project sponsored by the Ford Foundation, unites police officials and reformers from around the world who are eager to embrace new methods of and practical experiments in democratic policing. The project bridges cultural differences and promotes collaboration between government and the non-profit sector. Such collaboration is particularly important in countries with a recent authoritarian past, where nongovernmental organizations may be reluctant to engage with police.

Vera's International Programs Department organized three multi-national conferences in 2001 and 2002 to examine specific tools that enhance police accountability. Each of the three-day meetings, which took place in St. Petersburg, Russia; Belo Horizonte, Brazil; and Los Angeles focused on a single tool: citizen surveys, crime mapping, and civilian oversight, respectively. The meetings were kept relatively small to facilitate discussion about practical reform strategies.

Typically, there were about forty participants—police officials, scholars, and members of nongovernmental organizations—representing eight to ten countries. The meetings were found to be useful in facilitating the exchange of information about reform and innovation by practitioners in different countries, as well as in fostering a new understanding between police and the public within countries.

An enthusiastic response from participants has led the series to be extended. The next conference is scheduled for January 2003 in Nairobi, Kenya, and will focus on public-private partnerships for police reform. In addition, there will be a series smaller meetings—about ten to 15 participants—to specifically address substantive and methodological research topics. The first of these research meetings will be in Santiago, Chile, in November.

Vera Institute of Justice. www.vera.org

Public confidence in police being tested.

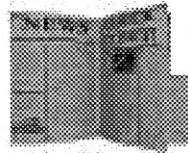
Three years later, hearings into police conduct during the 'riot at the Hyatt' are still stalled by legal wrangling... Several questions need to be asked. How adversarial should the process be? Should the commissioner be required to name at the outset respondents who might be blamed? Should the Commissioner have the power to discipline officers, as he does now, or should he simply be able to recommend discipline to individual police forces?

These are complex questions, but there's a simple truth at the core of the issue. Public confidence in the police is not as high as it ought to be.

We need a strong, effective, civilian office to review police behaviour when police officers appear to have overstepped their authority.

The provincial government must not be afraid to alter the rules for the complaint commissioner, but they must ensure that the office has the authority to do its job effectively.

An excerpt from the Vancouver Sun...



... items of Interest

L.A. Settles 7 Rampart Cases for \$2.8 Million

LAPD: The City Council agrees to payouts, raising police-framing scandal's cost to about \$35 million, by Patrick Mcgreavy, Times Staff Writer

The Los Angeles City Council agreed Tuesday to pay \$2.8 million to settle lawsuits filed by seven victims of the Rampart police corruption scandal, including two who were allegedly framed by Officer Rafael Perez, who admitted to misconduct.

Council members said it is hard to pay out such large sums when the city faces a potential \$200-million budget deficit, but they said the cases demanded payment and attorneys for the city were able to negotiate reductions with the victims.

February 20, 2002. Los Angeles Times

VICTORIA, BC - Benjamin Casson, QC, a retired judge of the Alberta provincial court who resides in BC, has been appointed as acting police complaints commissioner. He will report directly to the Legislative Assembly. A special committee of the legislature is searching for a permanent commissioner. The special committee is also reviewing the police complaints process, which is part of the Police Act.

Cops battle disclosure of review panel ruling

by Kelly Thornton, UNION-TRIBUNE STAFF WRITER April 8, 2002

When former NFL player Demetrius DuBose was fatally shot by police in 1999, there were rallies against excessive force, calls for justice and a wrongful death lawsuit. Under such intense pressure, officials took unprecedented action to assure the public that the matter would be thoroughly investigated.

Among the moves: District Attorney Paul Pfingst, who deemed the shooting justified, posted the entire investigation on the Internet. And City Manager Michael Uberuaga publicly released a report by the Citizens' Review Board on Police Practices a report that took the unusual step of criticizing actions by the officers. Three years later, the officers involved have challenged one of those actions in court, saying that disclosure of the civilian panel's report violated their privacy and that they should have the right to appeal the findings of the report because it amounted to punishment and jeopardized their careers.

So far the courts have agreed with Officers Tim Keating and Robert Wills... Until now, no one has ever sued for the opportunity to appeal a finding by the city's review board, which makes recommendations only and has no authority to impose sanctions on officers.

The effect of the decision on civilian panels, which are widely disliked by police but hailed by community leaders, is unclear. Civilian panels have been embraced by leaders of progressive police departments that have experienced highly

publicized cases of police brutality, but police unions generally believe such boards are a nuisance because they include laymen with no expertise in police matters.

Lawyers for police officers said the rulings will weaken boards in California. "It makes them (civilian review boards) totally irrelevant," said Everett Bobbitt, an attorney for the police officers in the DuBose case. "CRBs have been a failure everywhere I've looked. They like to get into a lot of hyperbole. Now if they do that, they're going to have to prove it.

The department has concluded the officers did everything right. How would CRB prove otherwise?"

Members of watchdog groups say the decision actually gives citizen boards more significance and credibility, because until now no one much cared what the boards had to say.

"These decisions have clearly put us in a position of having more relevance than ever before," said John Parker, executive officer of the Citizens' Law Enforcement Review Board, which monitors the Sheriff's Department and is a counterpart to the city board. "Before, our findings were advisory with little or no effect on how the department operated. In essence, the decision essentially said our findings alone have the effect of punishment."

The cases put the city in the awkward position of defending the civilian review board's report, which finds fault with the actions of the officers, while at the same time defending the officers and

the department in a wrongful death suit brought by the DuBose family. That case is scheduled for trial in federal court in June.

The impact of the court's decision may be gauged by looking at the precedent-setting case involving San Diego County Sheriff's Deputy Victor Caloca. In December 1996, Caloca and three other deputies sued for the right to appeal the county review board's findings that the deputies, in separate incidents, had engaged in misconduct.

The Sheriff's Department investigated the board's findings and found no reason to discipline the deputies. But the deputies remained concerned about the effect of the board's findings on their careers. They asked the Civil Service Commission, which hears appeals of disciplinary matters, to grant them a hearing but were denied. In 1999, the 4th District Court of Appeal ordered the commission to grant them an administrative appeal hearing. The commission heard their cases and overturned the civilian board's findings.

Several other deputies since then have taken the option of appealing to the Civil Service Commission when the board made findings of misconduct. In each case, the Civil Service Commission overturned the board's findings. Parker, the executive officer for the county board, said that's because the board, unaware that it would have to revisit the cases, had purged its records and was unable to support its findings.

Reprinted from <http://www.courtaccess.org>

HUMAN RIGHTS AND HARASSMENT IN THE WORKPLACE

by Odette Lalumière, Legal Counsel for the RCMP External Review Committee. June 2001

Definitions

The Treasury Board policy states that harassment includes degrading remarks, jokes or taunting, insulting gestures, displays of offensive pictures or materials, and unwelcome enquiries or comments about someone's personal life, as well as conduct, comments or gestures of a sexual nature that may offend or humiliate an employee. Harassment also includes conduct, comments or displays that demean, belittle or cause humiliation or embarrassment to an employee, as well as any intimidation or threat.

It is important to see that the point of reference in a harassment case is *the perception of a reasonable person*. Conduct that is not perceived as offensive by the person engaging in that conduct is nevertheless harassment if a reasonable person would find the conduct to be humiliating, offensive or threatening.

Repetition of the Conduct

In *Canada (Human Rights Commission) v. Canada (Armed Forces)* [1999] 3 F.C. 653, the Federal Court held that the harassing nature of the conduct is calculated according to the "inversely proportional" rule: the more serious the conduct and its consequences are, the less repetition is necessary; conversely, the less severe the conduct and its consequences, the more persistence will have to be demonstrated.

Responsibility

The RCMP's internal policy states that it is up to commanders or supervisors to prevent harassment. To this end they must take all necessary action to protect complainants; establish and maintain a work environment that is free of harassment; and take appropriate measures to resolve conflict and intervene in any situation that could develop into harassment.

Treasury Board's policy provides that disciplinary measures may be taken against any manager who is aware of a harassment situation and who fails to take corrective action. This reflects obligations arising from the CHRA.

There is a case law from the Canadian Human Rights Tribunal which establishes that employers

may avoid responsibility only if they can prove that three conditions have been met: (1) the employer did not consent to the commission of the act or omission complained of; (2) the employer exercised all due diligence to prevent the act or omission from being committed; and (3) the employer exercised all due diligence subsequently to mitigate or avoid the effect of the act or omission. Everything depends on the employer's response: it must be quick and effective; it must be proportional to the seriousness of the incident. The employer must act in a way that could reasonably be expected to resolve the situation.

The approach taken in the new Treasury Board policy reflects this jurisprudence, with its emphasis on prevention.

Reprisals

A final point to bear in mind is that the RCMP's internal policy, the Treasury Board policy and the CHRA all provide that disciplinary action, up to and including dismissal, may be taken against anyone who interferes with the resolution of a complaint by threats, intimidation or retaliation, or takes or threatens to take retaliatory action against the complainant or the presumed victim.

Conclusion

When a person is harassed in the workplace, everyone suffers. The victim suffers of course, but so do the victim's colleagues and superiors. The morale of the entire team, indeed the organization, is affected. The individual who is guilty of harassment is putting his or her career in jeopardy, and such individuals may also be creating liabilities for their employer. The situation will only get worse if the harassment is tolerated.

That is why preventing harassment in the workplace is everyone's business. Aside from being sensitive to offensive conduct, every employee, executive, supervisor and manager has a duty to help ensure that the climate in the workplace is one of trust and mutual respect.



... an excerpt, reproduced with permission



Canadian Association for Civilian Oversight of Law Enforcement

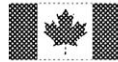
CACOLE is:

- a national organization of agencies involved in the oversight of police officers in Canada;
- dedicated to advancing the concept, principles and application of civilian oversight of law enforcement throughout Canada.

The CACOLE charter allows for the following classes of membership:

- Regular Membership -- Individual and Organization (Sustaining) - \$150.00 and \$300.00 per year
- Associate Membership -- Individual and Organization (Sustaining) - \$150.00 and \$300.00 per year

VISIT THE CACOLE WEB SITE FOR A MEMBERSHIP APPLICATION FORM



CACOLE Conference 2002

THE CHALLENGES OF ACCOUNTABILITY

Delegates are requested to make their own travel and accommodation arrangements.
Promotional code for hotel reservations: GRCAC1

Please tear off the Registration Form and send a cheque or money order payable to **CACOLE CONFERENCE 2002**, in Canadian funds, in Trust, to:

Hyacinthe Miller, CACOLE Administrative Coordinator, 1337 Forest Street, Innisfil, Ontario, L9S 1Z7.
For additional information call: (705) 431-5477, fax (705) 431-6306 or email: cacoleadmin@rogers.com.
Official receipts will be issued when you register at the Conference in St. John's.

CACOLE Conference 2002 - Registration Form		
Member: Yes: € No: €	Amount enclosed: \$	Cheque € Money Order €
Title: Name of delegate:		
Agency/Organization/Unit:		
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Postal Code:		
Web site:		
Telephone number:	Fax number:	
Email address:		
Would you like to receive a Membership package? Yes: €		

The Challenges of Accountability CACOLE Conference 2002 – Agenda Overview

Wednesday evening, September 18th

Registration, networking, opening reception

Thursday morning, September 19th

Greetings, opening remarks. The Honourable Kelvin Parsons, Minister of Justice and Attorney General for Newfoundland and Labrador

Panel presentations, Question & Answer

1. Integrity Assurance & Internal Investigations – Models and Relationships

Perspectives on investigations and investigators in the private sector and in police Internal Affairs/Professional Standards units

Moderator: Garry Mumford, Nova Scotia Police Commission

- Gilles Lelièvre – Director, Internal Affairs, Montreal City Police
- S. B. J (John) Dickson, BA, LL.B, Vice President, Forensic & Investigative Services, Deloitte & Touche
- Inspector Robert G. Hall, Professional Standards, Winnipeg Police Service
- Supt. Brian Roberts, Administrative Services Officer, Human Resources, RCMP North West Region
- Thomas B. Flanagan, Member, Military Police Complaints Commission

Luncheon speaker

The Honourable M. Heather Robertson, Nova Scotia Supreme Court

Thursday afternoon, September 19th

2. Recent Developments in First Nations Policing Oversight

An overview of policy perspectives, legislative & governance issues with respect to the development, implementation and maintenance of First Nations civilian oversight.

Moderator: George Wright, Commissioner, Manitoba Law Enforcement Review Agency

- Oliver Williams, Senior Special Investigator, Federation of Saskatchewan Indian Nations
- Gordon McGregor, Chief, Kitigan Zibi Police, President, Association Of Aboriginal Chiefs of Police of Québec
- Superintendent Ron Lamabe, Criminal Operations, K Division Headquarters, RCMP Edmonton
- Peter Fisher, Director General, Aboriginal Policing Directorate, Department of the Solicitor General Canada

Panel presentations, Question & Answer

3. Placards and Petitions - Politicizing the Oversight Process

The last decade has seen the advent of political activity, police 'work-to-rule', and lobby days in which local, provincial and federal politicians are courted by police associations and unions on issues of legislation, administration and operations. There has also been an increase in public inquiries and reviews of policing.

Moderator: Peter Tinsley, Director, Special Investigations Unit

- Julian Falconer, Falconer Macklin
- David Griffin, Executive Officer, Canadian Police Association
- Norm Gardner, Chair, Toronto Police Services Board
- David P. McKinnon, Chief of Police, Halifax Regional Police

Panel presentations, Discussion

Thursday evening, September 19th

Networking, Hospitality suite. Dinner on your own.

- Friday morning, September 20th**
- 4. Protesters, Politicians and Police**
 Milan, Quebec, Seattle, Vancouver. Peaceful protesters give expression to their fundamental democratic rights set out in *The Charter of Rights and Freedoms*. Police conduct ought to be tempered by such protected democratic values. Political interference with policing duties ought not to be tolerated.
- Panel, Question & Answer*
- Moderator: Paul Monty, Commissaire à la déontologie policière**
- Andre Senécal, Sûreté de Québec, Directeur des affaires internes
 - Robert Sinclair, Q.C.
 - Vince Bevan, Chief of Police, Ottawa Police Service
 - Chief Superintendent Lloyd Hickman, officer in charge of security for the G-8 Summit
- 5. A Dialogue with Senator Serge Joyal, P.C., OC.**
Moderator: Don Morrison, Past President, CACOLE
 Public safety and political imperatives -- are they competing priorities? The role of The Senate in safeguarding public interest when laws change.
- Luncheon speaker** **Dr. Leslie Harris, OC, PhD, Royal Newfoundland Constabulary Police Complaints Commissioner**
- Friday afternoon, September 20th**
- 6. Law Enforcement Justification Provisions and the new Role for Civilian Oversight**
 There has been a significant extension of police powers with the recent enactment of federal legislation aimed at dealing with organized crime, terrorism, and ensuring the security of international conferences.
- Panel, Discussion*
- Moderator: Grant Garneau, Chair, New Brunswick Police Commission**
 Peter O'Flaherty, Counsel, Royal Newfoundland Constabulary Police Complaints Commission
 David Finlay, Chair, Edmonton Police Commission
- 7. Independent Investigations of Major Incidents**
 Perspectives on the impact independent investigations and public inquiries have on policing and civilian oversight.
- Moderator: Nadine Cooper Mont, Chair, Nova Scotia Police Commission**
 David Wood, Director of Investigations, Investigation Directorate, Police Ombudsman for Northern Ireland
 Jean Beeler, former Chair, Nova Scotia Police Commission
- Friday evening, September 20th**
Presentations. Refreshments, Cash bar
 Recognition of members/past members of civilian oversight Agencies who have made a significant contribution to CACOLE.
- Saturday morning, September 21st** **Syndicate group discussions in 6 concurrent facilitated sessions**
- Saturday afternoon, September 21st** **Conference closing.**
Working lunch.
CACOLE Annual General Meeting. Election of 2003 Executive.
CACOLE Board Meeting.

Canadian Association for Civilian Oversight of Law Enforcement CACOLE
BOARD OF DIRECTORS 2001 – 2002

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