

Clerk File No. 310678

The City of Seattle – Legislative Department

Clerk File sponsored by: Burgess

2009 Report on the National Association of Civilian Oversight of Law Enforcement (NACOLE) Annual Conference and International Association of Chiefs of Police (IACP) Education-Based Discipline Report by the Office of Professional Accountability (OPA).

Related Legislation File: _____

Date Introduced and Referred: <u>June 1, 2010</u>	To: (committee): <u>Full Council</u>
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <u>6-7-10</u>	Disposition: <u>Filed</u>

4-21-10
Date Filed with City Clerk

[Signature]
By

Committee Action:

Date	Recommendation	Vote

This file is complete and ready for presentation to Full Council. _____

Full Council Action:

Date	Decision	Vote
<u>6-7-10</u>	<u>Filed</u>	<u>9-0</u>

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Date Filed with City Clerk: 201200421

CITY OF SEATTLE



**Office of Professional
Accountability
Review Board**

**2009
NACOLE Annual Conference
And
IACP Education-Based Discipline
Report**

April 2010

2009
NACOLE¹ Annual Conference Report
And
IACP² Education-Based Discipline Report

The 2009 NACOLE Annual Conference was held in Austin, Texas, beginning Saturday, October 31, and ending at noon Tuesday, November 3. OPA Director Kathryn Olson was on several panels and was elected to the Board of NACOLE. OPA Auditor Michael Spearman and OPA Review Board members Steven Freng, Pat Sainsbury, and David Wilma also attended. This report is compiled from their notes and from NACOLE handouts, including thumb drives containing presentations. Copies of the thumb drives are available from pat.sainsbury@seattle.gov. Some of the presentations are also available in PDF format at the Review Board's web page, <http://www.seattle.gov/council/oparb/>. Click on the NACOLE link in the right-hand column of the page.

Session 1, Models of Oversight

This session was more useful for some ideas and tips than it was for examining our model.

Key West has an auditor who hires investigators as needed, but usually the PD Internal Affairs unit investigates. The auditor has subpoena power, which they find is critical in some investigations. Key West is experiencing controversy over how to handle the Police Officers Bill of Rights³ which sets forth some standards for civilian oversight. Perhaps because it is such a small community, where everyone knows everyone's business anyway, they put their redacted investigative files online for public viewing. Apparently the files are quite popular – like reality shows. Since putting their files online, they have found that:

- Complaints are down (they're not sure why).
- Other witnesses come forward after reading the files. In one case a witness contacted the Review Board and said he had been interviewed by Internal Affairs and had given important evidence against the officer, but his statement was not in the investigative file.

Tucson has a system similar to Seattle (auditor and review board). The presenter was the auditor, Liana Perez. She talked about a major incident involving immigration demonstrations, where the demonstration was under control until there was a confrontation between demonstrators and counter-demonstrators. The situation degenerated into something of a riot, and there were complaints against the police. Even though the powers of the Auditor and the Review Board

¹ National Association for Civilian Oversight of Law Enforcement

² International Association of Chiefs of Police

³ The Bill of Rights is model legislative language developed by the Fraternal Order of Police and has been adopted by several states including Florida.

are somewhat limited, they held public meetings in the affected communities. They also joined the Internal Investigations unit in publicly asking for any other complaints, all private video, and even TV station video (which they received!!).

Perez said that a major incident will test:

- What the community thinks of you.
- What the police think of you.
- The limits of your powers.
- Your imagination in responding to the incident.

She also noted that the system was tested by the media's appetite for instant reaction and sound bites. She suggested that civilian oversight officials could benefit by developing contingency plans to react to emergent issues.

She noted a significant problem in Tucson, that the system can take complaints only from victims, not from witnesses. In this major incident situation many people who witnessed what they felt was police misconduct were effectively disenfranchised from doing anything about it.

San Francisco has an Office of Citizen Complaints that is a civilian investigative agency. They have direct access to PD activity logs and officers are obligated to cooperate fully and truthfully. They do not review and assess departmental policies and practices. Complainants are informed only the results of their own complaints and not of any ancillary matters uncovered in the investigation.

Session 2, Incident Analysis – Different Perspectives

Presenters included an officer from Austin PD, the president of the local ACLU, and the vice president of the Austin police officers association. They showed some video clips from *Third Watch* and an in-car video from Spokane.

In Austin there is a 180-day limit for internal investigations and these can run concurrent with any criminal investigation. Because of the right to be represented in any internal investigation, officers in deadly force cases now are questioned immediately by internal investigators using a "Public Safety Statement." This statement confines questions to the basic information necessary to establish generally what happened consistent with needs of public safety. (Seattle reportedly has recently adopted this procedure.)

The point of the presentation was to outline the different interests and perspectives in any critical incident: individual officers, bargaining units, criminal investigators, prosecutors, police management, civil liberties, and civilian oversight.

Session 3, National Guidelines for Police Monitors and Oversight

These guidelines are the result of sustained collaboration between monitors, law enforcement agencies subject to monitoring, public and private plaintiffs in civil

rights litigation, and senior police executives. Since the early 1990s, police monitors have become increasingly common. In the litigation context, monitors report on compliance by law enforcement with voluntary settlements and court-ordered police reform. In the context of municipal governance, monitors perform or review investigations of alleged police misconduct. It is hoped that the principles and commentary crafted over the past six years, will constitute a reasoned guide to the ethical and pragmatic aspects of monitoring law enforcement agencies.

(A 103-page report is on the OPA Review Board web site)

There was a discussion of reports by monitors. The DC oversight agency does not issue report cards. These can be misleading and are not helpful. Executive summaries are more instructive. Anecdotes and examples are used with care.

If the agency prepares a report it circulates drafts early and the preparers try to meet face-to-face with the stake holders. They invite all the parties into the report process to get it right. Corrections before the final issuance are critical. The reports go to the law enforcement agency and the reporting agency solicits public comment.

Session 5, Best Practices for Investigating and Auditing Less Lethal Force

This panel was conceived and organized by the Los Angeles PD Office of the Inspector General. OPA Director Kathryn Olson was one of the panelists.

The panel first answered the question, why investigate and audit less-lethal use of force? They suggested that this is an excellent risk management tool, and also that it enables oversight groups to assess police conduct over the long term rather than focusing on isolated incidents.

They identified several initial issues for anyone undertaking this analysis:

- What should be reported and tracked?
- How should it be tracked?
- How should the information be analyzed?

One of the panelists was Rick Webb, Commander of Internal Affairs, LAPD. He stated that strikes – hitting someone, particularly with a baton or other weapon – and especially repeat strikes, are counterproductive for several reasons:

- They are not effective in obtaining compliance.
- They inflame the public.

He sees the use of repeat strikes as an issue of police culture and said these cases reflect agency personality. He said that a department that tolerates multiple strikes is:

- Out of control.
- Risking large money judgments.

- Risking loss of public support.

He mentioned that LAPD treats all intentional strikes to the head the same as use of deadly force.

Later in the presentation Commander Webb mentioned that almost every officer carries a knife, but knives are totally unregulated by any police department.

It was mentioned that flashlights and radios also can be problems. Both are used as weapons by officers, yet officers receive no training in their use. The District of Columbia took away officers' flashlights and gave them penlights as replacements.

The panel suggested that less-lethal uses of force be classified by the level and riskiness of the force. For example, a takedown is more serious than a come-along. They mentioned that there are many complaints that the handcuffs were too tight, and suggested that supervisors always photograph the cuffs on a prisoner and ask questions right then: are you injured? Do you have any complaints about your arrest and treatment?

They mentioned that paraphrased statements (a written statement made from a tape recorded statement) can be dangerous and should be reviewed against the recording if the statement is crucial to the investigation.

A couple of red flags for an auditor are a failure to photograph officer injuries and a failure to *Mirandize* a suspect.

LAPD's OIG has a checklist for auditing a file and it is available upon request from them.

Session 8, Performance Standards as a Management and Public Accountability Tool

This was a very interesting session looking at two large oversight agencies (RCMP and NYPD) that had backlog and performance problems. These are independent agencies that receive and investigate complaints. Establishing, developing, and fielding a new agency is a major challenge with regards to recruitment, training, procedures, morale (often low because of backlogs), lack of performance measures, and lack of clear goals.

Their solutions were very interesting from a management perspective, but not particularly relevant or useful to Seattle. Notes are available from Pat Sainsbury.

PowerPoint presentations are available on the web site.

Session 9, Mediation

This panel had presenters from Denver, New York City, San Francisco, and Washington DC. NYC and SF have had a mediation program since at least 2001. Denver and DC started in 2006. The stats of all four cities show a steady increase in number of cases mediated. Percentage of cases mediated is 1-2 % in NYC, 7-8% in Denver and SF.

Denver tracks average days per case. Mediations are completed in 45-55 days, about half the time required for investigations. NYC shows a similar relationship, although at much higher numbers of days. SF shows mediations requiring about 40% of the number of days for investigations. The presenters all agreed that mediation saves significant investigation and processing time and resources.

The jurisdictions use different classifications, but in general the majority (2/3 or more) of mediations involve complaints of discourtesy, stop and frisk, language/conduct, and harassment. An interesting category from SF is "Neglect of Duty" (23%). Other cases mediated include threat of arrest, use of force, refusal to give badge number, and discrimination/harassment/retaliation (over 40% of the mediations in DC).

In NYC the rate of officer acceptance of mediation is about 67%. In Denver and SF it is about 92%. All three cities report the complainant acceptance rate is about 48%. The satisfaction/successful resolution a rate (all parties) is above 90% in NY, DC and SF. Denver has tracked satisfaction rates for both mediation and investigation. They use a dissatisfied, neutral, and satisfied response, and report fewer (roughly 2/3) satisfied with mediation and about 20% neutral. Most citizens are satisfied or neutral re the mediation process, but about 18% are dissatisfied with the outcome.

The most striking thing about the Denver statistics is that complainants and officers are much less satisfied with the investigation process, as opposed to the mediation process. About 80% of complainants are dissatisfied with the investigation process and outcome and about 64% of officers are dissatisfied with the investigation process, although "only" 35% are dissatisfied with the outcome.

Denver has tracked the effect of mediation on citizen complaints and on officers. They have found statistically significant reductions in citizen complaints against officers. They also have found that officers who mediate have fewer complaints of discourtesy, use of force, and improper procedures after mediation, while officers whose complaints go through the formal process do not show a statistically significant reduction after their experience. It appears that officers learn from mediation and receive fewer complaints thereafter.

DC can require mediation in any case except use of force resulting in injury. The officer is not eligible if he/she has a recent prior disciplinary record. If the case is

not resolved through mediation, it goes back into DC's formal system for investigation. This is different from many jurisdictions. Most jurisdictions close the case if the officer mediates in good faith, and some close the case if the officer merely agrees to mediate.

Session 12, "R.E.S.P.E.C.T." – What it means to Youth and Law Enforcement

This panel was comprised of speakers all representing the City of Austin – a District Court judge, an officer from the Austin Police Department and a Juvenile Public Defender. The focus of the session was to explore the existing relationship between law criminal justice agencies and the youth of the jurisdiction they serve. Each of the panelists described the nature of their roles as they pertain to relationships with youth both in the community and within the criminal justice system, and discussed the issues that strain such relationships such as lack of trust, cultural and racial differences and stereotypes held by all parties.

In sharing their experiences in dealing with such dynamic relationships, the panelists discussed approaches to breaking down negative perceptions and building strong relationships. The common theme reflected in each of the panelists' comments entailed *respect*, necessarily reciprocal if a relationship is to thrive. The Austin PD officer in particular emphasized the responsibility on the part of law enforcement professionals to approach every encounter and interaction with youth in a respectful manner if such treatment is to be expected in return. Several relatively simple yet effective strategies for expressing respect -- as well as acknowledging respect -- were shared and discussed.

Session 15, Examining the Police Code of Silence

There were two separate presentations. Daniel Carlson is Director of the Institute for Law Enforcement Administration outside Dallas, TX. He was a police officer for over 20 years, rising to Captain and Assistant Director of Training for the NY State Police. Since retiring from the NY State Police he has been employed in police training in Texas, and has written on police ethics issues.

The code of silence exists. All professions have it to different degrees and with different levels of tolerance of it. It's a different issue for police because of the power that police officers have. For police officers it comes from several sources:

- Loyalty, which is an important part of good character.
- Interdependence among officers, which creates powerful bonds. Officers see each other as family, a brotherhood, a way of life, with shared enemies in common.
- Ends justify means, the corruption of noble causes.
- The fear of retribution, ostracism; no back up when needed.
- Membership in a group identified by uniforms, demeanor and body language.
- Belief that policing is a calling, not just a job.

- Outsiders treat police officers differently and react differently in their presence.
- They share common enemies: the media (sometimes seen as worse than criminals), some civilians, sometimes the command staff and OPA/IS, and criminals.
- They share a strong belief in right and wrong.
- They view the public as wanting results but not wanting to see or deal with what is necessary to achieve results.

Officers definitely should be held to a higher standard. They have greater power and authority, and the laws and their codes of ethics require a higher standard.

Carlson offered several suggestions for cracking the code:

- Departments have to protect whistleblowers as a matter of ethics and to get important information in the future. Whistleblowers pay a very high cost. Their careers suffer, their family life suffers, and often they experience health problems.
- The role of the first line supervisor is critical. Educate them on *Brady* and that it's a threat to your career if you lie.

Speaking of the code's effect on internal investigations, Carlson noted that an officer who gives information against another officer is perceived as a "rat," an outsider not to be trusted, and so officers fear their career will be limited or worse if they cooperate with an internal investigation. But, observed Carlson, no officer wants to work with a "bad cop."

Alvin LaCabe is Manager of Safety for the City and County of Denver, meaning that he is the police chief, the sheriff, and the fire chief. LaCabe attended college after serving in the Marine Corps, and then began his career as a New Orleans police officer and detective. He made some colorful allusions to his New Orleans policing career. He attended law school and worked as an investigator with the Denver DA and the Colorado Bureau of Investigation, then worked as a prosecutor in Denver, rising to Chief Criminal Deputy, and as a federal prosecutor. He also has been of counsel to one of Denver's leading law firms. He became Manager of Safety in 2003 and among his accomplishments has revised the use of force policy, created the Office of Independent Monitor (Denver's civilian oversight office), created a matrix-based system of internal discipline, and revised recruiting, resulting in increased minority hirings.

LaCabe sees hiring leaders who are righteous to set a righteous tone in the organization as crucial to minimizing and dealing with code of silence issues.

He spent some time talking about the difference between knowing something and being able to prove it. He noted that, if you tell officers they'll be fired for lying, information flow stops and truth becomes less accessible. Especially, once an officer is put under oath, the officer is boxed in and can't retract earlier

statements even though the officer normally would not lie under oath. LaCabe obviously did not like this, saying we should be careful with the ability to take an officer's job away.

LaCabe then began a discussion of the arguments for requiring absolute truth and punishing for anything less vs. a more nuanced approach. The rationales for demanding absolute truth in all of an officer's communications are the power and trust reposed in officers, the lack of immediate oversight of the officer, and that absolute truth is required by the public.

But on the other hand, officers are allowed to commit excusable or justified deceptions or lies (undercover officers, lying to suspects). Then there are white lies. Then minor lies such as calling in sick, giving a bogus excuse for being late to work, giving a bogus excuse for not answering a call at the end of your shift when you know it will keep you beyond your normal time off. Then at the far end of the spectrum are intentional and malicious lies such as lying in court under oath or lying to internal affairs investigators.

LaCabe gave several references to articles about police officer dishonesty. Two are at www.policeconduct.net: "Lies, True Lies, and Conscious Deception: Police Officers and the Truth" and "Police Officer Truthfulness and the Brady Decision." Another is "Ethics: Handling Allegations of Officer Untruthfulness," at www.aele.org/los2009kruger-pp.pdf.

These are excellent and more detailed discussions of all the different kinds of lies.

LaCabe also gave an example of the problem with an absolute rule of firing for dishonesty. An officer witnesses an improper use of force by a fellow officer, and lies to Internal Affairs about it. There is enough other evidence that the fellow officer is charged with criminal assault. The witness officer does not want to lie under oath, so he comes forward, admits his lies, and testifies truthfully in the criminal trial. The fellow officer is acquitted, and can be disciplined but not fired. The officer who lied is fired for lying.

LaCabe then presented Denver's rules regarding dishonesty. The presumptive penalty for a minor lie is a 10-day suspension. If there is mitigation (the officer comes forward, retracts the lie, and cooperates) there is a lesser penalty, in the discretion of the chief. The presumptive penalty for a major lie is termination. If the officer mitigates, the presumptive penalty is a 90-day suspension.

Session 14, Promoting Fair and Impartial Policing: A Comprehensive Program for Addressing Bias in Policing

This was a fascinating presentation by Dr. Lorie Fridell, Associate Professor of Criminology, University of South Florida. She argues against the claim that racially biased policing is caused by "widespread racism in policing." The discussion on Race Based Policing (RBP) needs to be rethought. Thorough

research into biases in individuals shows that bias is not about racism or prejudice, but about human biases that transcend culture and race. RBP is an implicit system, thinking without thinking with ambiguous stimuli. Tested officers who admitted some sort of racial bias did not show any more bias than civilians who claimed no bias. People with poor experiences with an ethnic group will show more bias notwithstanding their own origins.

When officers (wired to detect unconscious reactions) were shown photos of a white face with a gun and a black face with a gun they always identified the threat more quickly with the black face. Turbans also influenced these reactions.

The discussion about racism among police officers is destructive and unnecessarily places the police in a defensive position. One police response to allegations of racial profiling is "we have a complaint system." This is not the answer. Besides it is very hard to prove RBP.

The solution is in sound policies, hiring, training, line supervision (big component), and encouraging positive interactions between citizens and the police. The message to officers is that RBP is ineffective, unsafe, and unjust.

Mediation of complaints is an excellent opportunity to smooth over differences.

Session 17, Dr. Bill Lewinski, The Force Science Institute and Research Center
Dr. Lewinski has a Ph.D. in police psychology and is a full professor at the University of Minnesota, Mankato, where the center is located. His work focuses on understanding the true dynamics of force encounters – what actually happens in fluid, rapidly unfolding, life-or-death confrontations. Much of his research has been done in the United Kingdom, because a small percentage of police union dues in the UK is earmarked for research.

Dr. Lewinski began with some elementary brain and behavior information. There is a fairly low amount of processing capability in the human brain. This is why it's dangerous to drive and talk on a cell phone simultaneously. We do not have enough processing capability to do both, so we switch back and forth, but if we get too interested in one, we forget to switch to the other.

An example that focusing on one thing takes most of the brain's processing capability is baseball players who run into walls or into the stands and injure themselves. They know the hazard is there, but they are so focused on catching the ball that they "forget." Dr. Lewinski showed some horrifying crashes.

Through various experiments, he has shown that the same thing happens in force encounters. Again, he made great use of videotapes of mock force encounters. The focus of most people, including most officers, narrows to the threat. They actually are completely unaware of other things going on outside their field of focus. Nevertheless, investigators always ask about such things, and

officers invariably answer with a combination of confabulation and what must have been. And often they are wrong, which may make them seem to be hiding something or lying about everything that happened.

Dr. Lewinski also talked about the standard policy of not allowing officers to talk with each other about what happened. His work shows that officers make much more accurate statements when they work together.

Finally, he talked about the policy of not allowing officers to go home until they have been interviewed and have given statements. He said that an officer who has been awake for 18-20 hours, which is not untypical in a standoff situation, has impaired brain function equivalent to a .08 breathalyzer. He strongly recommended that officers be allowed to go home and rest before they are debriefed.

Session 18, The Reality of Working with the Mentally Ill

This panel consisted of the President of the National Alliance on Mental Illness, the Associate Director of Crisis Services for the Travis County (Austin) Mental Health Center, a psychiatrist practicing in Austin and a Sergeant from the Travis County Sheriff's Department Crisis Intervention Team.

The session began with a lengthy discussion of the major mental disorders, identifying their symptoms and signs of crises among those afflicted with the disorders. In order to illustrate the actions that should be taken by first responders to incidents involving the mentally ill, several case histories (presented so as to protect privacy) involving residents of Austin were shared and discussed.

Discussion then focused on the training the law enforcement professionals receive – or should receive – in order to understand and work with individuals who are in psychological distress and crisis, and the challenges associated with investigating crimes involving such individuals as victims and perpetrators. Interestingly, the laws of the State of Texas require that only law enforcement professionals can intervene in incidents involving mentally ill persons that require commitment or custody (in contrast to the State of Washington where civilian, designated mental professionals can and frequently do act as first responders and are empowered to intervene). The training therefore provided to law enforcement professionals throughout Texas is thorough, detailed and on-going.

Session 19, Police Equity Research

This session focused on racially-biased policing. There were two speakers. Dr. Tracie Keese is a Denver police officer and Ph.D. who currently is head of Denver's Research, Training and Technology Division. She also is active in a research consortium that promotes police accountability and transparency through research collaborations between police and social scientists. Dr. Phillip Goff is an assistant professor of psychology at UCLA. He has conducted

research with Denver, testing officers for various factors and linking their test results to their internal affairs history and other confidential information. His preliminary research demonstrates that although racial bias plays an important role in racially biased policing, unrelated factors such as insecure masculinity and fear of being perceived as racist play an equally important role.

Officer Keesee began by rejecting the idea that most problems will disappear if a police department can just reflect the community in its racial and ethnic composition. Typically, even when minorities are a majority in a department, they tend to take on traditional police attitudes. She argued that biased policing is a matter of the police department's culture, not the background of the officers.

She offered several prescriptions for reducing biased policing:

- Selecting officers (more on this later).
- Training – the FTO is crucial.
- Clear policies with active supervision.
- Early intervention and discipline.
- Ongoing training.

She noted that sergeants rarely are held accountable in any way for the failures of their officers, even though they likely knew of the problem and did not address it. There is a tendency to feel the sergeants are really needed for the smooth operation of the department and are doing the best they can.

Keesee suggested that discipline needs to be sensitive and to aim for training and teaching, if possible. She cautioned against discipline that produces an angry, sullen officer. (See discussion of education-based discipline, below.)

She also urged oversight groups to reach out to people who are not police cheerleaders, particularly people who are customers of the police who have had bad experiences.

Keesee mentioned that in her experience white officers are very affected by being called racist, or the fear of being called racist, and that affects their decisions.

Phillip Goff mentioned the racism of society's norms and institutions having a disparate impact on minorities even though there is nothing racist motivating the norms and institutions. He referred to this as "racism without racists."

He criticized the tendency he often sees in media reports to equate the percentage of a particular minority in the population with what therefore should be the percentage of stops, arrests, charged defendants, and jail population of that minority. With respect to African-Americans he observed that there simply are disproportionately more African-American criminals and why shouldn't there

be, given the biases they experience in schools, health care, housing, and employment.

Goff mentioned that most academics, police administrators, and oversight bodies have given up on trying to analyze bias by what he called "base rates," stops by race and similar statistics. That analysis simply doesn't work.

Goff said his research shows that an officer's racial prejudice matters, but two other factors are more important in producing biased policing:

- Stereotype threat, which is attributing characteristics to groups and then to any individual perceived as part of that group. He noted that the officer wants to control the situation but has no moral authority because all officers are perceived to be biased, so the officer has to use more force to gain control.
- Insecure masculinity, which makes the officer need to prove his masculinity. Goff noted this operates especially in encounters with blacks and Hispanics – some officers shout and/or lower the timbre of their voices.

Goff noted that shootings are proportionate for both prejudiced and non-prejudiced officers and for both black and white officers. His research shows that the key factor correlated to shooting is the officer's sense of his own masculinity. Those who are insecure about their masculinity are more likely to get into a situation where they have to shoot and are more likely to shoot.

Speaking of women officers, Goff said that women shorter than 5'2" are more likely to use their firearm, because they feel more threatened. He and Keese spoke of the impact of experience and said more experienced officers are less likely to use force. A large part of this seems to be that the more experienced officers have become more comfortable with their ability to do the job without force. With respect to women, they noted that in their early years women tend to suppress their femininity and become more masculine, including use of force. As they become more experienced and more secure, they become more feminine in dealing with people, resulting in less use of force.

IACP Report

The 2009 International Association of Chiefs of Police Annual Conference was held in Denver, Colorado, beginning Friday, October 2 and ending Wednesday, October 7, attended by OPA Review Board member Steven Freng. Two of the conference sessions attended by Dr. Freng are especially germane to the Review Board and the OPA system and are summarized here.

Discipline Without Punishment

This session was presented by Donnie Perry, Chief of the Greenwood Village, Colorado, Police Department, and Sergeant Dustin Varney, also of the

Greenwood Village PD. They began by explaining that discipline is typically applied in response to issues involving attendance, performance or behavior, and that their system has been developed in order to "stop managing people and start managing performance". Both speakers then stated that punishment rarely if ever has positive outcomes but has many pitfalls including resentment, anger, loss of loyalty, diminished motivation to perform at a consistently high level and possibly separation on the part of the employee.

The non-punitive system implemented by the Greenwood Village PD approaches employee attendance, performance or behavior problems in a graduated way by:

- Issuing a "verbal reminder" of pertinent policies and/or practices to the employee at the first incident;
- Issuing a "written reminder" at the second *and third* incidents;
- Imposition of **paid** "decision-making" leave at a subsequent incident, allowing the employee to consider his/her commitment to the organization (at which point some employees have voluntarily terminated their employment). The burden of responsibility for performance is thereby placed clearly on the employee rather than the agency or its managers.

During decision-making leave, the employee develops a performance improvement plan that addresses:

- What was done wrongly;
- What can be done differently;
- Whether the employee feels he/she is held to higher expectations than other employees.

The employee's supervisor concurrently develops his/her own performance improvement plan for the employee and they are compared and discussed at length after the employee's return to work. If no further incidents occur within a specified period of time, documentation regarding the most serious step taken in the graduated system described above is removed from the employee's file.

Education-Based Discipline – Education as an Option to Suspension

This session was presented by Commander Thomas Laing and Lieutenant Michael Parker of the Los Angeles County Sheriff's Department. They began their presentation by describing the lengthy, detailed and inclusive process by which the Education-Based Discipline system was developed and implemented. It was considered such a significant change and departure from past practices that every stakeholder in and outside of the department was fully engaged and participated throughout the process.

Discipline is defined in this system so as "to ensure effective and efficient operations and employee adherence to reasonable performance standards". Education-based discipline then is an individualized remedial plan with the involvement of the employee that emphasizes education, training and promoting a successful outcome. It has been implemented as an enhancement – rather than a replacement -- to existing disciplinary policies and is available to

employees as an **option** the employee can elect in some cases. Instead of warnings or reprimands, the supervisor:

- Identifies the discrepancy between actual and expected performance;
- Explains the reasons why this is important and why standards must be met;
- Seeks agreement from the employee to change and perform up to expected standards;
- Reminds the employee that he/she is responsible for proper performance.

The LACSO offers numerous education and training options for employees who opt to participate in the program. These include problem solving and self-management; skill enhancement; boundary recognition; substance abuse; character reinforcement; and mitigating and aggravating factors. Regardless of the choice(s) made by the employee from among the list of options, each participating employee attends a "LIFE" (Lieutenants Interactive Forum for Education) class -- as entitled, an interactive setting facilitated by lieutenants and civilian managers. The class primarily focuses on decision making, and typically employs 2-3 facilitators for every 12-15 attendees.

Of particular note were comments regarding the benefits accrued from this system on a department-wide basis. The panelists mentioned that nearly 100% of the appeals following disciplinary action prior to implementation of the new system were for procedural issues, not directed at disputing the details of the original event. The new system has essentially eliminated such appeals and, more importantly, the significant time and costs associated with them. The Seattle Police Department has used a version of education-based discipline for some time, although not in a formal, standardized way. Perhaps some consideration should be given to implementing a full, department-wide system.

A PDF of a one-page summary of the LACSO plan and rationale is available from pat.sainsbury@seattle.gov.