

## HEARING TWELVE

### Policing Culture

June 23–24, 2020

*The following summary is intended to provide an overview and highlights of the testimony and discussion during the hearings. For a full and detailed account of the hearings, please refer to the [Commission website](#) and the audio recordings and transcripts located there.*

#### **What Is Reasonable Use of Force?, June 23, 2020**

**First Panelist:** *Professor Robin Engel, University of Cincinnati, Director, IACP UC Center of Police Research and Policy*

##### *Highlights:*

- As a result of social unrest, efforts have intensified to identify solutions to reduce the frequency and severity of violent encounters between the police and the public. The President's Task Force on 21<sup>st</sup> Century Policing identified six main pillars and provided over 150 recommendations and proposed reform actions in 2015. This work provides a promising roadmap, but many of the proposed recommendations are not evidence-based.
- Without rigorous data collection and assessment, it's difficult to prioritize which of these reform efforts should move forward. Most reform efforts specifically aimed at reducing use of force in American policing are not evidence-based—they are the result of crisis management decisions, and judged by the speed rather than the quality of their response to stakeholder demands.
- We need to build on previous efforts; generate the political will necessary to mandate and implement policing reforms; provide the necessary technical assistance, training, and oversight for agencies to implement reform; and develop a comprehensive plan to test the impact of proposed solutions. We have to heavily invest in scientific testing and evaluation of reform efforts, and this is where our profession continues to fall short.
- In my written testimony I document the lack of evidence supporting five commonly recommended reforms: body-worn cameras, de-escalation policies and training, implicit bias training, early intervention systems, and civilian oversight. Today I will focus just on de-escalation. Our review found no empirical studies testing the impact of de-escalation training. That's changing now; there are four studies underway. Preliminary results show a change in officers' attitudes and knowledge but not an impact on actual behavior—which is quite concerning.

##### *Recommendations:*

- We need to standardize and mandate the collection of use of force data. That work is ongoing and should continue, but we have to prioritize the collection of additional information during police-citizen encounters.
- We need to focus on scientific standards regarding the analysis of use of force data. Additional research methods using new approaches and new data need to be supported.
- We need to prioritize this work specifically for de-escalation policies and training. Because of the wide variation in training concepts, content, delivery method, and dosage, we need to better understand their effectiveness and unintended consequences.

**Second Panelist: Chief Michael Ranalli, Glenville (New York) Police Department (ret.)**

*Highlights:*

- The single issue I will address today is the *Graham v. Connor* standard or objective reasonableness standard. This was addressed in California last year and by a current House bill that would change the standard for use of force from objectively reasonable to necessary—essentially, a last resort. My concern is that this is a knee-jerk, quickly created remedy.
- I'm not trying to get officers off. In training police officers, I try to get them to focus on the root cause. I have struggled to get them to understand the concept of objective reasonableness. On the way to one of those classes, I detected a motion out of the corner of my eye and slammed on my brakes without thinking, and watched a plastic bag blow across the car. It wasn't necessary for me, with hindsight, to slam on my brakes, but under the circumstances it was objectively reasonable. That's the *Graham* standard.
- In professional sports, where we have instant replay, we still acknowledge that human beings are limited and fallible. It's hypocritical that we don't accept that with police officers, who have to operate under difficult environmental situations. Some people would ask how you can compare taking a life to a sport, but the severity of an outcome doesn't change human capabilities.
- In my trainings, I teach officers to mitigate risks. If the only person causing the risk is the person at risk, you don't need to run into that situation. You need to stand down.

*Recommendations:*

- We need to focus on improving law enforcement, but not by changing a standard that recognizes human beings [are fallible].
- We need to be able to train people appropriately with the proper evidence-based tools to make decisions in situations.

**Third Panelist: Chief Terry Sult, Hampton (Virginia) Police Department**

*Highlights:*

- I concur that we need to define the problem through evidence-based policing models, and I also think the objective reasonableness test is very much on point. But people forget that chiefs define reasonableness through policies and training, and then legislatures come in with laws.
- I want to focus on the root cause. We can do all the de-escalation training, we can have all the datasets we want, but we're never going to solve the problem without considering the second half of the equation, and that is that we apply force against an act of resistance—some type of non-cooperation with police. And we need to look at that dynamic and engage with that segment of society to address the causes of these unlawful or unwanted or undesirable behaviors.
- There's real promise of an approach to mental illness. Cops have been tasked with all the social ills. We have an individual who's going through crisis and we call the cops, but the cops are not allowed to have any type of information regarding their history; the crisis centers are restricted by HIPAA from telling us anything. Where we can win this is with some type of co-response model or deferral to social service agencies—free up some of the officers' time.

- We see a high turnover rate—the average tenure of an officer on the street is about three years, which means we have rookies teaching rookies. In my generation, you were loyalty-based, but now we have officers who come in and they're ready for the next experience.
- We need to be open and honest about our hiring practices. We need to search for biases hidden in our own systems. Here in Hampton, we found that in one of our tests we did not allow calculators, when we issue officers a cellphone that has a calculator in it—so why not let them use it? We found a lot more groups passing the tests when that occurred.
- There's a thing called the Stockdale paradox, from the book *Good to Great*. You must retain the faith that you'll prevail in the regardless of the difficulties, but you have to confront the most brutal facts. And sometimes we don't look at that. My city is 51% African American, but the shootings, people shot, and homicides are 100% African American on African American. When our focus is guns, gangs, and drugs, and the violence occurring around that is 100% minority, then the encounters we're going to have on the street, and that have the highest risk of turning ugly, are going to be disproportionately leaning toward the minority community.
- We have to communicate better with the public. When I ask candidates coming in what the biggest problem is facing police officers, every single one of them--and we're a 400-person organization—says social media . When the first 15-second sound bite goes out and we don't manage the message well, then we are dealing with resistance down the road. We need to find better ways to educate the public as well as our own staff.
- Some ways to address that are community service centers where you have a one-stop shop—not only police officers, but social services, mental health counselors, child protective services. Hampton adopted the Nashville approach in the schools—we have a law and public safety academy. Students can get certified as a police dispatcher with a high school education. That creates opportunity.

*Recommendations:*

- We have to hold ourselves accountable. We have to adopt the principles contained in the President's Task Force on 21<sup>st</sup> Century Policing.
- We have to have evidence-based information on outcomes so we can adopt the best practices.

**Fourth Panelist: Chief Jeff Kruithoff, Springboro (Ohio) Police Department**

*Highlights:*

- I think it's important to just abandon the whole term, "community-oriented policing." It's just become a political talking point. Officers dipping ice cream cones for kids in neighborhoods is great community relations, but it's not community-oriented policing. Community-oriented policing is solving community problems via unlimited partnerships using a common problem-solving model. Resolving even the simplest neighborhood crime and disorder issues likely involves other areas of local or county government.
- It's discouraging when they want to leave that all at the feet of the police. A lot of the angst against the criminal justice community is not just at the police—it's about what occurred after arrest, with the implicit biases and discrimination from the court systems or from the prosecutor's office, parole, probation, everything else. Police agencies have really significantly changed while

other services provided from city halls have not, and in trying to do what communities want departments get into conflict with other government functions.

- I support the overhaul of police training top to bottom. A lot of cottage industries have popped up training things like implicit bias or racial relations. Many police academies don't teach the subtleties of implicit bias, racial diversity, human interaction, interpersonal communication, body language—lessons in core skills for a police officer. Some agencies have moved to a second abbreviated academy experience two years into the job—I think that's a great idea, but financially it's beyond the means of many communities.
- I want to point to one training model—more a philosophy—called the Officer Resiliency Model, supported by the FBI National Academy Associates and based on the Air Force model of Mission Ready. It's proactive, not reactive, and trains officers on competency in four components: mental fitness to cope with stressors; physically fit and ready to meet any challenge, not operating from a position of fear; social readiness and confidence that their interactions with everyone will be positive; and spiritual fitness, operating from a core set of principles driving their decision.

*Recommendations:*

- Police use of force as retribution needs to become a crime and not merely the violation of department policy. Use of force is implemented where no verifiable threat occurred because the person was an uncooperative jerk. This is wrong and should be criminalized everywhere.
- Police administrators need to have the ability to see a police officer decertified. States are pretty willing to certify you to be a police officers, but many states are loath to retract that position. I've had to discharge dozens of officers, and I've had no problem that they had access to arbitration and due process, but it was very discouraging to see them just head down the road 60, 70 miles and go to work for a small or rural department because those people did not deserve to wear a badge.
- Professional policy systems should be instituted in every police agency. Most agencies I'm aware of ripped chokeholds out of their policies 10, 20 years ago—I was appalled that Minneapolis still permitted them.
- These small and ill-equipped police departments need a viable alternative to having their own police agency. The liability exposure of a police officer is the same whether you've got one officer going out or 85, but the infrastructure cost to maintain a well-trained and capable officer is often beyond the means of a small village or township. It's ludicrous to have a one-person agency, but there are 50-some agencies in the U.S. that do.

**Question-and-Answer Session, June 23, 2020**

**Q:** [Gordon Ramsay for Dr. Engel]: Have you see research on the relation of excessive force to whether departments have binding arbitration, nonbinding arbitration, or no union?

**A:** [Engel]: I have not, but research in that area is needed.

**Q:** [James Clemmons for the panel]: If we don't know what's in the hearts of these officers, training is not doing us any good. We would be naïve to think that the ills of society are not infiltrating our agencies, because these individuals we're hiring are coming from the same areas where we have had successes



and failures in our communities. How is training going to stop that bad actor from doing the things he or she wants to do?

**A:** [Engel]: Absolutely, there are issues regarding officer intent. But we do know a little bit about the different types of recruiting campaigns that can bring in a different type and quality of officer. But once in the profession, we need to think about all the different mechanisms—training, oversight, accountability—by which individuals are indoctrinated into the profession. One interesting study just came out from from Greg Ridgeway at the University of Pennsylvania on incidents in the NYPD where two officers are involved but only one of them shoots. They found that officers who entered the profession later in life were less likely to shoot—10 times less per year later that they started. I would never recommend upending our whole recruiting system on one study, but it indicates that the life experiences you bring to the academy matter.

**A:** [Chief Ranalli]: It's very difficult to discern the walk from the talk, but one of the main points for me is how often, after a tragedy, we hear "it was just a matter of time before that guy did what he did." That tells us that the propensities for certain acts were known by peers. We need to police each other—we have a duty to intercede, far more than just stopping a use of force from happening. If someone is not cut out for this job, we have to get them out. Arbitration can make things very difficult—our goal in New York state was to bring enough charges against somebody that they would just leave.

**Q:** [Gina Hawkins for Chief Sult]: How impactful would it be to have accreditation as a standard for all law enforcement entities in our nation?

**A:** [Sult]: There needs to be an accreditation standard, but we need to look at what that standard is and how we are evaluated. We tend to look at policies and procedures and paper documentation, and there needs to be a more in-depth review of what agencies are doing—whether they're practicing what they preach.